Growth & Infrastructure POLICY

2024–2028 Update

Public Hearing Draft

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Abstract

In 2022, the county adopted a new General Plan*, Thrive Montgomery 2050*, that emphasizes racial equity, economic competitiveness, and environmental resilience in guiding future land use and development. This new plan reveals an opportunity to refine our approach to growth creatively and provide new choices in housing and transportation for all community members.

As a general plan, *Thrive Montgomery 2050* has a 30-year horizon. It sets a vision for the county and encompasses broad, countywide policy recommendations for land use, zoning, housing, the economy, equity, transportation, parks and open space, the environment, and historic resources. Its recommendations are implemented through policy tools, like the *Growth and Infrastructure Policy* (GIP). The recommendations in Thrive guide policies on accommodating growth in the amounts, forms, and places we desire while also ensuring the adequacy of public infrastructure.

In Montgomery County, development is largely, though not entirely, characterized by infill and redevelopment in our urban core and along our transit corridors. Once dominated by greenfield development that created single-family housing for nuclear families, the county's growth pattern has shifted to infill development, where multi-family housing and non-family households define residential communities. The 2016–2020 *Subdivision Staging Policy* and the 2020–2024 *Growth and Infrastructure Policy* recognized the varying and changing growth contexts throughout the county and created flexible policies that moved the growth policy from a one-size-fits-all policy to one that recognized the need for greater flexibility. The 2024-2028 *Growth and Infrastructure Policy* builds upon the transformational growth policies of 2016 and 2020 to further refine and enhance them.

Most importantly, the GIP has become an important tool in advancing county goals, including racial equity and social justice, economic competitiveness, environmental resilience, company growth, housing for all, safety, and good governance.

A growing, diverse community requires a mix of housing that is attainable for different income levels and household sizes. This housing must be accessible to jobs and other amenities through timely public infrastructure that also helps attract economic development and enhances environmental health and sustainability.

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Chapter 1. Overview

A. ABOUT THE POLICY

The foundation of the *Growth and Infrastructure Policy* is that Montgomery County must have adequate infrastructure to support growth. Every four years, Montgomery Planning initiates an update to the GIP 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.

The GIP[1] addresses the adequacy of public facilities with regard to the development approval process. The master-planning process is aspirational in creating a long-term vision for our communities, but the GIP has a more focused, shorter-term view. It sets standards for evaluating individual development proposals to determine whether the surrounding public infrastructure, such as transportation and school facilities, can accommodate the demands of the development. It also outlines requirements for mitigating inadequate infrastructure.

Chapter 33A of the County Code requires a quadrennial review of the GIP, with the current review to be completed in 2024. The code directs the Planning Board to transmit a draft of the GIP to the County Council by August 1, 2024, and requires the County Council to adopt the 2024–2028 policy by November 15, 2024. A primary goal of the 2024 update is to ensure that the policy is aligned with the County's priorities and the current growth context.

B. HISTORY OF THE POLICY

Montgomery County's 1964 General Plan (*On Wedges and Corridors*) called for containing sprawl by concentrating development along major transportation corridors while maintaining wedges of low-density and rural land uses. The 1969 General Plan Update had key recommendations for accommodating future population growth, such as balancing development with the provision of public infrastructure through adequate public facilities requirements.

The County Council adopted the APF requirement in 1973 to synchronize development with the availability of public facilities needed to support growth. Its adoption followed a landmark court decision (Golden v. Planning Board of the Town of Ramapo, 1972), which found adequate public facilities requirements constitutional.

In 1986, the County Council adopted a growth policy establishing criteria and guidance for administering the APF requirement. During the building boom in the 1980s and 1990s, the policy ensured that road and school capacity kept pace with growth. When new areas of the county were converted from farmland into

[1] Pronounced "gee-eye-pee."

neighborhoods, infrastructure to support new homes and businesses had to be in place.

When the growth policy was initially adopted, much of the county's land was undeveloped. The county has since evolved from a bedroom community into a complex jurisdiction with major employment centers and mature residential neighborhoods. Over time, the policy has shifted to respond to the county's changing growth context and reflect its planning goals.

Today's *Growth and Infrastructure Policy* focuses on ensuring that new development provides adequate public facilities in an appropriate manner and extent. If the adequacy tests identify inadequate existing facilities, a developer must provide needed infrastructure or pay a fee for mitigation.

Known at different times as the county's Growth Policy, the Annual Growth Policy, and the Subdivision Staging Policy, the policy was renamed the *Growth and Infrastructure Policy* in 2020. The policy was initially reviewed and updated annually, then biennially. Chapter 33A of the County Code now requires a quadrennial update, with the current review to be completed in 2024.

C. HOW DOES THE CURRENT POLICY WORK?

The county's adequate public facilities (APF) regulation, which appears in Chapter 50 of the County Code, states that "the [Planning] Board may only approve a preliminary plan [of subdivision] when it finds that public facilities will be adequate to support and service the subdivision." The APF includes transportation, schools, water, sewer, police, fire, and health services. Chapter 33A of the County Code instructs the Council to administer the APF by adopting a growth and infrastructure policy that describes the facility standards that must be met for public infrastructure to be considered adequate and explains how private development can mitigate deficient public infrastructure.

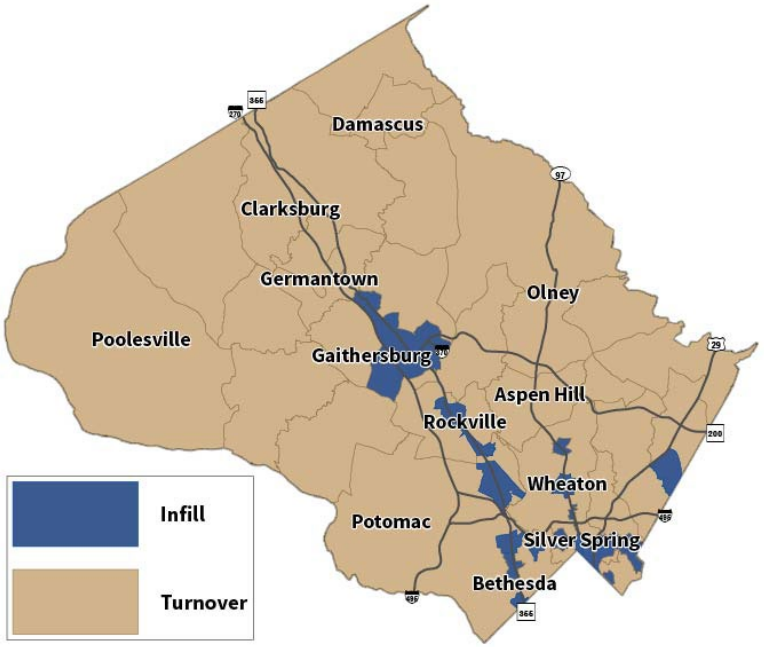
Making an adequacy determination involves both assessing the condition of public infrastructure and predicting future demand from private development.

