

Item 4 - Correspondence

From: [Wright, Gwen](#)
To: [Anderson, Casey](#); [MCP-Chair](#); [Coello, Catherine](#)
Cc: [Sartori, Jason](#)
Subject: FW: MCDOT Memo re: LATR Guidelines
Date: Wednesday, March 2, 2022 3:51:56 PM
Attachments: [3-2-22-Memo to Casey Anderson re LATR Guidelines.pdf](#)
[image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)

Please distribute to all Boardmembers so that this can be discussed during the Board item tomorrow.

Thanks!



Gwen L.M. Wright
Planning Director

Montgomery County Planning Department
2425 Reedie Drive, Floor 14, Wheaton, MD 20902
Email: gwen.wright@montgomeryplanning.org
cell: 571-329-3053



From: Henn, Hannah <Hannah.Henn@montgomerycountymd.gov>
Sent: Wednesday, March 2, 2022 3:10 PM
To: Wright, Gwen <gwen.wright@montgomeryplanning.org>; Sartori, Jason <Jason.Sartori@montgomeryplanning.org>
Cc: christopher.conklin@montgomerycountymd.gov; Torma, Rebecca <Rebecca.Torma-Kim@montgomerycountymd.gov>; Anspacher, David <david.anspacher@montgomeryplanning.org>
Subject: MCDOT Memo re: LATR Guidelines

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Thank you, again, for working with us on this item. As we discussed last week, the Executive Branch has ongoing concerns over the concept of a formulaic approach to proportionality. We transmitted the attached memo today for consideration by the Planning Board.

Hannah Henn

Deputy Director for Policy

Montgomery County Department of Transportation

Office of the Director

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Marc Elrich
County Executive


Christopher R. Conklin
Director

DEPARTMENT OF TRANSPORTATION

MEMORANDUM

March 2, 2022

TO: Casey Anderson, Chair
Montgomery County Planning Board

FROM: Hannah Henn, Deputy Director 
Department of Transportation

SUBJECT: Comments on Proposed LATR Guidelines and Revisions

This memorandum is intended to bring to the Planning Board's attention outstanding items of concern for the County Executive and the Montgomery County Department of Transportation (MCDOT) as related to Item four on the Planning Board's agenda for Thursday, March 3. Specifically, these comments relate to the proposed revisions to the LATR Guidelines. While we appreciate Planning staff's coordination and outreach over the course of the effort and appreciate the willingness to remove the language related to a "cap" to mitigation payments, this memorandum serves to state for the record that the staff package and revisions before the Board for consideration on March 3 do not fully address concerns from the Executive Branch.


Remaining concerns specifically related to the Planning staff report prepared for March 3, 2022:

Staff report p.5, "Consistent with Section TA4 of the 2020-2024 Growth and Infrastructure Policy, any mitigation payment will be reduced proportionally based on the share of the LATR Proportionality Guide that is generated by MPDUs."

As long as guidelines are consistent with the Growth and Infrastructure Policy (GIP), MCDOT does not support reducing mitigation based on share of MPDUs. The report language referenced above should be clarified in consistency with the analysis included on p. 6-7 of the staff report to make it clear that this condition applies to mitigation payments but does not absolve developers from constructing improvements. To the maximum extent it is consistent with the intent of the GIP, MCDOT opposes reducing mitigation payments for MPDUs. The mitigation is intended to provide for transportation adequacy, which is just as important for MPDUs as any other type of

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use. If the intent of this language is to establish that developers of MPDUs must construct improvements and may not make a payment in lieu, the language should be clarified.

Staff report p. 5, “As the condition of approval includes a list of mitigation projects and not the calculated LATR Proportionality Guide, an increase in the cost to construct a mitigation project, either under or outside of the applicant’s control, will have no bearing on the conditioned mitigation projects.”

MCDOT supports this approach to take costs of a mitigation project out of consideration once the list of mitigation projects has been approved.

Staff report p. 8

The new language proposed by Planning staff doesn’t include the suggested revisions by MCDOT (in **bold** below). Planning staff have shared with us that they considered our suggested edits and disagree, but we maintain that these edits are preferred by MCDOT.

While the LATR Proportionality Guide ~~will ensure~~ **aims to identify levels of** rough proportionality in most situations, there may be ~~rare~~ **rare** circumstances under which the Board finds a modified approach to proportionality is warranted (within the bounds of the Council-approved Growth and Infrastructure Policy). The Board maintains this flexibility to determine when existing transportation infrastructure will not adequately support a proposed use or when the calculated LATR Proportionality Guide presents an excessive burden on an applicant.

Remaining concerns more generally:

The County Executive takes exception to the Planning Board's unilateral determination that the current rules in the Growth Policy violate proportionality--i.e., the takings clause in the Fifth Amendment of the United States Constitution--and therefore it must alter the rules. Once Planning believed that the LATR violates the takings clause, its process was to raise this concern with the Council, and to recommend that the Council amend the Growth Policy.

In fact, rough proportionality should be determined on a case-by-case basis reflecting the proposed development, the transportation facilities needed, and the impact of the development. The Executive does not concur with a formulaic approach to this issue which limits the Planning Board’s freedom to properly determine proportionality and nexus. Further the proposed formula is not based on relevant factors. Neither the mode share nor the impact tax rates are reflective of the individual circumstances of a project.

