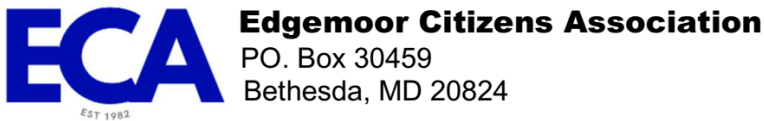


Public Hearing Item - 2024-2028 Growth and Infrastructure Policy Update

From: [David Barnes](#)
To: [MCP-Chair](#)
Subject: 2024-2028 Update to Growth and Infrastructure Policy
Date: Tuesday, May 21, 2024 4:29:56 PM
Attachments: [image.png](#)

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May 21, 2024

Montgomery County Planning Board
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

Re: 2024-2028 Update to the Growth and Infrastructure Policy (Hearing date May 23, 2024)

Planning Board Members -

The Edgemoor Citizens Association (ECA) is a community association of over 500 households immediately west of Downtown Bethesda. We would like to comment on the draft of the 2024-2028 Update of the Growth and Infrastructure Policy (GIP), and suggest a way to greatly improve it as a tool for ensuring that County infrastructure can support planned development.

According to the draft, the purpose of the GIP update is:

to ensure that the best tools are in place to test whether infrastructure like schools, transportation, water, and sewer services can support a proposed development. These policy tools are the guidelines for administering the county's adequate public facilities (APF) requirements.

Yet, the policies described in the GIP only apply to large-scale development at the subdivision level. Consequently it does not take into consideration the impact on infrastructure of any other kind of development activity. This has long been a weakness of the GIP in its previous iterations, but it is especially problematic now, as the County prepares to drastically revise how and how much development occurs in residential neighborhood.

The Planning Board is putting the finishing touches on zoning changes (an outgrowth of the Attainable Housing Strategies Initiative) that will greatly increase the number of residential properties that may be developed in single family neighborhoods. None of that new development will be considered under this GIP, or in any other part of the

planning process. Therefore, the impact on infrastructure of this new development will not be measured or monitored, making it impossible to ensure that the the infrastructure will be sufficient to support that development.

Of course, we don't know what the impact of the pending zoning change is going to be, though it is intent is to produce a large increase in the housing supply. It's possible that the rezoning will turn out to be a failure, with little or no increase in housing supply and an insignificant impact on infrastructure. But, it is also possible that this rezoning will work as intended, with a dramatic increase in new housing in what used to be single-family residential communities. In that case, there will be significant new infrastructure needs that will never be measured or evaluated because they will not have been considered in the GIP.

If the County is going to have a viable system for measuring growth and its impact on infrastructure, the entirely new kind of growth being planned with the rezoning of residential neighborhoods has to be included in that system.

The County's past method of measuring infrastructure impact, and still reflected in the draft GIP - that is, excluding small-scale, by-right residential development from consideration - may have been viable when that kind of development consisted primarily of one-to-one replacement of existing single family homes. But, in the future covered by this draft, where that replacement rate will be three-to-one (in many single family neighborhoods), four-to-one (in priority housing districts), or even more (in growth corridors), that approach is no reasonable or responsible. This new kind of residential development is likely to produce far more new residences than any new subdivision, but they will never be evaluated in terms of impact on infrastructure. The GIP must include consideration of the new realities of the residential zoning if it is to have any value as tool for evaluating the sufficiency of infrastructure.

Thank you for considering our comments.

David Barnes

David Barnes
President, Edgemoor Citizens Association
PO Box 30459
Bethesda, MD 20824

From: [Kominers, William](#)
To: [MCP-Chair](#)
Cc: [Anspacher, David](#); [Buckley, Darcy](#); [Coello, Catherine](#)
Subject: Testimony on Growth and Infrastructure Policy
Date: Tuesday, May 21, 2024 4:48:41 PM
Attachments: [GIP WK Test 5.21.24.pdf](#)

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

Dear Chair Harris,

Please include the attached letter and testimony in the Record of the Board's May 23, 2024, public hearing on the Growth and Infrastructure Policy.

Thank you.

Bill Kominers

William Kominers, Attorney
Lerch, Early & Brewer, Chtd. rising to every challenge for over 70 years
7600 Wisconsin Ave | Suite 700 | Bethesda, MD 20814
T 301-841-3829 | F 301-347-1783 | Main 301-986-1300
wkominers@lerchearly.com | [Bio](#)

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William Kominers
Attorney
301-841-3829
wkominers@lerchearly.com

May 20, 2024

Mr. Artie Harris, Chair
Montgomery County Planning Board
2425 Reddie Drive
Wheaton, MD 20902

Re: 2024 – 2028 Update on the Growth and Infrastructure Policy ("GIP")

Dear Chair Harris and Members of the Board:

The purpose of this letter is to transmit my comments on the Working Draft of the 2024 – 2028 Update of the Growth and Infrastructure Policy ("GIP").

Please include my attached testimony in the Record of the May 23, 2024, Public Hearing on the GIP.

Thank you for your consideration of my comments.

Very truly yours,

LERCH, EARLY & BREWER, CHTD.

William Kominers

Enclosure

2024 – 2028 GROWTH AND INFRASTRUCTURE POLICY
TESTIMONY OF WILLIAM KOMINERS
(May 23, 2024)

Good evening Chair Harris and Members of the Board, my name is Bill Kominers. I am an attorney with Lerch, Early & Brewer, but I am testifying this evening as an individual on the 2024 – 2028 Working Draft Update of the Growth and Infrastructure Policy ("GIP"). There are many positive thoughts and recommendations in the GIP. However, I will concentrate today on those that call for adjustment or that should be included in the GIP, but are absent.

Recommendation 3.8. Proportionality. The creation of proportionality standards in 2022 in the LATR Guidelines was a valuable first step in recognizing the unpredictable and disproportionate mitigation costs for off-site improvements. Unfortunately, the formula created to mitigate the disproportionate impact of these off-site costs is missing the most important factor that should be applied. That factor is the proportional impact of the project under review on the improvement that is required.

At present, the only proportionality element in the formula is an adjustment factor based on the locality within the County and the type of development (residential/nonresidential). But this adjustment factor is locality-based and uniform for that area. There is no factor that takes into account the degree of impact that the proposed project itself produces on the need for the improvement.

I recommend that an additional factor be included in the formula, representing the percentage impact of the project itself on the statistics that result in the inadequacy. That additional factor will make the cost of an improvement truly proportional to the impact of the development.

If a facility condition is already inadequate, or the impact from the proposed development pushes the facility into inadequacy and triggers improvement, the entirety of the cost of that improvement is currently placed as a burden on the development project – irrespective of the degree of its impact. For example, consider an improvement required as a result of aggregating 100 movements (vehicular for a traffic signal, pedestrian for a pedestrian beacon, or, bicycle for a bike lane, etc.). If the current utilization is at 90 movements, and the project itself produces an additional 20 movements, the 100 movements threshold would be crossed and an improvement would be required. But the current formula would not take into account the fact that of the total of 110 movements, the applicant provides only 20 (or 18%). The applicant is currently compelled to fund 100% of that improvement, even though its impact only represents 18% of the utilization. The applicant should more properly only be responsible for 18% of the cost. That is the "proportion" of the applicant's impact. Alternatively, if the facility is already at the 100 movements utilization, meaning that it is already at capacity, the addition of the applicant's 20 movements represents only 16.7% of the 120-movement total. Thus, the applicant should only be obligated for 16.7% of the cost of the improvement.

The LATR Guidelines should add an additional factor to the proportionality equation -- that of the percentage impact that the project has on the overall capacity of the facility requiring improvement. Then, true proportionality of the project's impact will be measured, and the appropriate nexus of the project to the need for the improvement will exist.

Recommendation 3.14. Bioscience exemption from LATR. Extending the bioscience exemption from all LATR tests continues a favorable mechanism to support the County's economic development focus on bioscience facilities. However, there is one element missing from this exemption in order to render it fully functional in bringing bioscience facilities to fruition in the County.

Bioscience research and development does not proceed on a strictly linear basis. Scientific progress sometimes gets ahead of, or sometimes falls behind, the development review process in Montgomery County. Trying to keep in alignment those two parallel paths, each of uncertain duration, can be a challenge that is not always successful. Even with the best of intentions, a bioscience project may end up with the physical facility approved by the County, but delays from unexpected research setbacks, obstacles in clinical trials, or delays in FDA approval, may prevent the project moving forward on the building schedule as originally planned. The requirement in the GIP that an application for a building permit must be filed within three years after the approval of the Preliminary Plan or Site Plan, can cause application of the exemption to terminate and with it, a corresponding adverse effect on the underlying plan approval and its adequate public facilities review.

To cure this problem, I recommend that the GIP provide that the three-year period for filing the building permit may be extended by the Planning Board for good cause shown. This ability to extend should apply not only to those approvals under the new GIP, but also to those projects approved using the same exemption under the currently operative 2020 – 2024 GIP.