D. SCHOOL ADEQUACY

Each residential development application is evaluated to forecast its demand for school facilities and to determine whether and how the applicant will mitigate projected inadequacies. The GIP uses a context-sensitive approach that classifies county neighborhoods into School Impact Areas based on the character of their growth and that growth's impact on school facilities. These classifications, in addition to housing type, determine the per-unit rate of school impact taxes:

- **Infill Impact Areas** – High housing growth predominantly in the form of multi-family units that generate relatively fewer students on a per-unit basis.
- **Turnover Impact Areas** – Low housing growth where enrollment trends are largely dependent on the turnover of existing single-family units.
- **Greenfield Impact Areas** – High housing growth predominantly in the form of single-family units, consequently experiencing high enrollment growth. (The 2020–2024 GIP does not include any areas with this classification.)

Figure 1. 2020–2024 School Impact Areas



The Annual School Test evaluates the projected capacity utilization of the county's K–12 public school facilities. It establishes an adequacy status for each school service area as the *Growth and Infrastructure Policy* prescribes. The results of the test are certified by the Planning Board each June to be effective for the upcoming fiscal year and then used to determine the conditions of approval during development review. The FY24 test results and the annual School Utilization Report are available on Montgomery Planning's website.

Mitigation comes in the form of Utilization Premium Payments (UPPs) that vary based on the School Impact Area, the type of development, the degree of projected overutilization, and the estimated number of students to be generated by the development. The payments are in addition to the school impact tax, which developers must pay on new residential units regardless of the adequacy status of the schools serving the proposed project area. School impact taxes help pay for new construction or classroom additions to school facilities countywide. The tax rates are determined by School Impact Area and residential unit type (single-family detached, single-family attached, multi-family low-rise, or multi-family high-rise) classifications. Figure 1 displays the current School Impact Area classifications.

E. TRANSPORTATION ADEQUACY

Under the 2020–2024 GIP, development applications are evaluated to forecast their impacts on transportation facilities and to determine whether and how the applicant will mitigate any inadequate transportation infrastructure. Each development application must either show that the surrounding facilities are adequate, provide needed facilities, or pay for mitigation.

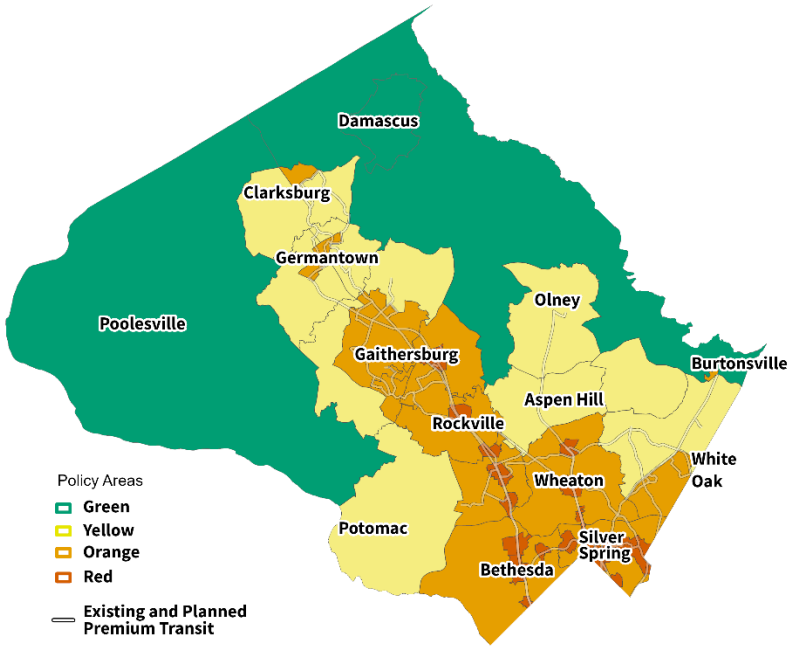
Like the school element, the transportation section defines context-based geographies known as Policy Areas. The Policy Areas are categorized based on land use contexts and the prevalence and use of different transportation facilities. The Policy Area categories determine adequacy thresholds and the rates of transportation impact taxes. Figure 2 displays the current Policy Area classifications:

- **Red** – Downcounty central business districts, Purple Line station policy areas, and Metro station policy areas (MSPAs) characterized by high-density development and the

availability of premium transit service (e.g., Metrorail, Purple Line, MARC).

- **Orange** – Corridor cities, town centers, and emerging transit-oriented development (TOD) areas where premium transit service (e.g., Corridor Connectors, bus rapid transit) is planned.

Figure 2. 2020-2024 Transportation Policy Areas



- **Yellow** – Lower-density areas characterized by residential neighborhoods with community-serving commercial areas.
- **Green** – The county's Agriculture Reserve and rural areas.

The transportation adequacy finding requires forecasting travel demand generated by the proposed development and evaluating the condition of nearby transportation infrastructure, such as roads, sidewalks, lighting, bike lanes, and bus stops. Transportation adequacy is assumed for any development application generating 49 or fewer net new peak-hour trips.[2] Any new development expected to generate 50 or more net new peak-hour person trips is subject to a series of multi-modal infrastructure tests known as Local Area Transportation Review (LATR). The tests evaluate the geography around a development application for the adequacy of motor vehicle, pedestrian, bicycle, and bus transit systems.

The GIP sets quantifiable service levels for public facilities and services, when and how each test is conducted, and how applicants must mitigate inadequacies identified in the test results.

