

Attachment A: LATR Proportionality Guide

From the 2022 LATR Guidelines, Version 2, pages 54-56

VIII. LATR Proportionality Guide

To ensure that off-site transportation system requirements are not out of proportion with a project's impact on the overall safety and functionality of the transportation system, the LATR Proportionality Guide provides the Planning Board with guidance on establishing a maximum cost of improvements an applicant is required to construct or fund to address deficiencies identified in the review of Pedestrian System Adequacy, Bicycle System Adequacy and Bus Transit System Adequacy.

$$\text{LATR Proportionality Guide} = \left(\frac{\text{Extent of Development}}{\text{Development}} \right) \times \left(\frac{\text{LATR Proportionality Guide Rate}}{\text{Guide Rate}} \right) \times \left(\frac{\text{LATR Proportionality Guide Adjustment Factor}}{\text{Adjustment Factor}} \right)$$

The Extent of Development refers to the number of residential units and/or commercial square footage as approved by the Planning Board. The LATR Proportionality Guide rates and the LATR Proportionality Guide Adjustment Factors are identified in Appendix 5 and Appendix 6, respectively.

Motor vehicle mitigation can be counted toward the LATR Proportionality Guide if it mitigates deficiencies identified in the review of Pedestrian System Adequacy, Bicycle System Adequacy and Bus Transit System Adequacy. This includes non-auto transportation improvements that are permitted in lieu of auto improvements as described in Section IV.D of the 2021 LATR Guidelines.

While the LATR Proportionality Guide aims to ensure rough proportionality in most situations, there may be 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.

A. LATR Study

To generate the list of transportation improvements, applicants are first required to conduct the adequacy tests included in the Growth and Infrastructure Policy. Applicants will document the deficiencies in the study, identify the LATR Proportionality Guide and prioritize all mitigation projects required to address off-site deficiencies.

B. Off-Site Mitigation Considerations

Planning staff will provide feedback on the prioritized list of off-site mitigation during a Development Review Committee (DRC) meeting and indicate if other improvements should take precedence. In prioritizing off-site mitigation, applicants and Planning Department staff should consider the following:

- Proximity to the site

- Availability of right-of-way
- Master plan priorities
- Greatest community benefit
 - a. ADA improvements
 - b. Access to transit, public facilities and major destinations
 - c. Safety: identified in the High Injury Network or the Predictive Safety Analysis
- Improvements that address multiple deficiencies
- Severity of conditions:
 - a. Higher Pedestrian Level of Comfort scores
 - b. Higher Level of Traffic Stress scores
 - c. Transit stops with higher boardings
- Improvement maximums established by mode in the Growth and Infrastructure Policy.

Each project may have circumstances that place a greater priority on one or more of these considerations. Planning Staff will assess the appropriate priority level for proposed improvements.

Additionally, improvements that have previously been conditioned for construction or a payment should not be conditioned of another applicant. Finally, motor vehicle mitigation that also reduces pedestrian, bicycle and bus transit deficiencies can be counted toward the LATR Proportionality Guide.

C. Cost Estimation

Applicants seeking to apply the LATR Proportionality Guide to their off-site mitigation requirements must prepare concept (10 percent) plans and itemized costs for the identified off-site improvements. The itemized cost estimates will be generated using the Planning Department’s cost estimation tool, once available, and by applicants before the tool is available. Staff will review these cost estimates for reasonableness.

Applicants will estimate costs for mitigation projects in order of priority and continue to do so until the total cost of the projects reaches the LATR Proportionality Guide or there are no additional projects on the list that will sum to a cost that is less than or equal to the LATR Proportionality Guide.

D. Condition of Approval

The condition of approval will include a list of mitigation projects and/or a mitigation payment to address Pedestrian System Adequacy, Bicycle System Adequacy and Bus Transit System Adequacy deficiencies.

1. Conditions for Mitigation Payments

While constructed improvements are strongly preferred, mitigation payments may be necessary when there are few or no deficiencies that can be mitigated by a constructed

improvement. Mitigation payments are acceptable if the Planning Board and MCDOT agree that constructing all or part of the mitigation projects may not be practicable due to:

- Unattainable right-of-way;
- An existing CIP project;
- Other operational conditions outside the applicant’s control; or
- Not considered practicable by the Planning Board and MCDOT

If a mitigation payment is required, the condition will identify:

- The type of improvement (pedestrian, bicycle and/or bus transit); and
- The policy area(s) where the funds must be used (based on where the project is located). Funds must be dedicated within the same policy area, or—for a Red policy area or an Orange town center policy area—either in that area or an adjacent one.

Mitigation payments will be adjusted for inflation based on the Federal Highway Administration’s National Highway Construction Cost Index from the mailing date of the Planning Board resolution to the date of the first above-grade building permit or right-of-way permit (whichever comes first).

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 project’s LATR Proportionality Guide that is generated by MPDUs.

2. Modifications to Conditioned Improvements

Situations may arise in which an applicant proposes to replace a conditioned improvement for another improvement on the list of mitigation projects identified in the staff report. In these instances, the replacement project must be of similar cost to the conditioned project, as estimated in the staff report and adjusted for inflation.

- If the conditioned improvement has been made obsolete because it has been constructed or is under construction or because of a change to a master plan recommendation, the applicant can propose an alternative mitigation project from the list of improvements identified in the staff report that is of similar value, and this alternative improvement, if reviewed and approved by Planning Staff, can be substituted and shown on a revised Certified Preliminary Plan.
- For all other reasons, an amendment to the preliminary plan (or site plan if there is no preliminary plan) is required.

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.