Recommendation 4.7. Bioscience exemption from Impact Taxes. In a similar vein to the LATR exemption, the exemption from Impact Taxes for bioscience facilities is a valuable part of the County's toolkit to encourage bioscience in Montgomery County. Continuing the exemption for bioscience projects is appropriate and in the public interest. Adding the exemption to the Code will provide assurance of greater certainty and consistency, which will benefit pursuit of bioscience businesses.

Recommendation 4.8. Credits for Improvements to state roads. This is change that is long overdue. The importance of this credit has escalated over time, as there are more frequent requests to make improvements to state roads (sidewalks, bike paths, crosswalks, as well as roadway). Often, those improvements are not called for by the state, but instead result from directions in County master plans. Where the County is the source of the requirement, there should be a credit given, even if the improvement is on a state road.

Recommendation 4.9. Legacy provision for Opportunity Zones. Adding legacy language to continue Impact Tax relief for projects that are approved but do not receive building permits before the expiration of the Opportunity Zone program, is another good recommendation. But it can be better.

The expiration of the Opportunity Zone program does not automatically correlate with uplifting the Opportunity Zone areas. While the Opportunity Zone provisions may expire by the end of 2026, being a "distressed area" that justified designation as an Opportunity Zone originally, will not similarly expire or change by the end of 2026. Removal of the Impact Tax exemption for the areas previously designated as Opportunity Zones will thwart the efforts of those areas to climb out of their present circumstances that caused the Opportunity Zone designation in the first place. The challenges faced by these areas require long-term efforts, care, and some special treatment. The fact that many Opportunity Zone designations encompass areas that were formally designated as enterprise zones suggests that the areas have not yet been uplifted by either designation.

Recognizing the continuing struggles of these Opportunity Zone areas, the County should continue the exemption from Impact Taxes past 2026, even if the Opportunity Zone program and designations expire. After expiration, the Opportunity Zones can be used as a means to delineate a geographic area within which the Impact Tax exemption would continue to apply.

Some may suggest that this is a mistaken continuation of benefits for Opportunity Zones, just as was argued about the previous Impact Tax exemption for "former enterprise zones." Nevertheless, putting designations and time limits aside, one cannot but recognize that the areas covered by the Opportunity Zones have not been lifted out of their challenges within the duration of that designation.

Neither can one fail to realize that in some Opportunity Zones, such as Silver Spring, where Impact Taxes have been forgiven for an extended period, the imposition of the Impact Tax may well have a severely negative effect on what development activity is currently being pursued. Construction costs in Silver Spring and Wheaton are no different from those in Bethesda, while the rental structures lag well behind the corresponding Bethesda rental rates. Adding the Impact Tax as a new cost in the financial equation for development in Silver Spring or Wheaton, can be expected to have a serious negative impact on the continued success of redevelopment.

The time for resolution of the distress in these areas, unfortunately has a longer duration than the life of the government designations (whether Opportunity Zone or Enterprise Zone). Therefore, there is a need to continue the Impact Tax exemption for those geographic areas, by use of whatever means of identification can be found.

New Recommendation. No Impact/De Minimis.

No Impact. A development application that does not propose any additional square footage, or proposes a change of use that does not generate any net new peak hour trips, should be exempt from providing any frontage improvements, or other improvements called for by any master, sector, or functional plan, and should be deemed to satisfy adequate public facilities standards by virtue of being an existing condition.

This proposed exemption will recognize that when producing no new impacts on public facilities, there is no nexus for requiring any new improvements.

De Minimus Impact. In addition to the no impact scenario above, a development application that proposes new development of only a *de minimus* quantity should also be exempt from adequate public facilities review and from providing any improvements, (whether frontage or other improvements called for by any master, sector, or functional plan). For this purpose, "*de minimus*" would mean traffic generation of up to [a number to be decided] commercial trips, or up to [a number to be decided] residential trips, including an equivalent combination of both, and up to a total of [a number to be decided] school students of all levels.

Thank you for your consideration of these comments and recommendations. I look forward to further discussions during the worksessions.

From: [Griffin Benton](#)
To: [MCP-Chair](#)
Subject: 2024 GIP Testimony
Date: Tuesday, May 21, 2024 6:00:02 PM
Attachments: [image002.png](#)
[MBIA-NAIOP GIP Testimony - May 2024.pdf](#)
Importance: High

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

Good Evening Chair Harris,

Please accept the testimony attached in regards Public Hearing Item: 2024-2028 GIP Update.

Do not hesitate to reach out with any questions or comments.

Thank you,
Griffin Benton

Griffin Benton
Vice President, Government Affairs
gbenton@marylandbuilders.org
Maryland Building Industry Association
11825 W. Market Place
Fulton, MD 20759
Office: 301-776-6207
Mobile: 202-815-4239



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HOWARD COUNTY FAIRGROUNDS

Check out NAHB's Member Advantage Program at www.nahb.org/ma

Please excuse any typos or grammatical errors



May 23, 2024

Hon. Artie Harris
Chair, Montgomery County Planning Board
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

Re: 2024 – 2028 Growth and Infrastructure Policy Update

Dear Chair Harris and Commissioners:

Good morning my name is Katie Wagner and I am a principal at Grove Slade leading our Maryland office. Grove Slade is a transportation engineering and planning firm, where we work with clients through the entitlement process for development projects. I am here today on behalf of both NAIOP the National Association of Industrial and Office Properties and MBIA, the Maryland Building Industry Association.

I served on the Transportation Advisory Group (TAG) with a number of other stakeholders where we worked with Planning Staff to develop many recommendations for the Growth and Infrastructure Policy that was presented to you a few weeks ago. Grove Slade and other stakeholders also worked with planning staff to develop and implement the Proportionality Guide when the 2020 GIP was adopted and there was a disproportionate burden placed on developers to improve deficient pedestrian, bicycle, and transit infrastructure identified in the LATR traffic studies prepared as part of the entitlement process. I'm intimately familiar with the implementation of the LATR & GIP having worked in the county since 2017.

Throughout the fall and winter when the Transportation Advisory Group worked collaboratively with staff, we were able to address several topics that were not originally included in the scope of work for the GIP update. We were excited to see many of these recommendations make their way to you. The implementation of these recommendations is an important step to help make Montgomery County more resilient, increase the housing supply, encourage a swift and through development review process, and spur economic development by not placing huge cost burdens on developers improving a disproportionate amount of transportation projects. While these outcomes are critical to the future of Montgomery County, we understand that we must not lose sight of ensuring that adequate public facilities are in place and available for existing and future residents as the County grows.

As the TAG worked with staff, a number of themes came about, the fees assessed on development projects is much higher in Montgomery County compared to the rest of the state, the fees collected make up a very small percentage of the County's transportation budget, and finally, as these fees have gone up over the last 10 years, the fees collected have not also gone up, indicating the high fees are discouraging development. We must weigh the perpetual long term economic support from increased

tax base and attractiveness of vibrant activity centers against the marginal boost from one-time upfront impact fees from development activity.

Given this, I would now like to highlight a number of important points NAIOP and MBIA would like specifically to support and provide further refinements that we believe will have the greatest impact on the County and its ability to meet its goals. First, I would like to highlight our support for the removal of the proportionality guide for affordable housing (**Recommendation 3.11**). This would eliminate the requirement of offsite mitigation measures for affordable housing units. We would also recommend you expand this to include mixed income community projects where more than 25% of the units are affordable. This would reduce the reliance on County funds to build affordable units as the market rate units built in the mixed income communities support the viability of the affordable units. We also support the elimination of the proportionality guide for large units (**Recommendation 3.12**).

We support the elimination of a LATR traffic study requirements for both bioscience and daycare use (**Recommendations 3.13 and 3.14**). As staff described, the traffic studies required for daycares are costly as daycares generate a lot of trips on paper but those trips are generally made by parents already on the road who choose a daycare that is on the way to work and therefore the real traffic impact from daycares are minimal beyond the site driveway.

The next item I would like to highlight is revising the impact tax credits allowable projects, **Recommendation 4.8**. Currently eligible projects for impact tax credits include projects that are adding regional capacity or reduce traffic demand. We believe that the eligibility criteria, as defined in Section 52-50 of the County Code, needs further evaluation. The current eligibility criteria are limited and do not align with the County's broader goals of enhancing multimodal infrastructure and capacity. Notably, the eligibility list omits improvements along roadways that serve the County but are owned by the state, which represents the majority of frontage roads along major development corridors, upgrades to existing infrastructure to comply with ADA standards, upgrades to existing infrastructure to conform to the County's Complete Streets guidelines, and improvements to support the County's commitment to Vision Zero. This limitation disincentivizes infrastructure improvements on all roadways in the County that advance the principles of Complete Streets and Vision Zero. We would encourage you to allow all transportation projects that align with the County's current policies in both County and State ROW to be eligible for impact tax credits. We also suggest that these credits be acknowledged during preliminary plan and/or site plan review and confirmed prior to building permit issuance.