Mitigation typically involves constructing or installing transportation infrastructure, such as a nearby sidewalk, curb ramps, or a traffic signal. If constructing all or part of this requirement is not practicable, an applicant may meet this requirement with a mitigation payment reasonably related to the

[2] The net new trips are calculated by subtracting the trips generated by the existing use from the trips generated by proposed use.

estimated cost of constructing the required facilities. The Planning Board established an LATR Proportionality Guide in 2021 to help ensure that pedestrian, bicycle, and bus transit mitigation requirements are proportional to the size of the project.

The mitigation measures are in addition to the transportation impact tax, which developers must pay for new developments regardless of the adequacy status of the transportation serving the area of a proposed project. However, under County Code Sec. 52-47, a property owner may be entitled to a tax credit for constructing or contributing to an improvement that reduces traffic demand or provides additional transportation capacity.

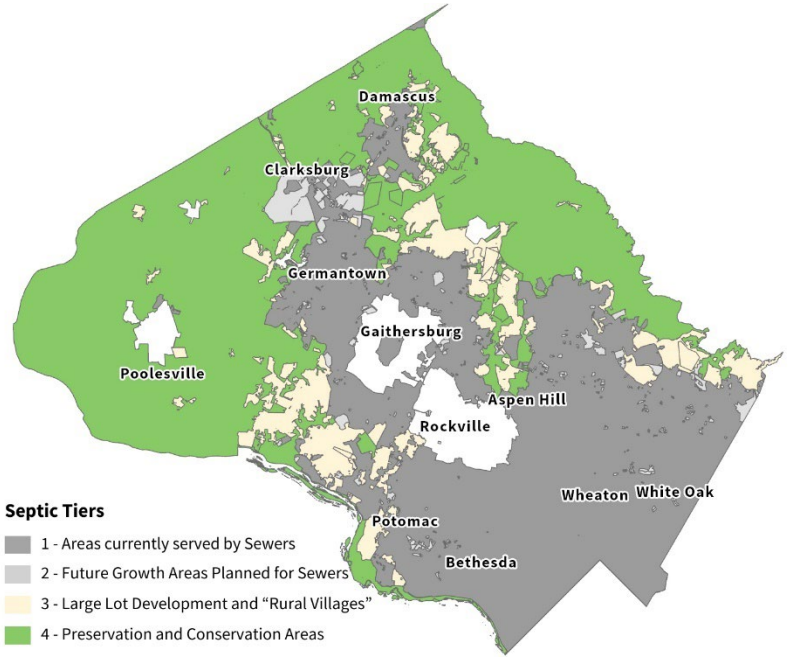
It should be noted that the GIP only addresses transportation facilities in the area surrounding a development site. Development approval conditions for on-site and frontage improvements are derived from other elements of the regulatory process, including site layout design, site access, and internal site travel circulation features. These elements are evaluated based on design standards identified in master plans and other guidelines that are independent of LATR.

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.

F. WATER AND SEWER

Water and sewer service are considered adequate if the subdivided property is planned to be serviced within two years, as outlined in the County's Ten-Year Water and Sewer Plan (Figure 3).

Figure 3. Septic Tiers



G. POLICE, FIRE, AND HEALTH SERVICES

Police, fire, and health facilities are assumed to be adequate unless the appropriate agency identifies a problem with a particular subdivision.

H. THEMES OF THE GROWTH AND INFRASTRUCTURE POLICY UPDATE

The 2024–2028 *Growth and Infrastructure Policy* recommendations aim to ensure adequacy while improving development conditions in the county by enhancing predictability, transparency, and proportionality in the approval process.

The policy update is framed by the themes established in the scope of work, including:

Review the Performance of the 2020–2024 GIP

Montgomery Planning staff collected data and completed analysis to better understand the performance of the past GIP, and presented these findings to two technical workgroups, the Schools Technical Advisory Team and the Transportation Advisory Group. The summary presentations with findings can be found on the GIP Work Group webpage. This objective evaluation, along with stakeholder input, helped inform staff's recommendations for the update. Appendix A contains a summary of outreach and engagement during the update process.

While the 2016 and 2020 updates included in-depth policy reviews, resulting in significant overhauls of the existing policy, the 2024 update primarily focuses on honing existing tools to ensure that they are equitable, fair, and effective. A summary of outcomes from the 2020–2024 GIP is in Appendix B.

Consider the County's Current Growth Trends

Planning staff used the current growth context along with stakeholder input to recommend policy revisions, including changes to the School Impact Area and Transportation Policy Area classifications. The current growth trends analysis looked at the most probable trends in population, households, and employment, including key factors that may affect them (Appendix C). Planning staff also analyzed school-related data to understand whether the trends found during the 2020 update were sustained.

Review Development Impact Taxes

While impact taxes are not part of the Growth and Infrastructure Policy, they are an important implementation tool that can help the county meet many of its priorities. Planning staff evaluated the current impact tax regime to build on existing context-sensitive approaches that encourage compact growth while providing appropriate exemptions and discounts for housing and other priority uses. While some proposed changes may result in less impact tax revenue from specific projects, others may lead to increased revenues. Impact taxes are a small portion of the capital budget, representing approximately 7% of the school capital budget and 4% of the transportation capital budget, but they are an important source of revenue for the county.

Align the Policy with Updated County Priorities

Since the 2020 GIP update, the county has adopted several landmark plans and policies, establishing goals related to enhancing the county's economic competitiveness, boosting environmental resilience in the face of a changing climate, and ensuring that social justice and equity are the centerpiece of all planning outcomes. Planning staff also examined the adopted General Plan, *Thrive Montgomery 2050*, the Climate Action Plan, and the Racial Equity and Social Justice Act to include changes that will align the policy with the goals stated in these visionary documents. These priorities include:

- **Racial Equity and Social Justice**: Reducing and ultimately eliminating racial and other disparities experienced by residents of color across Montgomery County.

- **Economic Competitiveness**: Strengthening the county's ability to compete for economic opportunities.
- **Environmental Resilience**: Minimizing the adverse environmental effects of development locally and countywide.
- **Compact Growth**: Creating a mix of land uses, developing strong population and employment centers, interconnecting streets, and designing structures and spaces at a human scale.
- **Housing for All**: Making Montgomery County's housing stock more affordable and attainable.
- **Safety**: Improving the transportation system in line with the county's Vision Zero approach.
- **Good Governance**: Ensuring that government is accountable, transparent, efficient, and effective to the extent possible.

