

OVERVIEW BRIEFING ON THE GROWTH AND INFRASTRUCTURE POLICY

Description

The Growth and Infrastructure Policy is Montgomery County's implementation of the Adequate Public Facilities Ordinance. Primarily focused on the adequacy of the county's transportation and school infrastructure, the policy details how the Planning Board determines whether the infrastructure is sufficient to approve new development. The policy also identifies how a developer must mitigate the effects of building in an area with inadequate infrastructure.

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Montgomery County
Planning Board
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Summary:

- The Growth and Infrastructure Policy is updated quadrennially through a resolution adopted by the County Council. The next update must be adopted by November 15, 2024.
- The current policy focuses primarily on the adequacy of transportation and school infrastructure.
- Development applications are evaluated for school infrastructure adequacy against the results of the Annual School Test, which Planning staff prepare in accord with the Planning Board-approved Annual School Test guidelines.
- Transportation infrastructure is assessed through a series of multimodal Local Area Transportation Review tests, which are conducted in accordance with a similar set of Planning Board-approved guidelines.

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SECTION 1: OVERVIEW OF THE GROWTH AND INFRASTRUCTURE POLICY

The Growth and Infrastructure Policy, or GIP, is a set of policy tools that guide the timely delivery of public facilities (schools, transportation, water, sewer, and other infrastructure) to serve existing and future development. These policy tools are the guidelines for the administration of Montgomery County’s Adequate Public Facility Ordinance, or APFO.

The GIP primarily addresses the adequacy of public facilities as it relates to the regulatory or development review process. Chapter 50 of County Code requires the Planning Board to find public facilities will be adequate to support and service the area of the proposed subdivision prior to approving a preliminary plan. How, exactly, the Planning Board makes that determination is the focus of the Growth and Infrastructure Policy.

At various times known as the county’s “Growth Policy,” “Annual Growth Policy” and “Subdivision Staging Policy,” the GIP was initially reviewed and updated annually, then on a biennial basis. Now, Chapter 33A of County Code requires the quadrennial review of the GIP, with the next review to be completed in 2024. While the rules contained within the GIP are updated every four years, certain aspects of the policy have shorter lifecycles. For instance, school adequacy is tested on an annual basis and student generation rates, which are used to estimate the enrollment impacts of development applications, are updated every two years.

The 2020-2024 Growth and Infrastructure Policy was adopted by the County Council through Resolution 19-655 on November 16, 2020. (View the complete and current text of the [2020-2024 Growth and Infrastructure Policy](#).)

THE SCHOOLS ELEMENT

The GIP provides extensive direction with respect to school infrastructure adequacy. First, it defines three types of geographic areas, known as School Impact Areas, based on recent and anticipated growth contexts and their impacts on public school enrollments:

- Greenfield Impact Areas – High housing growth predominantly in the form of single-family units, consequently experiencing high enrollment growth.
- Infill Impact Areas – High housing growth predominantly in the form of multifamily units that generate few students on a per unit basis.
- Turnover Impact Areas – Low housing growth, with enrollment growth largely due to turnover of existing single-family units.

The GIP also requires the Planning Board to certify the results of an Annual School Test that establishes the adequacy status of each school service area for the next fiscal year. The test is to be conducted in accordance with the GIP and further procedures included in guidelines adopted by the Planning Board. Each development application and amendment is evaluated against the results of the test to determine whether the applicant is required to mitigate the impacts of building in a school service area projected to be overutilized. Mitigation comes in the form of Utilization Premium Payments, or UPPs, that vary based on School Impact Area, type of development, the degree of projected overutilization, and the estimated number of students to be generated by the development.

The GIP also requires the Planning Department to prepare and publish the School Utilization Report each year, in conjunction with the Annual School Test. The report must provide annual updates on countywide and individual school enrollment and utilization trends, along with additional information pertaining to the housing trends that may impact school enrollment issues.

THE TRANSPORTATION ELEMENT

The other major component of the Growth and Infrastructure Policy addresses the adequacy of transportation infrastructure. Like the schools element, the transportation section begins by defining context-based geographies known as Policy Areas. The Policy Areas are grouped into categories based on land use contexts and the prevalence and use of different transportation facilities. The Red, Orange, Yellow and Green Policy Area categories determine how the GIP is administered.

The primary transportation adequacy tool identified in the GIP is a series of multimodal infrastructure tests known as Local Area Transportation Review, or LATR. The tests evaluate the geography around a development application for motor vehicle, pedestrian, bicycle, and bus transit system adequacy. The policy provides details on when and how each test is conducted and how applicants must mitigate inadequacies identified in the test results.

The GIP also allows the Planning Board to adopt LATR Guidelines that detail additional test procedures. In particular, the LATR Guidelines establish a proportionality guide that helps ensure pedestrian, bicycle, and bus transit mitigation requirements are proportional to the size of the project.