Another item I'd like to highlight is revising the Proportionality Guide to a vehicle trip-based approach (**Recommendation 3.8**). The Proportionality Guide was established in response to concerns associated with the costs borne by developers to meet multimodal adequacy standards. We support the efforts to ensure that required off-site transportation improvement costs are reasonable and proportional to a project's impact. However, we note a disparity in rates, particularly for developments in Red Policy Areas. Higher non-auto driver mode share goals (NADMS) in these areas result in higher Proportionality Guide Rates that are greater than the Transportation Impact Tax Rates for these projects, placing an additional financial burden on such projects compared to developments in other policy areas. We look forward to continuing to work with staff to ensure the Proportionality Guide helps the County meet its goals and not discouraging housing development.

We appreciate the recommendation for a 50% reduction in impact fees for single-family attached or detached dwelling units smaller than 1,500 (**Recommendation 4.3**). We recommend expanding this requirement to 2,000 sf or allow for two (2) thresholds for the attached and detached units. We spoke

with a number of home builders throughout the county and they do not see viability in building homes smaller than 1,500 sf. This is for a number of reasons including the required width of units and achieving the number of bedrooms homeowners are interested in having, even in the smallest units. Additionally in support of the County's policy to incentivize attainable housing, we support a separate impact tax classification for 2-over-2s, but would like to see that classification similar to multifamily to further incentivize the creation of these units.

We support the move to 30 vehicle trips, being the requirement for an LATR traffic study (**Recommendation 3.2**). Traffic studies ensure safe and efficient access for development sites. Without studies required as part of the APF approval at the Preliminary Plan process, often SHA or MCDOT will request a study at the access permit stage, further delaying the process and the study does not have specific guidelines and processes it must follow. Transportation statements for smaller sites or exempt uses should focus more on the on-site and safe site access that are critical for site functioning rather than broad off-site infrastructure improvements.

We support the increase in the delay standard for some policy areas as these are minor increases (**Recommendation 3.3**).

We support simplification of the study areas (**Recommendation 3.5**). We continue to have concerns about the requirement of an illumination study reviewing streetlights and their specific details. These studies are costly, expensive, and dangerous.

We support the recommendation for the 30-day SHA review timeline and desire to have mutual expectations in the development review process (**Recommendation 3.18**). We consistently get requests for analysis from SHA for projects located in Red Policy areas and the purpose of the study is typically for informational purposes where no access permit is required or outside the desired project timeline.

I'd like to highlight our concerns regarding the recommendations for the Vision Zero Statement (**Recommendation 3.6**). This section highlights developers can implement speed reduction strategies and other roadway safety improvements as a mitigation project at MCDOT or at the discretion of the Maryland State Highway Administration." However, this is often not the case as proposed solutions often require additional rights of way, speed limit changes, road diets, and other improvements that extend far beyond the development site. It is difficult to come up with solutions to speeding strategies in the short development review timeline. The issue is further complicated by the fact that a private developer does not have the ability or authority to implement a traffic calming improvement during the development process under the current code.

Finally, we would like to ensure there is language in the Growth and Infrastructure Policy about projects going to the Planning Board after the GIP is adopted. Many of the changes to the policy will have a dramatic impact on the financial viability of projects throughout the County. Stakeholders are tracking the proposed changes, and many projects are on pause until these changes take effect. There should be language added to the GIP to allow projects to be able to take advantage of many of these monumental recommendations.

This is the current language.

Effective dates

This resolution takes effect on January 1, 2025 and applies to any application for a preliminary plan, site plan, building permit, or other application that requires a finding of Adequate Public Facilities filed on or after that date.

Guidelines for the Administration of the Adequate Public Facilities Ordinance

In closing, MBIA and NAIOP are excited to see the transportation recommendations put forth in the 2024-2028 Growth and Infrastructure Policy Update.

We believe these recommendations look to make Montgomery County resilient, increase the housing supply, encourage a swift and through development review process, and spur economic development by not placing huge cost burdens on developers improving a disproportionate amount of transportation projects. Thank you for your time today.

From: [Huda Montemarano](#)
To: [David Barnes](#)
Cc: [MCP-Chair](#)
Subject: Re: 2024-2028 Update to Growth and Infrastructure Policy
Date: Tuesday, May 21, 2024 10:53:43 PM
Attachments: [image.png](#)

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Hi David, if it hasn't already been sent I have a few edits: 1) neighborhood(s)

10:48



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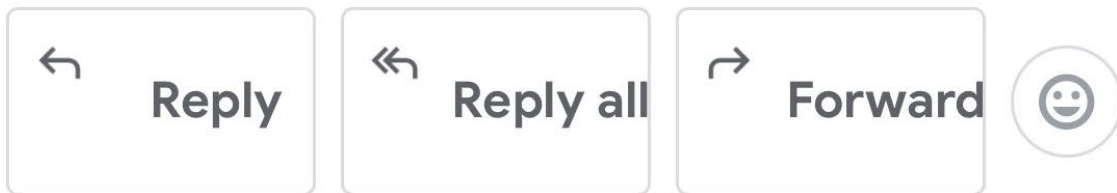
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residential zoning if it is to have any value as tool for evaluating the sufficiency of infrastructure.

Thank you for considering our comments.

David Barnes

David Barnes
President, Edgemoor Citizens Association
PO Box 30459
Bethesda, MD 20824



On Tue, May 21, 2024 at 4:29 PM David Barnes <edgemoorcitizenspresident@gmail.com> wrote:



Edgemoor Citizens Association
PO. Box 30459
Bethesda, MD 20824

May 21, 2024

Montgomery County Planning Board
[2425 Reedie Drive, 14th Floor](#)
[Wheaton, MD 20902](#)

Re: 2024-2028 Update to the Growth and Infrastructure Policy (Hearing date May 23, 2024)

Planning Board Members -

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future covered by this draft, where that replacement rate will be three-to-one (in many single family neighborhoods), four-to-one (in priority housing districts), or even more (in growth corridors), that approach is no reasonable or responsible. This new kind of residential development is likely to produce far more new residences than any new subdivision, but they will never be evaluated in terms of impact on infrastructure. The GIP must include consideration of the new realities of the residential zoning if it is to have any value as tool for evaluating the sufficiency of infrastructure.

Thank you for considering our comments.

David Barnes

David Barnes
President, Edgemoor Citizens Association
PO Box 30459
Bethesda, MD 20824

From: [Eileen Finnegan](#)
To: [MCP-Chair](#)
Cc: [Anspacher, David](#); [Buckley, Darcy](#); [Estrada, Luis](#)
Subject: May 23, 2024 Public Hearing Item – 2024–2028 Growth and Infrastructure Policy Update
Date: Wednesday, May 22, 2024 12:53:37 AM

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

Hello Chair Harris and fellow Planning Board Commissioners,

In reviewing the staff draft, I urge additional thought on two very specific points that impact the East County and the White Oak Science Gateway Master Plan area. As a member of the WOSG CAC, please consider my concerns.

First, the draft document appears to totally ignore the fact that the WOSC area is under a very basic "pay and go" approach known as the Local Area Transportation Infrastructure Program (LATIP). Development in the area is not subject to the more involved Local Area Transportation Review which the GIP discusses. The White Oak specific policy is administered by MoCo DOT and needs to be documented in this GIP update.

https://www.montgomerycountymd.gov/dot-dir/dev_review/ump.html

For Commissioners who may not be familiar with the LATIP, a developer may pay a fee based on the new PM peak-hour trips, or build a project (from an approved list) for credit against the fee amount. If a developer proposes a different improvement, it is evaluated by MoCo DOT and vetted through a MoCo DOT public hearing process. Acknowledgement of this program and the area it covers must be incorporated, or at least referenced, in this GIP update.

Second, changing the color classification of the "White Oak Village" portion of the WOSG area from Orange to Red, is very premature. Please do not approve this change. This area may be on the verge of incremental development in the coming years, but does not have the high-quality transportation, or the density to fully qualify as a Red area like Bethesda, Silver Spring, Wheaton, Rockville, etc. The White Oak Village needs time to evolve to become a Red area.

Furthermore, a very serious downside of changing the classification for this area is the elimination of the Transportation Impact Tax. Given that this area will need to have massive regional transportation infrastructure improvements, including the Randolph-Cherry Hill BRT, a lack of revenue will stress future County CIPs. Without a source of transportation funds there will be a strong possibility that needed improvements will not happen.

As the East County looks toward the transformation of a gravel quarry to a much-desired destination, there will be steps. For example, the first phase illustration for Viva White Oak under the new developer, MCB Real Estate, shows that a downtown similar to other Red areas is very far in the future. <https://online.fliphtml5.com/uxsl/bmom/#p=1>



Thank you for considering my comments as you review the GIP.

Regards,
Eileen Finnegan
10404 Sweetbriar Parkway
Silver Spring, MD 20903

From: djwilhelm@verizon.net
To: [MCP-Chair](#)
Subject: Testimony for 5/23 GIP
Date: Wednesday, May 22, 2024 8:38:01 AM
Attachments: [GIP PB 5-2024.docx](#)

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

I would like to change my presentation (attached) from in person to on-line. Can I get the speaking schedule?