Make Policy Implementation Clearer and More Efficient

Once the County Council adopts the 2024–2028 GIP, Planning staff will recommend revisions to the LATR Guidelines and the Annual School Test (AST) Guidelines to align these implementation tools with the updated policy.

The LATR Guidelines is a document that Montgomery Planning and partnering agencies, developers, and community stakeholders regularly reference. The guidelines have been updated over several GIP cycles, and the iterative nature of its development has made it difficult to follow in places. The recommendations include reorganizing and updating the guide for clarity and ease of use.

Similarly, the AST evaluates projected school utilization at all 200 geographically based public schools in the county. The AST was rewritten following the adoption of the 2020–2024 GIP and the subsequent introduction of Utilization Premium Payments, which are required when the AST results indicate a project's school utilization will exceed certain thresholds. The 2024 update will require smaller revisions to align it with the new policy.

The Planning Board will approve the updated LATR and AST Guidelines in January 2025.

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Chapter 2. Schools Element Recommendations

Between 2008 and 2020, strong enrollment growth resulted in overutilization at many schools, and as a result, an increasing amount of the county was being placed in residential development moratoria. An analysis of the student enrollment and housing data, however, revealed that in most areas of the county, the majority of enrollment growth derived from the turnover of existing single-family homes rather than the construction of new homes. While some parts of the county were experiencing considerable amounts of infill or redevelopment in the form of multi-family structures, newer developments in these areas were generating far fewer students on a per-unit basis and were contributing to a very small share of the enrollment growth overall.

To address this mismatch between the source of enrollment growth and the policies used to alleviate school overutilization, the 2020–2024 GIP overhauled the school element of the county's growth policy. School Impact Areas were introduced, and the residential building moratorium was replaced with a tiered Utilization Premium Payment system.

However, enrollment trends have taken a turn since then. Shortly after the new policy went into effect, the county's public schools switched to virtual learning due to the COVID-19 pandemic, and MCPS saw a sudden drop in enrollment, particularly at the lower grade levels, in the 2020–2021 school year. While enrollment is rising from that initial post-pandemic dip, the latest trends and projections continue to show a slowdown of growth in comparison with previous years, which reflects the county's continuous decline in birth rates.

Given the short amount of time that has passed since implementing the new policy, and the post-pandemic transition during the past few years, the current 2024–2028 GIP update for schools hones the tools and elements introduced in 2020. The following recommendations are therefore focused on making the policy more equitable, fair, and effective.

About the Schools Element

The schools element provides direction to the Planning Board for administering Adequate Public Facilities Ordinance requirements on the basis of public school capacity. The GIP lays out the ground rules of the Annual School Test, which establishes the adequacy status of each school service area for a fiscal year. Each development application and amendment is evaluated against the results of the Annual School Test to determine whether the schools serving the project have sufficient capacity to accommodate the proposed development. When school capacity is found inadequate, mitigation is required in the form of Utilization Premium Payments (UPPs), which are assessed based on the School Impact Area, type of housing unit, level of inadequacy, and estimated impact. This payment enables the Planning Board to find that a development project meets the county's APF requirements and approve the development application.

Since implementation, UPPs have been assessed on more than 1,200 housing units as a condition of their approval. Of the 25 high school service areas, 11 have been placed in a UPP tier at least once over the past four years, and six have had a development application approved within the service area. At the middle school level, only three of the 40 middle school service areas have been placed in a UPP tier, and none have seen any development applications approved during their UPP placement. At the elementary school level, 22 of the 131 elementary school service areas have been placed in UPP tiers, of which two have seen development applications approved. For most of the units that were assessed a UPP so far, funds have not been collected because the projects have not reached the building permit stage yet, but if all the projects with UPP assessments were to apply for building permits in FY24 – 25 (hypothetically), the total assessment would match that shown in Table 1. A detailed list of each project is included in Appendix B.

Table 1. Summary of UPP Assessments, FY2021 (January 2021) – FY2024 (March 2024)

School Service Area	Impact Area Type	UPP Level	Unit Type (# of units)	Total $ if collected at FY24–25 Rate
Blake HS	Turnover	Tier 1	SFD (1)	$3,478
Clarksburg HS	Turnover	Tier 2	SFD (58) SFA (237) MFL (476) MFH (89)	$4,138,651
Gaithersburg HS	Infill	Tier 1	SFA (5)	$14,443
Richard Montgomery HS	Infill	Tier 2	MFH (49)	$546,033
	Turnover	Tier 2	MFH (307)	
Northwest HS	Turnover	Tier 1	SFD (4)	$13,911
Quince Orchard HS	Turnover	Tier 2	SFD (1)	$6,956
Ashburton ES	Turnover	Tier 2	SFD (1)	$8,695
Bannockburn ES	Turnover	Tier 1	SFD (2)	$8,695
Total				$4,740,861

A. SCHOOL IMPACT AREAS

School Impact Areas were introduced in the 2020 GIP as a context-sensitive approach to administering adequate public facilities requirements for schools. The following three Impact Area types were established for areas of the county based on their housing, enrollment, and future growth potential:

- **Infill** - High housing growth predominantly in the form of multi-family units that generate relatively few students on a per-unit basis.
- **Turnover** - Low housing growth where enrollment trends are largely dependent on the turnover of existing single-family units.
- **Greenfield** - High housing growth predominantly in the form of single-family units, consequently experiencing high enrollment growth. (The 2020–2024 GIP does not include any areas with this classification.)

The introduction of School Impact Areas, however, created an additional geographic boundary that complicates the development approval process for developers, staff, and the public. While the geographic boundary for School Impact Area classifications in 2020 were mostly aggregations of census tracts, this is not a requirement. To streamline the GIP, we recommend

using Transportation Policy Area boundaries instead of using School Impact Area boundaries.