Finally, the GIP identifies certain Policy Area-specific requirements related to transportation management districts and establishes non-auto-driver mode share goals for each Policy Area.

SECTION 2: QUADRENNIAL GIP UPDATES

County Code requires that the Council adopt an update to the Growth and Infrastructure Policy every four years, by November 15 of the second year of the Council's term. Updates to the policy originate within the Planning Department and involve an extensive amount of data analysis and engagement with stakeholders, technical experts and the Planning Board. The Planning Board must transmit recommended updates to the GIP along with a report on general land use conditions and forecasted trends in population, households, and employment for the next 10 years.

2020 GIP UPDATE

The last update to the GIP was adopted by the County Council in November 2020. The update incorporated transformational changes to how the county evaluates public infrastructure adequacy, including:

- Eliminated a residential development moratorium that previously applied when projected capacity utilization at a school reached 120%.
- Replaced the moratorium with tiered Utilization Premium Payments that are required of developers building in areas projected to have overutilized schools.
- Classified neighborhoods into School Impact Areas based on the amount and type of development they are experiencing and that development's impact on enrollment.
- Eliminated the motor vehicle system adequacy test in Red Policy Areas, which are the county's urban, transit-oriented areas.
- Updated the requirements for developer-funded transportation infrastructure to be scaled based on the size of the project and more focused on safety and needed bikeways, sidewalks and bus shelters.
- Changed the name of the policy from the Subdivision Staging Policy to the Growth and Infrastructure Policy.

2024 GIP UPDATE

Planning staff will begin organizing the 2024 GIP update effort next month. Data gathering efforts will begin internally first, and stakeholder engagement will begin immediately thereafter in the fall. Planning Board briefings will also begin in the fall and work sessions to finalize the Planning Board's draft of the policy will take place in spring, 2024.

At this point in time, there are no preconceived recommendations or outcomes for the 2024 update effort. Planning staff recommendations will be based on a review of the current policy and its application, analysis of data, and feedback from stakeholders.

SECTION 3: DEVELOPMENT IMPACT TAXES

Impact taxes are not technically part of the Growth and Infrastructure Policy, however the Planning Department reviews and prepares recommendations related to impact taxes in conjunction with the GIP update because they are so closely related. Chapter 52 of County Code details the development impact taxes for transportation and school improvements, requiring a new development project to pay its pro rata share of the infrastructure improvements necessitated by that development.

County Code also requires the impact tax rates, which are based on land use and geographic context, to be updated every two years by the Department of Finance, effective July 1 of each odd numbered year. The transportation impact taxes are updated by applying an inflation factor to the existing rates. Planning staff calculate the updated school impact tax rates on behalf of the Department of Finance using current housing, enrollment, and school construction cost data.

There are certain exemptions and discounts that apply to the impact taxes:¹

- Senior housing and all non-residential development are exempt from school impact taxes.
- Government buildings are exempt.
- Moderately Priced Dwelling Units (MPDUs) and other affordable housing units are exempt.
- Discounts and potentially full exemptions are provided to all residential units in a project that includes a minimum of 25% of the units as MPDUs.
- Projects located within state-designated Enterprise Zones or federally-recognized Qualified Opportunity Zones are exempt.
- School impact tax discounts are provided for three-bedroom dwelling units in a multifamily structure located in an Infill Impact Area.
- Transportation impact tax discounts are provided for projects in Council-designated Desired Growth and Investment Areas located in an Orange or Yellow Policy Area.

Finally, impact tax revenue can be used to pay for certain types of public capital projects, but the funds are not geographically constrained. They can be used to fund infrastructure anywhere in the county. Section 52-50 and Section 52-56 detail the types of capital projects that can be funded by transportation and school impact taxes, respectively.

¹ This is not a comprehensive list. Additional discounts and exemptions can be found in Chapter 52 of County Code.

UPDATE ON EXPEDITED BILL 25-23

At its meeting on June 8, 2023, the Planning Board was briefed on Expedited Bill 25-23, which would modify the calculation of biennial updates to the school and transportation impact tax rates. The bill would also cap the biennial increases to 20% and allow the excess increase to be banked and applied to future updates. The Planning Board provided comments to the County Council on the bill, generally as follows:

- In support of calculating the transportation impact tax rate updates using a cumulative inflation factor as opposed to an average of annual inflation factors.
- In support of setting the 20% caps.
- In support of applying a carryover to the transportation impact tax rates, but applying the banked excess as a dollar amount instead of a percentage as proposed by the bill.
- Not supporting the carryover approach for the school impact tax rates because the rates are calculated to their true value with every biennial update.

The Council's Government Operations and Fiscal Policy (GO) Committee was scheduled to hold a work session on Expedited Bill 25-23 on June 15, 2023. The full Council was scheduled to take action on the bill, as amended by the GO Committee, during its meeting on Tuesday, June 20. Planning staff will provide the Planning Board with an update on the Council's action during this briefing.