Dan Wilhelm
301-928-2197

Greater Colesville Citizens Association
PO Box 4087
Colesville, MD 20914
May 23, 2024

Montgomery County Planning Board
Attn: Artie Harris, Chair
2425 Reddie Drive
Wheaton, MD 20902

Re: Growth & Infrastructure Policy

Dear Chairman Harris:

The Greater Colesville Citizens Association (GCCA) has commented for decades on the Growth & Infrastructure Policy (GIP) and its predecessor documents. GCCA supports the recommendations in the draft document except as noted below. The staff proposed changes are largely small adjustments to make the existing process work better.

Recommendation 3.1. GCCA supports including the White Oak Village & Center Policy area in the red category. We also recommend that the White Oak Policy Area be classified in the red policy area. These two areas are covered by the Local Area Transportation Improvement Program (LATIP) which replaces LATR, and thus most of the GIP transportation rules do not apply to them. Also, with BRT being studied for New Hampshire Ave, it will have premium transit. We have also been encouraging the county to link the two activity centers together using BRT/walking/biking at a new Paint Branch crossing rather than using Old Columbia Pike. White Oak is already a downtown area because of its highly dense residential development and the dense non-residential development there and in the Hillandale activity centers

Transportation Impact Rates. The Policy establishes non-auto drive mode share (NADMS) goals but fails to reduce the transportation impact tax to account for achieving the goal or exceeding it. The current LATR contains two tables that could be used to address this shortcoming: Appendixes 1a and 1b. Appendix 1a adjusts the ITE vehicle trip generation rate to reflect local conditions. Appendix 1b could be modified and updated to identify existing NADMS rates. Using those two tables, the transportation impact tax should thus become:

= ITE rate * Appendix 1a factor * (1 – Appendix 1b NADMS rate) * tax rate

Appendix 1b would represent the default LATR rate. However, if the developer could demonstrate a higher NADMS, that higher value would be used in place of the Appendix 1b value. The NADMS would most likely vary by the nature of the development in terms of number of auto trips, provision of public transportation, and any measures the developer puts in place to encourage non-auto trips. The tax rate would be value per auto trip. Thus, trips taken by transit, walking or biking would not be charged an impact tax, thus encouraging their usage.

Thank you for considering our recommendations.

Sincerely

Daniel L. Wilhelm

GCCA President

From: [Michael Larkin](#)
To: [MCP-Chair](#)
Subject: May 23th Public Hearing Item 2024–2028 Growth and Infrastructure Policy Update
Date: Wednesday, May 22, 2024 9:34:36 AM
Attachments: [Montgomery for All 2024-2028 Growth and Infrastructure Policy Comments \(1\).pdf](#)

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

Good Morning:

Please see the attached Montgomery for All May 23th 2024–2028 Growth and Infrastructure Policy Update comments.

Thank you for your consideration.

Michael Larkin
Montgomery for All Steering Committee



May 22, 2024

Re: May 23th Public Hearing Item 2024–2028 Growth and Infrastructure Policy Update

Dear Chair Harris and Members of the Montgomery County Planning Board:

My name is Michael Larkin, and I am writing on behalf of [Montgomery for All](#), the Coalition for Smarter Growth's grassroots branch in Montgomery County, with over 200 members who want to see more sustainable, welcoming neighborhoods. The Montgomery for All Steering Committee supports the recommendations in the 2024–2028 Growth and Infrastructure Policy (GIP) update that encourages the building of more affordable and attainable housing options and treats public transportation, walking, and bicycling as public benefits. The GIP is an opportunity to continue aligning county policies with Thrive 2050 and other plans such as the Pedestrian Master Plan and the Climate Action Plan.

In 2022, the Montgomery County Council passed Thrive 2050 with a vision of abundant housing and transportation options that do not default to automobile dependence. Many of the recommendations in the GIP move in this direction. Montgomery for All points out the following as steps in the right direction:

3.2 Require a Local Area Transportation study (LATR) for any proposed development generating 30 or more peak-hour motor vehicle trips.

This revises the current policy that counts 50-person trips whether they be by car, truck, transit, walking, or biking. These transportation modes are obviously not all the same. It is preferable that a bus carrying 30 people should only be counted once, and it no longer makes sense in light of the Climate Action Plan to assume walking and biking adds a burden that must be mitigated. This new standard aligns land use policy with more sustainable transportation options.

3.4 Establish a Non-Motor Vehicle Adequacy Test with five components: Pedestrian Level of Comfort (PLOC), illuminance, Americans with Disabilities Act (ADA) compliance, bicycle system, and bus transit system.

The focus of transportation needs to shift from moving cars as fast as possible to focusing on moving people safely. Recommendation 3.4 recognizes our county needs an integrated transportation system to accomplish this shift of focus. All residents should be able to walk, roll, bike and take transit as individual transportation options or in combination and do so safely.

3.11 Expand the current off-site mitigation exemption for affordable housing units, which currently only includes mitigation payments, to

include constructed improvements.

3.12 Exempt multi-family units with three or more bedrooms from off-site mitigation construction and payment.

Both of these recommendations could increase the financial viability of building more affordable and attainable housing. Montgomery County must simplify and reduce the cost of the housing construction process in light of the ongoing housing crisis.

4.3 Offer a 50% transportation and school impact tax discount to single-family attached and detached units that are 1,500 square feet or smaller.

4.5 Expand the current discount for units with three or more bedrooms to a total impact tax exemption for both transportation and school impact taxes and in all impact areas and policy areas.

4.6 Exempt office-to-residential conversion projects from impact taxes, given the high office vacancy rate in the county and the difficulty of converting office space to residential use.

These three recommendations encourage more compact land use and can lead to lower construction costs that will be passed onto residents through comparatively lower housing prices. Although office-to-residential conversion projects are not a panacea, Montgomery for All vigorously supports an all of the above approach to tackling the housing crisis, and this exemption should help defray some of the significant cost barriers to office-to-residential conversion and larger units in multi-family buildings.

Montgomery for All is also encouraged by other recommendations regarding the reclassification of stacked flats and focusing Vision Zero on managing speeds. Moreover, we recommend the development of a new Proportionality Guide calculation that focuses on the impact of motor vehicle trips instead of housing units and non-residential units. In conclusion, the 2024-2028 GIP update can move Montgomery County in the direction of ending the contrived scarcity of housing and incentivize the shift away from automobile dependence and support more public transit and active transportation options. Thank you for your time and consideration.

Sincerely,

Michael Larkin
Montgomery for All Steering Committee
7981 Eastern Ave., Apt. 201
Silver Spring, MD 20910

From: [Sally McCarthy](#)
To: [MCP-Chair](#)
Cc: [Brigid Howe](#); [Peele, Rodney](#); [Govoni, Lisa](#); [Baek, Hye-Soo](#); [MCCPTA CIP Committee](#); [Sally McCarthy](#); [Buckley, Darcy](#)
Subject: The Montgomery County Council of PTA (MCCPTA) comments on draft revisions to the Growth & Infrastructure Policy Attached
Date: Wednesday, May 22, 2024 9:47:43 AM
Attachments: [2024 MCCPTA Comments on Draft Recommendations to the GIP.pdf](#)

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

Hello,
MCCPTA's comments on the 2024 GIP Review draft are attached. Should you have any questions, please contact me at the email below.

Thank you,

Sally McCarthy, PhD
she.her.hers
sallyamccarthy@gmail.com
240/676-4778

MCCPTA Capital Improvements Committee, Chair
MCCPTA - MCPS School Construction Work Group
MCCPTA rep, Montgomery County GIP Review, STAT

Montgomery County Council of Parent-Teacher Associations

MCCPTA

everychild.onevoice.

May 22, 2024

Montgomery County Planning Board
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

To Planning Board Chairman Harris and Board Members:

Thank you for the opportunity to participate in the year long Growth & Infrastructure Policy review process as a member of the Schools' Technical Advisory Team. The meetings were well-run, informative and presented MCCPTA with the opportunity to provide input on proposed discussion items related to schools. We support the five recommendations contained in the draft, Chapter 2: School Element Recommendations. In particular, we are highly supportive of recommendations 2.2 through 2.5.

In our view, these elements target specific and needed areas of policy refinement such that:

- Recommendation 2.2 achieves critical data metric consistency across MCPS and County Planning and will improve accuracy as trends in enrollments fluctuate.
- Recommendation 2.3 provides direct flexibility to MCPS Planning and Facilities as they build out the CIP. The current MCPS CIP reflects a thoughtful and strategic use of resources as it will alleviate high school overcrowding.
- Recommendation 2.4 as written, implements another important delineation among housing classifications, which in turn will refine student generation rates.
- Recommendation 2.5 enables County Planning staff to adequately monitor and assess the rollout of statewide Blueprint requirement of compulsory Pre-K education. MCPS is planning to absorb many of these enrollments, and these students will become a part of the MCPS enrollment forecasts.

We look forward to additional engagement as the Planning Board discusses the recommendations and the policy moves to full Council consideration in the fall.