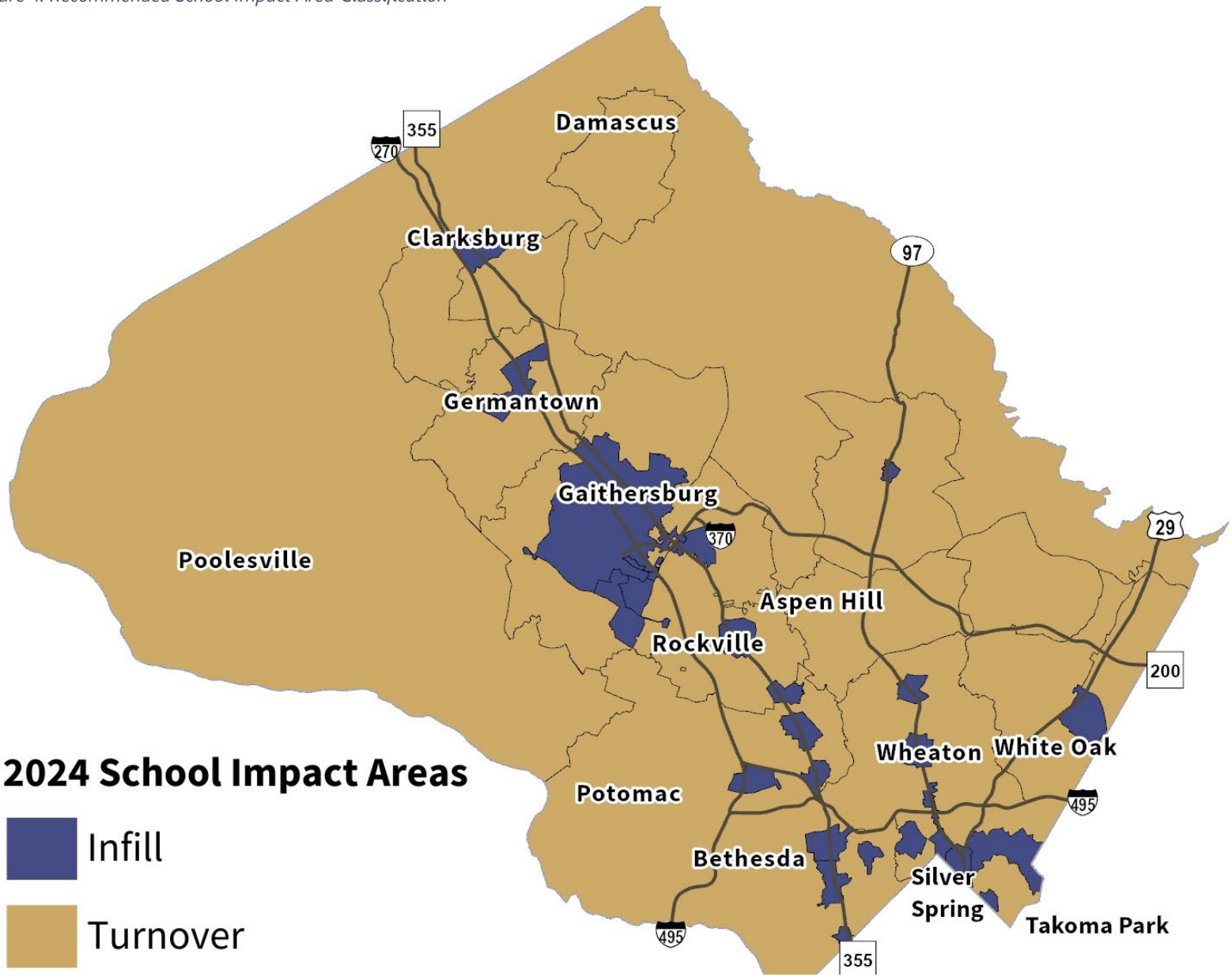
Recommendation 2.1: *Modify the School Impact Area boundaries so that they align with the proposed Transportation Policy Area boundaries, and classify each area into Infill, Turnover, or Greenfield based on an updated analysis of their latest growth context and potential.*

The recent growth context and future potential of each policy area were analyzed based on the amount and type (single-family vs. multi-family) of new housing, housing that was approved but not yet build, and remaining residential development capacity. During the 2020 update, the amount of growth in school enrollment was also considered a factor in determining School Impact Area classifications. However, with the countywide slowdown in enrollment over the past five years, enrollment declined in many policy areas. Some policy areas still experienced growth in enrollment, but not all of them were attributable to new development, as enrollment in general will ebb and flow based on the number of years since a home was last sold. In the context of the county's recent trends, it was determined that enrollment growth itself is no longer a relevant factor in determining whether a policy area should be classified as Infill, Turnover, or Greenfield.

Figure 4 shows the recommended classification of each policy area. As was done in the previous GIP update, all policy areas recommended as Red transportation policy areas will be recommended as Infill Impact Areas regardless of the data analysis results.

More information on how Planning staff identified School Impact Areas is included in Appendix D.

Figure 4. Recommended School Impact Area Classification



B. ANNUAL SCHOOL TEST

The Annual School Test (AST) is the mechanism that the GIP uses to evaluate the adequacy of the county's K-12 public schools for development review.

Before the start of each fiscal year, the Planning Board certifies the results of an AST that establish the adequacy status of each school service area for the year, based on its projected level of capacity utilization in four years.[3] Throughout the year, residential development applications are reviewed for school adequacy according to the results of this test and, if necessary, assessed a Utilization Premium Payment (UPP) as a condition of approval.

To determine the level of adequacy of each school, the AST measures the utilization rate (enrollment divided by capacity) and seat deficit (enrollment subtracted from capacity) projections[4] against the adequacy standards set for each UPP tier. When a school's utilization rate and seat deficit projections both reach or exceed the threshold of a certain tier level, the school service area is placed in that UPP tier for the entire fiscal year.

MCPS has its own guidelines for when to consider a classroom addition at a school that is projected to be over capacity that differs from the AST thresholds. Those guidelines indicate that for a classroom addition to be considered for funding in the CIP at an individual school, the enrollment needs to exceed capacity by a minimum of 92 seats in the sixth year of the CIP period for an elementary school, 150 seats for a middle school, and 200 seats for a high school. While MCPS's CIP decisions are made independent of the AST, the results of the AST are largely contingent on any classroom additions that are scheduled in the CIP.

Recommendation 2.2: *Adjust the seat deficit thresholds of each UPP tier to align with MCPS's CIP guidelines for classroom additions and maintain the existing utilization rate thresholds.*

Tier thresholds would be established as a percent of MCPS's threshold: 80% for Tier 1, 100% for Tier 2, and 120% for Tier 3. Table 2 outlines these recommended seat deficit thresholds in comparison with the current thresholds.

[3] Basing the analysis on four-year projections to take into account the typical amount of time for a developer to complete a project after it was approved by the Planning Board.