Thank you for your consideration of our ongoing concerns as they relate to the LATR Guidelines.

cc: Chris Conklin, MCDOT
Meredith Wellington, CEX

From: [Matthew Gordon](#)
To: [MCP-Chair](#); [Grave, Eric](#); [Sartori, Jason](#); [Anspacher, David](#)
Cc: [C. Robert \(Bob\) Dalrymple](#); [Joseph Parreco \(jparreco@oakwoodproperties.net\)](mailto:jparreco@oakwoodproperties.net)
Subject: Oakwood Properties, Inc. Comments for Item #10, Revisions to the 2021 Local Area Transportation Review Guidelines (Consideration for Projects with 25% or more MPDUs)
Date: Thursday, February 17, 2022 11:59:28 AM
Attachments: [image001.png](#)
[Scan Feb 17, 2022 at 11.32 AM.pdf](#)

[EXTERNAL EMAIL] Exercise caution when opening attachments, clicking links, or responding.

Chair Anderson and Planning Board Commissioners,

Please find Oakwood Properties, Inc.'s written comments to Staff's proposed revisions to the 2021 LATR Guidelines attached.

Thank you for your consideration.

Matthew Gordon

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Oakwood Properties, Inc.
17901 Hollingsworth Drive
Derwood, Maryland 20855

February 17, 2022

Via Email - MCP-Chair@mncppc-mc.org

Mr. Casey Anderson, Chair

And Members of the Planning Board

Montgomery County Planning Board

2425 Reedie Drive, 14th Floor

Wheaton, MD 20902

Re: Revisions to the 2021 Local Area Transportation Review ("LATR Guidelines") (*Item #10*) –
Oakwood Properties, Inc.'s Proposed Clarifications for development projects that include
a minimum of 25% affordable units

Dear Chair Anderson,

On behalf of Oakwood Properties, Inc. ("Oakwood"), I am submitting these comments and proposed clarifications to Staff's revisions to the LATR Guidelines. Oakwood is the owner and developer of the Churchill Senior Living project, which is comprised of three (3) parcels of land totaling approximately 5.49 acres addressed as 20990, 21000, and 21010 Father Hurley Boulevard in Germantown (the "Property"). As described in greater detail below, we recommend that the LATR improvement cap formula be modified for development projects that include a minimum of 25% affordable units to be consistent with Section TA4 of the Growth and Infrastructure Policy (the "GIP") and other prevailing County policies.

The Property is currently improved with Phases I and II of the Churchill Senior Living project, which includes 255 independent dwelling units for seniors (62 years and up). Approximately 243 of these senior dwelling units were constructed under the County's Moderately Priced Dwelling Unit (MPDU) program or under a separate binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning less than 60% of the area median income

(sometimes referred to as low- to moderate-income tax credit units). As a result, approximately 95% of the existing dwelling units at Churchill Senior Living constitute affordable units that are exempt from Development Impact Taxes.

Oakwood is in the early stages of filing development applications for Phases III and IV that propose an expansion of Churchill Senior Living to include additional senior dwelling units (including MPDUs and low- to moderate-income tax credit units) in accordance with the recently adopted Germantown Plan for the Town Sector Zone. In order to leverage the unique opportunity to deliver additional affordable senior units, Oakwood has been carefully evaluating all development costs associated with Phase III and IV to ensure that it can implement an economically viable expansion with public benefits and amenities. While Oakwood supports establishing a LATR improvement cap to provide applicants with greater certainty and to ensure that any off-site improvement costs are proportionate to the traffic impacts of a given project, the proposed formula should be consistent with Section TA4 (entitled Affordable Housing) of the GIP. Section TA4 states:

The provision of affordable housing in the County is crucial to providing long lasting reductions to regional congestion. Long distance trips affect the County's traffic in many parts of our community. The provision of affordable housing is a fundamental element of the County's General Plan and part of the County's economic development strategy. All trips generated by any moderately priced dwelling unit (MPDU) and any other low-and moderate-income housing which is exempt from paying a development impact tax must also be exempt from any Transportation Mitigation payment.

See GIP, p. 21. In order to meet the spirit and intent of Section TA4 of the GIP and the established policy that MPDUs and low- to moderate-income tax credit units are exempt from Development Impact Taxes, the LATR improvement cap formula should incorporate a pro-rata reduction for development projects with a minimum of 25% affordable units. If such a policy is not established as part of the proposed revisions to the LATR guidelines, additional barriers to development of much needed affordable housing will occur and the LATR guidelines will not be in harmony with the County's overarching housing goals.

Thank you for the opportunity to submit these comments to Staff's proposed revisions to the LATR Guidelines. Oakwood looks forward to the opportunity to continue to work with staff, the Planning Board and other stakeholders through its proposed expansion of Churchill Senior Living.

Very truly yours,

A handwritten signature in black ink, reading "Joseph F. Parreco". The signature is fluid and cursive, with the first name "Joseph" and last name "Parreco" clearly legible.

Joseph F. Parreco

Oakwood Properties, Inc.

cc: Robert Kronenberg

David Anspacher

Jason Sartori

Eric Graye

Bob Dalrymple