Sincerely,
Sally McCarthy
MCCPTA Capital Improvement Committee Chair
GIP STAT Participant member

CC: Brigid Nuta How, MCCPTA President; Rodney Peele, MCCPTA VP Advocacy; Darcy Buckley; Lisa Govini; Hye-Soo Baek

From: [Silber, Stacy P.](#)
To: [MCP-Chair](#)
Cc: [Sartori, Jason](#); [Buckley, Darcy](#); [Anspacher, David](#); [Kronenberg, Robert](#); [Stacy Lee](#); [Katie Wagner](#)
Subject: 2024 GIP Testimony
Date: Wednesday, May 22, 2024 10:24:29 AM
Attachments: [MBIA-NAIOP GIP Testimony - May 2024.pdf](#)
Importance: High

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

Dear Chair Harris,

Please find attached a written copy of NAIOP DC/MD's joint testimony that you are receiving verbally today regarding the 2024 Growth and Infrastructure Policy.

Best,

Stacy Silber
Chair, NAIOP DC/MD Leadership Committee

Stacy P. Silber, Attorney

Pronouns: She, Her, Hers

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May 23, 2024

Hon. Artie Harris
Chair, Montgomery County Planning Board
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

Re: 2024 – 2028 Growth and Infrastructure Policy Update

Dear Chair Harris and Commissioners:

Good morning my name is Katie Wagner and I am a principal at Grove Slade leading our Maryland office. Grove Slade is a transportation engineering and planning firm, where we work with clients through the entitlement process for development projects. I am here today on behalf of both NAIOP the National Association of Industrial and Office Properties and MBIA, the Maryland Building Industry Association.

I served on the Transportation Advisory Group (TAG) with a number of other stakeholders where we worked with Planning Staff to develop many recommendations for the Growth and Infrastructure Policy that was presented to you a few weeks ago. Grove Slade and other stakeholders also worked with planning staff to develop and implement the Proportionality Guide when the 2020 GIP was adopted and there was a disproportionate burden placed on developers to improve deficient pedestrian, bicycle, and transit infrastructure identified in the LATR traffic studies prepared as part of the entitlement process. I'm intimately familiar with the implementation of the LATR & GIP having worked in the county since 2017.

Throughout the fall and winter when the Transportation Advisory Group worked collaboratively with staff, we were able to address several topics that were not originally included in the scope of work for the GIP update. We were excited to see many of these recommendations make their way to you. The implementation of these recommendations is an important step to help make Montgomery County more resilient, increase the housing supply, encourage a swift and thorough development review process, and spur economic development by not placing huge cost burdens on developers improving a disproportionate amount of transportation projects. While these outcomes are critical to the future of Montgomery County, we understand that we must not lose sight of ensuring that adequate public facilities are in place and available for existing and future residents as the County grows.

As the TAG worked with staff, a number of themes came about, the fees assessed on development projects is much higher in Montgomery County compared to the rest of the state, the fees collected make up a very small percentage of the County's transportation budget, and finally, as these fees have gone up over the last 10 years, the fees collected have not also gone up, indicating the high fees are discouraging development. We must weigh the perpetual long term economic support from increased

tax base and attractiveness of vibrant activity centers against the marginal boost from one-time upfront impact fees from development activity.

Given this, I would now like to highlight a number of important points NAIOP and MBIA would like specifically to support and provide further refinements that we believe will have the greatest impact on the County and its ability to meet its goals. First, I would like to highlight our support for the removal of the proportionality guide for affordable housing (**Recommendation 3.11**). This would eliminate the requirement of offsite mitigation measures for affordable housing units. We would also recommend you expand this to include mixed income community projects where more than 25% of the units are affordable. This would reduce the reliance on County funds to build affordable units as the market rate units built in the mixed income communities support the viability of the affordable units. We also support the elimination of the proportionality guide for large units (**Recommendation 3.12**).

We support the elimination of a LATR traffic study requirements for both bioscience and daycare use (**Recommendations 3.13 and 3.14**). As staff described, the traffic studies required for daycares are costly as daycares generate a lot of trips on paper but those trips are generally made by parents already on the road who choose a daycare that is on the way to work and therefore the real traffic impact from daycares are minimal beyond the site driveway.

The next item I would like to highlight is revising the impact tax credits allowable projects, **Recommendation 4.8**. Currently eligible projects for impact tax credits include projects that are adding regional capacity or reduce traffic demand. We believe that the eligibility criteria, as defined in Section 52-50 of the County Code, needs further evaluation. The current eligibility criteria are limited and do not align with the County's broader goals of enhancing multimodal infrastructure and capacity. Notably, the eligibility list omits improvements along roadways that serve the County but are owned by the state, which represents the majority of frontage roads along major development corridors, upgrades to existing infrastructure to comply with ADA standards, upgrades to existing infrastructure to conform to the County's Complete Streets guidelines, and improvements to support the County's commitment to Vision Zero. This limitation disincentivizes infrastructure improvements on all roadways in the County that advance the principles of Complete Streets and Vision Zero. We would encourage you to allow all transportation projects that align with the County's current policies in both County and State ROW to be eligible for impact tax credits. We also suggest that these credits be acknowledged during preliminary plan and/or site plan review and confirmed prior to building permit issuance.

Another item I'd like to highlight is revising the Proportionality Guide to a vehicle trip-based approach (**Recommendation 3.8**). The Proportionality Guide was established in response to concerns associated with the costs borne by developers to meet multimodal adequacy standards. We support the efforts to ensure that required off-site transportation improvement costs are reasonable and proportional to a project's impact. However, we note a disparity in rates, particularly for developments in Red Policy Areas. Higher non-auto driver mode share goals (NADMS) in these areas result in higher Proportionality Guide Rates that are greater than the Transportation Impact Tax Rates for these projects, placing an additional financial burden on such projects compared to developments in other policy areas. We look forward to continuing to work with staff to ensure the Proportionality Guide helps the County meet its goals and not discouraging housing development.

We appreciate the recommendation for a 50% reduction in impact fees for single-family attached or detached dwelling units smaller than 1,500 (**Recommendation 4.3**). We recommend expanding this requirement to 2,000 sf or allow for two (2) thresholds for the attached and detached units. We spoke

with a number of home builders throughout the county and they do not see viability in building homes smaller than 1,500 sf. This is for a number of reasons including the required width of units and achieving the number of bedrooms homeowners are interested in having, even in the smallest units. Additionally in support of the County's policy to incentivize attainable housing, we support a separate impact tax classification for 2-over-2s, but would like to see that classification similar to multifamily to further incentivize the creation of these units.

We support the move to 30 vehicle trips, being the requirement for an LATR traffic study (**Recommendation 3.2**). Traffic studies ensure safe and efficient access for development sites. Without studies required as part of the APF approval at the Preliminary Plan process, often SHA or MCDOT will request a study at the access permit stage, further delaying the process and the study does not have specific guidelines and processes it must follow. Transportation statements for smaller sites or exempt uses should focus more on the on-site and safe site access that are critical for site functioning rather than broad off-site infrastructure improvements.

We support the increase in the delay standard for some policy areas as these are minor increases (**Recommendation 3.3**).

We support simplification of the study areas (**Recommendation 3.5**). We continue to have concerns about the requirement of an illumination study reviewing streetlights and their specific details. These studies are costly, expensive, and dangerous.

We support the recommendation for the 30-day SHA review timeline and desire to have mutual expectations in the development review process (**Recommendation 3.18**). We consistently get requests for analysis from SHA for projects located in Red Policy areas and the purpose of the study is typically for informational purposes where no access permit is required or outside the desired project timeline.

I'd like to highlight our concerns regarding the recommendations for the Vision Zero Statement (**Recommendation 3.6**). This section highlights developers can implement speed reduction strategies and other roadway safety improvements as a mitigation project at MCDOT or at the discretion of the Maryland State Highway Administration." However, this is often not the case as proposed solutions often require additional rights of way, speed limit changes, road diets, and other improvements that extend far beyond the development site. It is difficult to come up with solutions to speeding strategies in the short development review timeline. The issue is further complicated by the fact that a private developer does not have the ability or authority to implement a traffic calming improvement during the development process under the current code.

Finally, we would like to ensure there is language in the Growth and Infrastructure Policy about projects going to the Planning Board after the GIP is adopted. Many of the changes to the policy will have a dramatic impact on the financial viability of projects throughout the County. Stakeholders are tracking the proposed changes, and many projects are on pause until these changes take effect. There should be language added to the GIP to allow projects to be able to take advantage of many of these monumental recommendations.

This is the current language.

Effective dates

This resolution takes effect on January 1, 2025 and applies to any application for a preliminary plan, site plan, building permit, or other application that requires a finding of Adequate Public Facilities filed on or after that date.

Guidelines for the Administration of the Adequate Public Facilities Ordinance

In closing, MBIA and NAIOP are excited to see the transportation recommendations put forth in the 2024-2028 Growth and Infrastructure Policy Update.

We believe these recommendations look to make Montgomery County resilient, increase the housing supply, encourage a swift and through development review process, and spur economic development by not placing huge cost burdens on developers improving a disproportionate amount of transportation projects. Thank you for your time today.