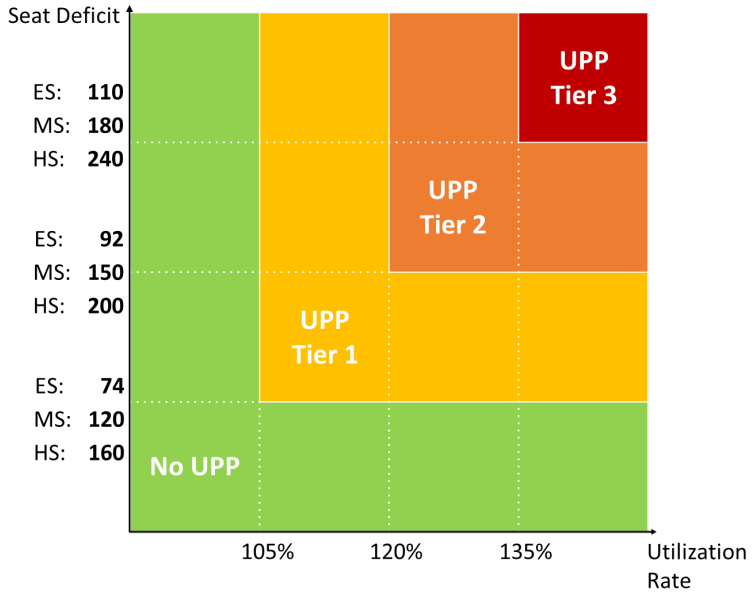
[4] Every spring, MCPS's Division of Capital Planning and Real Estate releases an 'Educational Facilities Master Plan and Capital Improvements Program' that provides updated enrollment and capacity projection data for each individual school. In limited circumstances, the Annual School Test will modify the projections of certain schools to account for non-capital decisions that are not reflected in MCPS's original data. The Planning Department does not produce its own enrollment and capacity projections for schools.

Table 2. Comparison of Recommended vs. Current Annual School Test Thresholds

	Tier 1 Current Thresholds	Tier 1 Proposed Thresholds	Tier 2 Current Thresholds	Tier 2 Proposed Thresholds	Tier 3 Current Thresholds	Tier 3 Proposed Thresholds
Utilization Rate	105%		120%		135%	
ES Seat Deficit	85	74	102	92	115	110
MS Seat Deficit	126	120	151	150	170	180
HS Seat Deficit	180	160	216	200	243	240

Figure 5 illustrates the recommended adequacy standards for each UPP tier level on a coordinate plane, with the seat deficit thresholds marked on the vertical axis, and utilization rate thresholds marked on the horizontal axis.

Figure 5. Recommended Annual School Test Adequacy Standards



With the current seat deficit thresholds, the FY2024 AST has placed the following school service areas into UPP tiers:

- Tier 1 UPP – Blake HS, Paint Branch HS, Arcola ES
- Tier 2 UPP – Clarksburg HS, Ashburton ES, Oakland Terrace ES
- Tier 3 UPP – Mill Creek Towne ES

With the recommended adjustment to the seat deficit thresholds, two additional elementary school service areas – Lake Seneca and Sargent Shriver – would be placed in a Tier 1 UPP. More detailed results of the revised FY2024 AST reflecting the recommended changes are included in Appendix D.

C. UTILIZATION PREMIUM PAYMENTS

UPPs are a fee system that the 2020 GIP instituted to replace the previous residential building moratorium.[5] They are assessed as a condition of approval when developers propose to construct residential units in school service areas that are found to be inadequate by the AST. If a school service area is placed in a UPP tier by the AST, the applicable UPP Factor is imposed as a surcharge to the impact tax for each market rate unit, which is paid at the time the developer applies for a building permit. The UPP Factor varies by UPP tier level and school level (see Table 3).

Table 3. Utilization Premium Payment Factors by Tier Level

	No UPP	Tier 1	Tier 2	Tier 3
Elementary School	-	16 2/3%	33 1/3%	50%
Middle School	-	10%	20%	30%
High School	-	13 1/3%	26 2/3%	40%

In cases where a development's Enrollment Impact[6] is estimated to exceed an Adequacy Ceiling[7] identified by the AST, the UPP Factor is adjusted to a higher rate in proportion to the number of students that exceed the Adequacy Ceiling. This means that a UPP can also be triggered in a school service area that was not placed in a UPP tier by the AST.[8]

Because UPPs are a mitigation fee, there must be a rational nexus between the imposition of the fee and the use of the funds. To fulfill the nexus requirement, the funds collected are limited to being used for "public school improvements that add capacity designed to alleviate overutilization in the school service area from which they were collected." This approach is outdated, as MCPS's capital planning directions are shifting more toward utilizing boundary changes to relieve overutilization. For example, if a development is assessed UPP fees based on its location at preliminary plan approval, but the development is then shifted to another school's service area, the UPP funds would not be applied

[5] The moratorium was ineffective in curbing the overutilization of schools. During the 2020 policy update, it was found that students living in newer development contributed less than a quarter of MCPS's enrollment growth, so even when a school service area was placed under a residential development moratorium, enrollment would continue to grow from the turnover of existing housing units. However, the county would miss out on opportunities to collect additional impact tax revenue and increase its tax base through additional housing units.

[6] The Enrollment Impact of a development indicates the average number of students that are expected to be generated from a project. It is calculated by multiplying the number of residential units by type of housing being proposed to the applicable student generation rate.

[7] Adequacy ceilings refer to the number of seats remaining in a tier level of a school service area before it exceeds the adequacy threshold for the next tier. In addition to establishing the adequacy status (UPP Tier) of each school service area, the Annual School Test reports their adequacy ceilings to subsequent tier levels.

[8] For example, if a development is estimated to generate 10 elementary school students in a school service area that was placed in 'No UPP' by the Annual School Test, but had an Adequacy Ceiling of 8 seats to Tier 1 (in other words, was only 8 students away from triggering a Tier 1 UPP), the UPP Factor is adjusted to reflect 8 out of the 10 seats at 'No UPP' and the remaining 2 seats as 'Tier 1', Each unit will therefore be charged 20% of the Tier 1 UPP rate.

to the impacted school area. Also, when a capital project is scheduled at a school, the plans now often include building additional capacity beyond the projected demand of the school, creating an opportunity to relieve other overutilized schools through a boundary change in the future.