From: [Ken Bawer](#)
To: [MCP-Chair](#)
Subject: Comments for 5/23/2024 Planning Board Hearing, 2024-2028 Growth and Infrastructure Policy (GIP) Update
Date: Wednesday, May 22, 2024 10:34:15 AM
Attachments: [2024 GIP comments Bawer.pdf](#)

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

Dear Planning Board,

Please see my attached comments for the 5/23/2024 Planning Board Hearing, 2024-2028 Growth and Infrastructure Policy (GIP) Update.

Would you please confirm receipt?

Regards,

Kenneth Bawer

8 Cleveland Ct

Rockville, MD 20850

Kenneth Bawer, 8 Cleveland Ct, Rockville, MD 20850
2024 GIP Update

May 22, 2023

To: Montgomery County Planning Board Chair, 2425 Reddie Drive, 14th Floor, Wheaton, MD 20902

Subject: 5/23/2024 Planning Board Hearing, 2024-2028 Growth and Infrastructure Policy (GIP) Update

There are glaring holes in the GIP update with respect to adequate stormwater control infrastructure.

The Planning Board's website on the May 23 public hearing for Growth and Infrastructure Policy update¹ states, "The GIP ensures infrastructure, such as roads, sidewalks, and schools, is adequate to support growth...." However, no mention is made about adequate stormwater control infrastructure.

While the "Growth and Infrastructure Policy 2024-2028 Update" Working Draft's Appendix C Environmental Resources section² recognizes the need for adequate stormwater management, the authors erroneously state that, "The county has long been at the forefront of ...stormwater management. This has resulted in ...high standards for environmental resource protection preservation, and conservation." Nothing could be further from the truth. In fact, the Department of Environmental Protection has stated that "We have not seen benthic [macroinvertebrate] improvement in any of our stream restorations."³ BMIs are an industry standard measure of stream health.

Please see the linked document that debunks any assertions that Montgomery County, the Department of Environmental Protection, and Montgomery Parks are protecting our stream valleys and water quality: <https://drive.google.com/file/d/1YDGJwW1lwOQTdINgNKINuivBwNSmPV3X/view>.

Please see how the county and Parks destroy, rather than protect, our stream valleys in this link to a [video of a typical stream "restoration" in Takoma Park](https://www.youtube.com/watch?v=s63H0nidRGw) (<https://www.youtube.com/watch?v=s63H0nidRGw>).



(still photo of Brashears Run stream "restoration" in Takoma Park, May 6, 2024)

¹ <https://montgomeryplanning.org/montgomery-county-planning-board-schedules-may-23-public-hearing-for-growth-and-infrastructure-policy-update/>

² Appendix's Chapter C, the GIP working draft (<https://montgomeryplanningboard.org/wp-content/uploads/2024/04/Attachment-1-%E2%80%932024-%E2%80%932028-Growth-and-Infrastructure-Policy-Working-Draft.pdf>)

³ 1/16/2024 DEP presentation to Stormwater Partners Network

Kenneth Bawer, 8 Cleveland Ct, Rockville, MD 20850
2024 GIP Update

As stated in the GIP Appendix C, it is true that “Redevelopment affords the potential ...environmental improvements over existing conditions. It offers opportunities to improve stormwater management, water quality, air quality, tree canopy, and other green spaces in older developed areas that are environmentally impaired.” Yet the current county standards for stormwater control are inadequate to control the more intense rain events we are now experiencing due to global warming.

The glaring holes in the GIP with respect to stormwater control are:

- the lack of recognition that current stormwater control requirements are woefully inadequate as evidenced by the stormwater-caused erosion of our streams. This is why the county spends millions of dollars on so-called stream “restorations” each year to repair the damage caused by this uncontrolled stormwater runoff, and
- the lack of any requirement in the GIP to include adequacy of stormwater control infrastructure even though the purpose of the GIP, per the Staff Report is “...to test whether infrastructure like schools, transportation, water, and sewer services can support a proposed development.”⁴

As stated in the “2024 Growth and Infrastructure Policy Working Draft” presentation to the Planning Board,⁵ one of the County Priorities is Environmental Resilience. Therefore, adequate stormwater control infrastructure should be an integral component for administering the county’s Adequate Public Facilities (APF) requirements.

Appendix C of the GIP Working Draft⁶ states that, “Older developments, built before stormwater controls, degrade our natural environment.” However, the same is true of new development due to the county’s inadequate stormwater control requirements. A case in point is the Pike and Rose development which is causing \$1.7M to be spent on the Old Farm Creek stream “restoration” to repair a previous stream “restoration.”⁷

Adequacy standards must take into account all future impacts from private development. This must include adequacy of public stormwater control. If not adequate to support a proposed development project, there must be a requirement for enhanced on-site stormwater retention. The current county standards are “meets minimum” requirements which are wholly inadequate to protect our natural resources. The county must exceed these current standards if we want to protect our stream valleys from the ravages of stormwater firehosing into, and eroding, our streams. Currently, the lack of adequate stormwater control requirements has resulted in the spending of millions of dollars of public funds to construct so-called stream “restorations” in an attempt to deal with the problem of stream erosion created by the development industry. The result has been that developers get off scot-free while the public pays for stream erosion damage.

⁴ <https://montgomeryplanningboard.org/wp-content/uploads/2024/04/2024-%E2%80%932028-Growth-and-Infrastructure-Policy-Working-Draft-Staff-Report.pdf>

⁵ Page 13, PowerPoint presentation, 74 pages.

⁶ GIP working draft (<https://montgomeryplanningboard.org/wp-content/uploads/2024/04/Attachment-1-%E2%80%932024-%E2%80%932028-Growth-and-Infrastructure-Policy-Working-Draft.pdf>)

⁷ <https://www.montgomerycountymd.gov/DEP/water/clean-water-montgomery/watershed/restoration-projects/old-farm-creek.html>

Kenneth Bawer, 8 Cleveland Ct, Rockville, MD 20850
2024 GIP Update

The Growth and Infrastructure Policy must be revised to ensure that developers pay their fair share for stormwater control.

Thank-you for your consideration.

Sincerely,

Kenneth Bawer
8 Cleveland Ct
Rockville, MD 20850

From: [Robins, Steven A.](#)
To: [MCP-Chair](#)
Cc: [Robins, Steven A.](#)
Subject: 20240522_Lerch Ear IyBrewer.pdf
Date: Wednesday, May 22, 2024 11:56:40 AM
Attachments: [20240522_Lerch Ear IyBrewer.pdf](#)
Importance: High

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

Good morning. Please include this letter in the public hearing testimony for the Draft Growth and Infrastructure Policy 2024-2028, which is on the Board's Agenda for May 23, 2024. Thank you very much.

Steve Robins

Steven A. Robins, Attorney

Lerch, Early & Brewer, Chtd. rising to every challenge for over 70 years
7600 Wisconsin Ave | Suite 700 | Bethesda, MD 20814
T 301-657-0747 | F 301-347-1778 | Cell 301-252-1904
sarobins@lerchearly.com | [Bio](#)

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Steven A. Robins
Attorney
301-657-0747
sarobins@lerchearly.com

May 22, 2024

Artie Harris, Chair and
Members of the Montgomery County Planning Board
Maryland-National Capital Park & Planning Commission
2425 Reedie Drive, 14th Floor
Wheaton, MD 20902

Re: Growth and Infrastructure Policy Update 2024 - 2028

Dear Chair Harris and Members of the Planning Board:

Thank you for providing the opportunity to comment on the Draft Growth and Infrastructure Policy Update 2024 – 2028 (the “GIP”). I am submitting this letter on behalf of the Camalier and Davis families, the owners of significant holdings in Rock Spring and Buchanan Partners, the developer of the Rock Spring Centre project. We would like to comment on one particular item contained in the GIP which is the recommendation to establish Rock Spring as a Red Policy Area (pp. 24-25 of the GIP). We fully support this recommendation as Rock Spring is an important and major part of North Bethesda and the County and certainly is a planned activity center that shares similar characteristics, goals and visions of properties located in Red Policy Areas. Updating the Policy Area designation from Orange to Red (as shown in Appendix “E” – Policy Area 35) is fully consistent with the recommendations contained in the Rock Spring Sector Plan and Thrive 2050 and will assist in supporting the continued economic development potential of the Rock Spring area as a whole. This includes not only the various Camalier and Davis holdings in Rock Spring including Rock Spring Centre but also the area around Westfield Montgomery and, as mentioned, all of Rock Spring. This recommendation is especially timely as it will assist Rock Spring in becoming more of a mixed use and dynamic area and will help stimulate much desired development opportunities while advancing those that are already underway. Again, this recommendation is fully consistent with and supportive of the Rock Spring Sector plan, the characteristics and goals of Red Policy Areas, and the efforts by the County to encourage the continued economic development of Rock Spring Park as a critically important mixed-use center in the County.

We thank the Planning Staff for including this recommendation in the Draft GIP and would very much appreciate the Board’s support of this update.