Recommendation 2.3: *Allow funds collected as UPPs to be used for capital projects adding capacity at schools adjacent to the school for which the funds were collected, as outlined in the School Utilization Report.*

The School Utilization Report, which is released as an accompaniment to the AST to provide supplemental information about the county's public school infrastructure, includes a list of Adjacent Schools for each individual school. UPP funds that are collected from a development due to overutilization in a certain school will be available for use in capital projects that increase capacity in any of the schools listed in the Adjacent Schools section of that school's Individual School Report.

D. STUDENT GENERATION RATES (SGR)

An SGR represents the average number of students coming from a housing unit. It is calculated by dividing the number of students who live in a housing type by the number of dwelling units for each School Impact Area type and is used to estimate the enrollment impact of a project during development review. Montgomery County's official student generation rates are updated every other year using the latest enrollment data from MCPS and housing data derived from the Maryland State Department of Assessments and Taxation (SDAT).

Currently, all residential units of the county are categorized into four housing type categories: single-family detached, single-family attached, multi-family low-rise, or multi-family high-rise. Structures up to four stories high are considered low-rise, and those that are five stories or higher are considered high-rise.

Multi-family SGR Calculation – Built in 1990 or Later

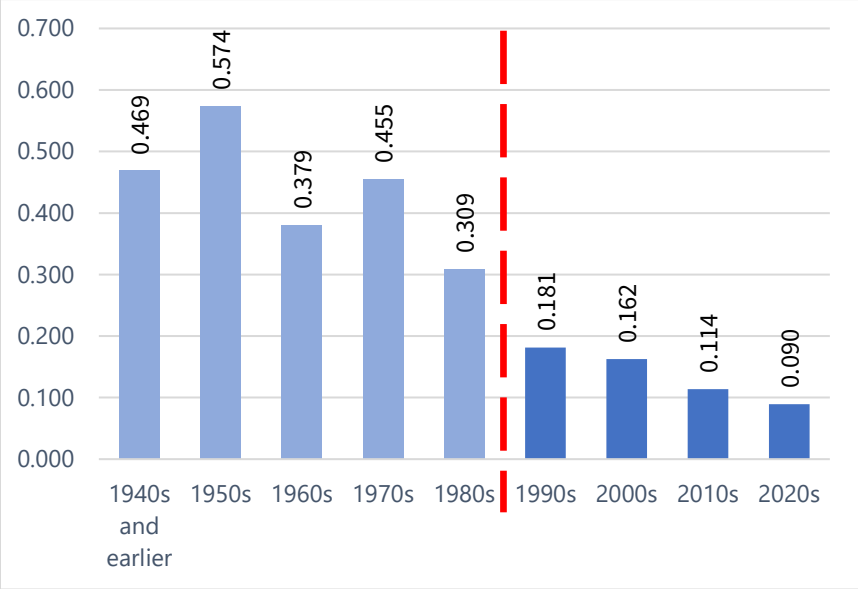
For multi-family units, only those in structures built in 1990 or later have been included in SGR calculations since the 2020 GIP. During the last update process, Planning staff analyzed the SGR of structures by the decade in which they were built and found that those built in 1990 or later were generating far fewer students per unit than those built before 1990. This is most likely a reflection of the evolving multi-family housing market and units being supplied. Apartments built in recent decades largely differ from their predecessors in unit size (square footage and number of bedrooms), affordability, and overall typology.

There was some doubt about this rationale, and a supposition that structures built in 1990 or later may still be in the process of maturing to their full stage of student occupancy, in which case their student generation rates will gradually catch up to their predecessors over time. To address that concern, Planning agreed to conduct follow-up analyses of multi-family SGRs in subsequent policy updates.

Over the past few years, the official multi-family SGRs which only reflect structures built in 1990 or later, have increased. However, the SGR of structures built in the earlier decades has increased at a similar rate, weakening the supposition that those built in the 1990s or later will catch up.

Figure 6 shows the results of an updated analysis of multi-family student generation rates by decade built. As seen, structures built in 1990 or later continue to generate fewer students than those built in prior decades. Therefore, Planning staff recommend no change to the calculation of multi-family SGRs.

Figure 6. SGRs of Multi-family Units by Decade Built



Multi-family High-Rise vs. Low-Rise Distinction

Similarly, the rationale for distinguishing multi-family structures into low-rise and high-rise was debated during the 2020 update. Since there was a discernable difference in the SGRs between the two types, it was determined that the distinction should remain, but with follow-up analyses to be reported in subsequent policy updates. Based on an updated review of the latest SGRs, the overall difference between units of low-rise and high-rise structures is still discernable, as seen in Table 4. Therefore, Planning staff recommend continuing to calculate official SGRs separately for multi-family low-rise and high-rise structures, using the five-story distinction.

Table 4 Multi-family High-Rise (MFH) vs. Low-Rise (MFL) Student Generation Rate Comparison

School Impact Area Classification by 2020 GIP	SGR of MFH Units	SGR of MFL Units
Infill Impact Areas	0.073	0.135
Turnover Impact Areas	0.168	0.258
Countywide	0.080	0.218

SGR for Alternative Housing Unit Types

The county is seeing more units being built that deviate from the typical single-family or multi-family classifications. With the development of the Attainable Housing Strategies initiative, this trend is expected to expand further. The current SGR housing categories, however, do not embrace this evolution.

For example, a stacked flat, or two-over-two, which generally consists of two two-story units stacked vertically to create a four-story building in a row of attached structures, has become an increasingly common building type. Planning staff were able to identify over 4,000 stacked flats across the county from the FY 2024–2025 SGR housing dataset. These units are currently recognized as multi-family low-rise by zoning standards and categorized as such for SGR purposes, but resemble a townhouse and functions like one in terms of student generation. In the

proposed Turnover Impact Areas, where more than 2,200 of the units are found from over 200 property records, the SGR of stacked flats is 0.411, close to the single-family attached rate of 0.498. In the proposed Infill Impact Areas, however, there were only 36 property records found, so the SGR is less reliable.

Ultimately, stacked flats and similar unit types that deviate from the typical single-family or multi-family classifications should be recognized as a separate housing type with its own SGR calculations. However, the number of records found within each impact area type are not sufficient to rely on for reliable enrollment impact estimates yet. Given that the existing units show a closer resemblance to single-family attached units than multi-family low-rise units from an SGR perspective, stacked flats and similar units will be categorized as single-family attached units.