Sincerely,



Steven A. Robins

From: [Hummel, Phillip A.](#)
To: [MCP-Chair](#)
Cc: [Sartori, Jason](#); [Anspacher, David](#); [Govoni, Lisa](#); [Buckley, Darcy](#); [Baek, Hye-Soo](#); [Cirner, Casey L.](#); [Girard, Erin E.](#); [Wallace, Scott C.](#)
Subject: 2024-2028 Growth and Infrastructure Policy Update - Public Hearing Testimony
Date: Wednesday, May 22, 2024 1:28:09 PM
Attachments: [image001.png](#)
[image002.png](#)
[image004.png](#)
[image005.png](#)
[5-22-24 GIP Miles Letter.pdf](#)

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Good afternoon,

Please find our land use group's written testimony on the 2024-2028 Growth and Infrastructure Policy Update. Kindly include this correspondence in the public record. We appreciate your consideration of our comments and thank everyone for their hard work.

Best,
Phil

Phillip A. Hummel

Principal

11 N. Washington Street | Suite 700 | Rockville, MD 20850-4229
D: +1 301.517.4814 | O: +1 301.762.1600 | F: +1 301.517.4814



[vCard](#) | phummel@milesstockbridge.com



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May 22, 2024

By E-Mail

Artie Harris, Chair
and Commissioners of the Montgomery County Planning Board
2425 Reddie Drive, 14th Floor
Wheaton, Maryland 20902

Re: 2024-2028 Growth and Infrastructure Policy Update Public Hearing Draft

Dear Chair Harris and Commissioners of the Montgomery County Planning Board:

The attorneys of Miles & Stockbridge P.C.'s land use/zoning practice group in Rockville (the "Miles Group") appreciate this opportunity to provide feedback on the public hearing draft (the "Public Hearing Draft") of the 2024-2028 Growth and Infrastructure Policy Update (the "GIP"). The Miles Group strongly supports the objectives of the GIP, including promoting flexibility, enhancing economic competitiveness, and supporting the provision of a range of housing. The Miles Group particularly supports recommendations to review the County's impact tax rate and impact tax laws as an important method of encouraging desired development and improving the County's standing within the Metropolitan DC area.

It is with this understanding that the Miles Group provides the following comments on the recommendations in the current Public Hearing Draft that will be the subject of the May 23, 2024 public hearing before the Planning Board. We believe these suggested modifications will promote orderly growth, encourage additional investment, and advance several important public policy priorities.

Recommendation 2.4

- This recommendation reclassifies stacked flats (commonly known as two-over-twos) and similar building types from the current multi-family low-rise category to the single-family attached category. Public Hearing Draft, pgs. 19-

20. The Miles Group strongly suggests maintaining the existing classification for several reasons:

- Stacked flats and related unit types are a critical component of delivering additional “missing middle” or attainable housing. Changing the classification of such housing from low-rise multi-family to single-family attached will have negative impacts that will discourage the production of this kind of housing, including a considerable increase in development impact taxes. Such costs are passed on to the homeowner or tenant, thereby making housing more expensive.
- Furthermore, and as recognized in the Public Hearing Draft, two-over-twos and comparable building types are recognized as multi-family low-rise units under zoning standards. Public Hearing Draft, pg. 19. It is reasonable for the classification for zoning purposes to be consistent with the classification for purposes of assessing the adequacy of public facilities and development impact taxes.
- As acknowledged in the Public Hearing Draft, there is some uncertainty regarding whether these building types generate students in similar numbers to townhouses (single-family attached) located in Infill Impact Areas. Public Hearing Draft, pgs. 19-20. It is within Infill Impact Areas where many two-over-twos and similar housing types are expected to be constructed in the near future.
- A thoughtful balancing of these interests supports keeping the low-rise multi-family classification for two-over-twos and similar building types.

Recommendations 3.11 and 3.12

- The GIP proposes expanding the current off-site mitigation exemption for affordable housing units to include constructed improvements and exempting multi-family units with three or more bedrooms from off-site mitigation construction and payment. Public Hearing Draft, pg. 31. The Miles Group supports these as worthy policies for encouraging the development of additional housing in the County, including affordable housing, and supports their broad application.

Recommendation 3.18

- The Miles Group strongly supports changing state law to align SHA’s review time (45 days) with the review time for other agencies (30 days). Public Hearing Draft, pg. 34. This was an important recommendation of the recent Development Review Workgroup to streamline the County’s development review process and enhance economic competitiveness.

Recommendation 4.1

- This recommendation continues calculating standard school impact taxes at 100% of the construction cost of a school seat. Public Hearing Draft, pg. 20.

- We believe this recommendation should be clarified to base impact taxes for schools at 100% of the construction cost *incurred by the Montgomery County Public Schools (“MCPS”)*. It is our understanding that MCPS receives funding from the state for construction costs associated with a student seat (thereby lowering that cost to MCPS). As such, the school impact taxes paid by building permit applicants should be recalibrated to reflect this contribution.

Recommendation 4.3

- This recommendation offers a 50% discount on development impact taxes for single-family attached and detached units that are 1,500 square feet or smaller. Public Hearing Draft, pg. 40. The Miles Group supports this concept but suggests increasing the eligible unit size to reflect market conditions. It is our experience that these housing types are usually larger than 1,500 square feet (but not significantly so) and increasing the size limit will meaningfully encourage the development of additional “missing middle” and attainable housing.

Recommendations 4.5 through 4.7

- Recommendations 4.5 and 4.6 provide a total development impact tax exemption for multi-family units with three or more bedrooms and for office-to-residential conversion projects. Public Hearing Draft, pgs. 41-42. The Miles Group supports this policy and believes it is a creative way to encourage the development of needed housing in the County by adaptively reusing vacant and outmoded office buildings.
- Recommendation 4.7 proposes to continue setting the development impact tax rate for bioscience uses at zero. We agree with maintaining the current policy, as it recognizes the importance of this sector to the County’s economy, as well as advances the recommendations of the pending update to the Great Seneca Plan.

Recommendation 4.8

- This recommendation suggests updating the County Code’s impact tax credit provisions to provide additional clarity and expand the list of improvements eligible for credits. Public Hearing Draft, pgs. 42-43.
- The Miles Group agrees the impact tax law needs comprehensive review and revision. The County Code and associated COMCOR regulations contain unclear language with complicated procedures, unreasonably restrict the types of improvements that are eligible for impact tax credits, and result in unpredictable and arbitrary determinations. The existing impact tax law (including the credit provisions) ultimately deprives the County of needed housing, while increasing the cost of the housing that gets built.
- We also suggest that the undergrounding of utilities be added as an improvement eligible for impact tax credits. Undergrounding utilities can

encourage multimodal transportation and enhance safety. It is, however, an expensive and complicated frontage improvement that can make desired development projects financially unviable and/or result in increased costs that get passed on to homeowners or tenants. Incentivizing the undergrounding of utilities has been a focus in surrounding jurisdictions (see, for example, the City of Gaithersburg's comprehensive Zoning Ordinance revisions) and can be a useful strategy to enhance the County's competitiveness.

Conclusion

The Miles Group is grateful to the Planning Department and Planning Board for consideration of these comments. We look forward to continued participation in the public review of the GIP and are available to answer any questions.

Sincerely,

MILES & STOCKBRIDGE P.C.

Casey L. Cirner / By:
Casey L. Cirner PAH

Erin E. Girard / By:
Erin E. Girard PAH

Phillip A. Hummel
Phillip A. Hummel

Scott C. Wallace / By:
Scott C. Wallace PAH

Attachments

cc: Jason Sartori
David Anspacher
Lisa Govoni
Darcy Buckley
Hye-Soo Baek

From: [Patricia Ilgenfritz](#)
To: [MCP-Chair](#)
Cc: [Sartori, Jason](#); [Kronenberg, Robert](#); [Buckley, Darcy](#); [Govoni, Lisa](#); [C. Robert \(Bob\) Dalrymple](#); [Matthew Gordon](#)
Subject: 2024 Growth and Infrastructure Policy - Selzer Gurvitch's Written Comments for the Working Draft
Date: Tuesday, May 14, 2024 4:41:13 PM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[Letter to Artie Harris \(5-14-24\) \(00715918xD8665\).pdf](#)

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Dear Chair Harris and Planning Board Members,

Please see the attached letter from Bob Dalrymple & Matt Gordon. Please feel free to contact us if you have any questions. Thank you.



Patricia Ilgenfritz | Administrative Assistant

pilgenfritz@sgrwlaw.com

Direct: [301-634-3152](tel:301-634-3152) | Office: [301-986-9600](tel:301-986-9600)



Selzer Gurvitch Rabin Wertheimer & Polott, P.C.

4416 East West Highway, Suite 400, Bethesda, MD 20814

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C. Robert Dalrymple, Esquire
[Bdalrymple@sgrwlaw.com](mailto:bdalrymple@sgrwlaw.com)
Direct Dial: (301) 634-3148

Matthew M. Gordon, Esquire
Mgordon@sgrwlaw.com
Direct Dial: (301) 634-3150

May 14, 2024

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

Mr. Artie Harris, Chair

And Members of the Planning Board
Montgomery County Planning Board
2425 Reedie Drive, 14th Floor
Wheaton, Maryland 20902

Re: 2024 Growth and Infrastructure Policy (the “GIP”); Selzer Gurvitch’s Written
Comments for the Working Draft

Dear Chair Harris and Planning Board Members,

On behalf of the Land Use/Zoning practice group at Selzer Gurvitch, we offer these written comments to the GIP Working Hearing Draft (the “Working Draft”). We largely support the recommendations in the Working Draft as they will help to further important land use, economic development and housing goals established by Thrive Montgomery 2050 (“Thrive”). We commend M-NCPPC staff on their creative and forward thinking included in the Working Draft as there are a number of important policy changes that will help to make the production of housing more economically viable. We offer the following comments in support of five (5) specific policy recommendations included in the Working Draft and note that there are opportunities to expand on these policy recommendations. More specifically, we recommend that the Working Draft include specific treatment for projects that include deeply affordable MPDUs (i.e., MPDUs at 50% Area Median Income – “AMI” or less).

1. Deeply Affordable MPDUs

While MPDUs provide an important source of affordable housing (at 65% to 70% AMI), Thrive recognizes the need for a broader spectrum of affordable housing. More specifically, Thrive recommends the following:

- As part of the commitment to the Housing First approach, develop strategies to build deeply affordable housing and provide permanent supportive housing in support of unsheltered populations and those who may be aging out of youth programs. (p. 132).

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- Adjust the applicability of the Moderately Priced Dwelling Unit (MPDU) program and other affordable-housing programs to provide price-regulated units appropriate for income levels ranging from deeply affordable to workforce. (p. 133).

Given the well-defined need for deeply affordable housing and the Working Draft's recommendation to exempt trips associated with MPDUs and multi-family units with 3 or more bedrooms (Recommendations 3.11 and 3.12), **we recommend that the Working Draft include an expanded adjustment to the Proportionality Guide limit by subtracting the trips attributed to the deeply affordable MPDUs by two (2) times.** More specifically, deeply affordable MPDUs should exempt a corresponding market-rate unit from off-site mitigation (i.e., deeply affordable MPDUs receive an exemption for 2 total units). By way of example, if a development project includes 10 deeply affordable MPDUs, M-NCPPC staff would subtract the trips attributable to 20 dwelling units from the Proportionality Guide limit.

2. Recommendation 4.9, Legacy Language For Opportunity Zones

We support the recommendation that “legacy language to allow Planning Board–approved projects that have not yet received building permits to continue to receive the impact tax exemption” be added to the Chapter 52, Article V of the Montgomery County Code (the “Impact Tax Law”). The current language (Sections 52-41(g)(6) and 52-54(d)(4)) exempts any development located in a qualified opportunity zone from impact taxes (except for developments located in the City of Rockville). Given the significant investment and time required to obtain development approvals and the good faith reliance by property owners on this exemption, it is critical that any changes to the Impact Tax Law maintain this exemption for development projects that have valid development approvals or a pending development application, as of the expiration of the qualified opportunity zone, that will result in Adequate Public Facilities (APF) approval.

In this respect, **we recommend that the Working Draft continue to exempt development projects so long as the underlying APF approval remains valid at the time of building permit issuance (impact taxes are calculated at the time of building permit issuance).** This should be the standard for both Planning Board and municipal development approvals (i.e., the City of Gaithersburg since the current exemption does not apply in the City of Rockville). Absent the inclusion of such transitional language, the Growth Policy will unfairly frustrate the investments and assumptions made by applicants with development approvals in qualified opportunity zones.

3. Enterprise Zones

We support the Working Draft's recommendation to maintain the impact tax exemption for development projects located in an Enterprise Zone designated by the State. For the same reasons provided for qualified opportunity zones, it is critical that property owners be able to avail themselves of the impact tax exemption for Enterprise Zones where they have obtained

development approvals prior to expiration of the relevant Enterprise Zone. Since the only Enterprise Zones in the County (Burtonsville and Olde Towne Gaithersburg) are set to expire in 2028, the Working Draft should **recommend that the current exemption under the Impact Tax Law be maintained so long as these Enterprise Zones remain in effect, and to include a transitional provision (similar to the language proposed above for qualified opportunity zones) for development projects with APF approval that have not yet gone to building permit.**

4. Recommendation 4.6, Office to Residential Conversions

We fully support the Working Draft’s recommendation to introduce an impact tax exemption for office to residential conversion projects. This policy change is market responsive and cognizant of the strong headwinds facing the office market throughout the region and beyond. Even with the proposed impact tax exemption, it is extremely expensive and challenging to convert an under-performing and obsolete office building to multi-family units (only a small number of buildings in the County will be viable for conversion). However, in order to meet the County’s housing goals and to mitigate the negative impacts caused to a surrounding area by a vacant or underutilized office building, the Working Draft appropriately recognizes the need to provide for incentives to create housing where feasible.

Notwithstanding our support for this recommendation, it is our position that the Working Draft should go further to encourage the replacement of underutilized office buildings with attached housing units and/or multi-family low-rise units (e.g., townhouse, duplex, and other attainable housing unit types). To this end, Thrive provides that to meet the County’s housing demands by 2045, approximately “**half** of all new dwellings will need to be rental units in multifamily buildings (**including both apartment and townhome, duplex, triplex, and quadplex units**) and **more than one quarter** will need to be **for-sale units in multifamily buildings (including condominiums and other attached and semi-detached building types)**.” (Thrive, p. 131) (emphasis added).

Based on the foregoing, the GIP should embrace and encourage opportunities to replace underperforming office buildings with market-responsive attached and low-rise housing types (for-sale and rental). We note that current Impact Tax Law provides for an off set (or exemption) against transportation impact taxes based on the amount of office space being removed, but that these projects are subject to the school impact tax. In order to provide for greater opportunity for market-responsive infill housing, **we recommend that the Working Draft include a 50% exemption from school impact taxes for development projects that involve the demolition of an office building to make way for infill attached and/or multi-family housing.** Such an approach would allow for the 100% exemption where a development project adaptively reuse an office building for multi-family housing (this will only be viable in very limited instances), but also provide for appropriate incentives to create a more diverse range of housing types (e.g., townhouse units, stacked flats, triplex, and other attainable housing typologies). The proposed discount for smaller homes (recommendation 4.3) does not adequately address this scenario

because the market will demand, to support the cost of replacing an office building, that some of this infill housing be larger than 1,500 square feet.

5. Recommendation 3.11, LATR Exemption for MPDUs

We fully support the Working Draft recommendation that would “[e]xpand the current off-site mitigation exemption for affordable housing units, which currently only includes mitigation payments, to include constructed improvements.” While it is our position that the current GIP exempted affordable housing projects from off-site mitigation, whether in-kind or through mitigation payments, M-NCPPC staff has interpreted the current GIP to limit the exemption to mitigation payments (even in instances where a project includes 100% regulated affordable housing). In order to be consistent with Thrive and the economic realities underlying the development of affordable housing (i.e., these projects rely on public subsidies), it is critical that the Recommendation 3.11 be included in the GIP.

While we fully support this policy recommendation, **we encourage the Planning Board to expand on this policy to account for projects that contain a minimum of 30% MPDUs (or other regulated affordable units exempt from impact taxes).** In recognition of the challenge with financing housing projects that contain additional MPDUs, the Impact Tax Law provides an exemption for market rate units (in Red Policy Areas) in a development in which at least 25% of the dwelling units are MPDUs (or other exempt affordable units). For the same reasons, **the GIP should exempt projects with a higher proportion of MPDUs (i.e., 30% is two times the minimum requirement in many policy areas) from any off-site mitigation (in-kind construction or mitigation payments).**

6. Recommendation 4.5, Exemption for Multi-Family Units with Three or More Bedrooms

Given the well-documented lack of supply of family size multi-family units (for sale and rental), we support the Working Draft’s recommendation to “[e]xpand the current discount for units with three or more-bedroom units to a total impact tax exemption for both transportation and school impact taxes and in all impact areas and policy areas.” Since the market is not producing an adequate supply of 3-bedroom and larger units, it is important that the GIP establish incentives to encourage the development of these larger units. Not only is this consistent with Thrive’s recommendation to “encourage provision of multi-bedroom units suitable for households with children in multifamily housing,” it will result in both market-rate and MPDUs that contain 3-bedroom units and larger. (Thrive, p. 132). We request that the Planning Board adopt recommendation 4.5 in the Working Draft for transmittal to the County Council.

We thank you for the opportunity to provide these comments and look forward to continuing to work with all stakeholders through the remainder of the public review process. It is our strong desire that the GIP encourage important economic development opportunities contemplated by Thrive and that will enhance the public welfare and increase the County’s housing supply.

Very truly yours,

**Selzer Gurvitch Rabin Wertheimer
& Polott, P.C.**

C. Robert Dalrymple

C. Robert Dalrymple

Matthew M. Gordon

Matthew M. Gordon

cc: Jason Sartori
Robert Kronenberg
Darcy Buckley
Lisa Govoni