Recommendation 2.4: *Reclassify stacked flats and similar housing unit types that deviate from the traditional single-family or multi-family classifications from the current multi-family low-rise category to the single-family attached category.*

The SGR of each housing unit type (classifying stacked flats built in 1990 or later as single-family attached units) by school impact area (according to the classification of proposed boundaries) is shown in Table 5

Table 5. Student Generation Rate of each housing unit type by proposed School Impact Area reflecting reclassification of stacked flats

Proposed Impact Area Type	SGR of Single-Family Detached Units	SGR of Single-Family Attached Units (including stacked flats)	SGR of Multi-family Low-Rise Units (excluding stacked flats)	SGR of Multi-family High-Rise Units
Infill	0.489	0.406	0.146	0.079
Turnover	0.437	0.495	0.232	0.092

E. EARLY CHILDHOOD PROGRAM ENROLLMENT

The Blueprint for Maryland's Future, which is legislation that passed in 2021 to transform public education in the state, charges MCPS with a significant expansion of its early childhood programs.

There are over 2,800 students enrolled in MCPS's Prekindergarten or Head Start programs across 70 of the 137 elementary schools. When including early childhood students receiving various special education services in these schools, that number increases to over 4,500 students across 105 schools. Under the Blueprint, preschool will be free for all three- and four-year-olds whose families meet income eligibility requirements and available on a sliding scale to all other four-year-old students. MCPS is ultimately aiming to provide universal access to full-day prekindergarten. However, it is unclear how long it will take for these efforts to be fully implemented. It is also unclear how much of the demand will be absorbed by MCPS, since the Blueprint relies on a mixed-delivery system where both public schools and private providers are expected to serve the needs equally.

Nonetheless, MCPS's CIP projections include the enrollment and capacity of early childhood programs in individual elementary schools. Since the AST relies on MCPS's CIP data, these enrollment and capacity projections are already reflected in the adequacy evaluation of schools where applicable. However, the students enrolled in early childhood programs are not being accounted for in official SGR calculations. There is a disproportionate representation of low-income children in MCPS's early childhood programs, a trend that is expected to continue during the early stages of implementing the Blueprint's early childhood initiatives. Including preschool enrollment in the official student generation rates prematurely may therefore have inequitable consequences, since housing types or school impact areas with higher shares of low-income families will exhibit higher SGRs.

Recommendation 2.5: *Monitor the countywide early childhood program projections through the School Utilization Report. When the enrollment is projected to be more universal, include them in the elementary school student generation rate calculations.*

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Chapter 3. Transportation Element Recommendations

Recent updates to the *Growth and Infrastructure Policy* (GIP) have shifted its focus away from strategies that were primarily aimed at reducing motor vehicle congestion. Instead, updates have advanced tactics that enhance the safety and convenience of walking, biking, and transit. This shift aligns with the county's efforts to concentrate growth in areas proximate to jobs, services, and infrastructure, making it easier, safer, and more convenient to walk, bike, and take transit, which reduces dependence on driving.

The recommendations for the 2024–2028 GIP Transportation Element continue this trend, refining the tools and aligning the policy with the county's priorities and goals. These goals are outlined in plans and policies that were approved since the last update, including *Thrive Montgomery 2050*, the Racial Equity and Social Justice Act, the Climate Action Plan, and the Vision Zero Action Plan. The recommendations will make the policy equitable, fair, and effective.

About the Transportation Element

The transportation element serves as a guide for the Planning Board's transportation adequacy findings. The GIP establishes measurable service levels for public infrastructure adequacy and sets parameters for mitigating inadequate infrastructure, enabling development to proceed. Each development application must either demonstrate that the surrounding facilities are adequate, provide needed facilities, or pay for mitigation.

The GIP focuses on off-site transportation improvements. These are enhancements made beyond the property site to support new development and alleviate any adverse effects the development may have on the surrounding area.

The Planning Board has required off-site mitigation for 17 development projects since 2021. The required improvements, summarized in Table 6, primarily enhance the safety and convenience of walking, biking, and taking transit. The estimated combined value of the required improvements is $7.25 million, including $3.14 million in mitigation payments and $4.11 million in developer-constructed improvements.

Table 6. Summary of Required LATR Improvements

Improvement Type	Quantity
ADA Curb Ramps	22
Bus Shelters	3
High Visibility Crosswalks	6
Separated Bike Lanes	2,300 ft
Sidewalks	3,450 ft
Sidepaths	4,600 ft
Streetlights	5
Traffic Signals	1
Turn Lanes	1

A. POLICY AREAS

The GIP defines context-based geographies known as transportation policy areas. The policy areas are categorized by

color (Red, Orange, Yellow, and Green) based on current and master-planned land-use contexts and travel trends. A geography's category determines the adequacy thresholds, impact tax rates, and Transportation Demand Management (TDM) requirements for development projects within its boundaries. Policy area categories are described as follows:

- **Red** – Downtowns with current or master planned high-density development and premium transit service (e.g., Metrorail, Purple Line, BRT).
- **Orange** – Town centers and corridor-focused growth areas with planned premium transit.
- **Yellow** – Lower-density residential neighborhoods with community-serving commercial areas.
- **Green** – The county's Agricultural Reserve and rural areas.

Policy area designations are an essential tool in the county's effort to concentrate context-sensitive growth in centers of activity and along corridors. The updated policy area boundaries and classifications reflect the vision for future development detailed in area master plans, functional master plans, and the General Plan, *Thrive Montgomery 2050*. Aligning the GIP and related policies with our planned vision increases the likelihood of achieving it.

The policy area updates (Figure 7), summarized below, are shown in Appendix E.

- Establish three new Red policy areas: Great Seneca Life Science Center, White Oak Village & Center, and Rock Spring. The new policy areas reflect the vision for these activity centers as defined in master plans.
- Expand the Orange policy area classification to include corridor-focused growth areas identified in *Thrive Montgomery 2050*, including communities along Rockville Pike (MD 355), Georgia Avenue (MD 97), and Colesville Road/Columbia Pike (US 29).
- Change Damascus from a Green policy area to Yellow, recognizing that it is an established community where limited growth is desirable.

Recommendation 3.1: *Update policy areas to support the county's goals.*

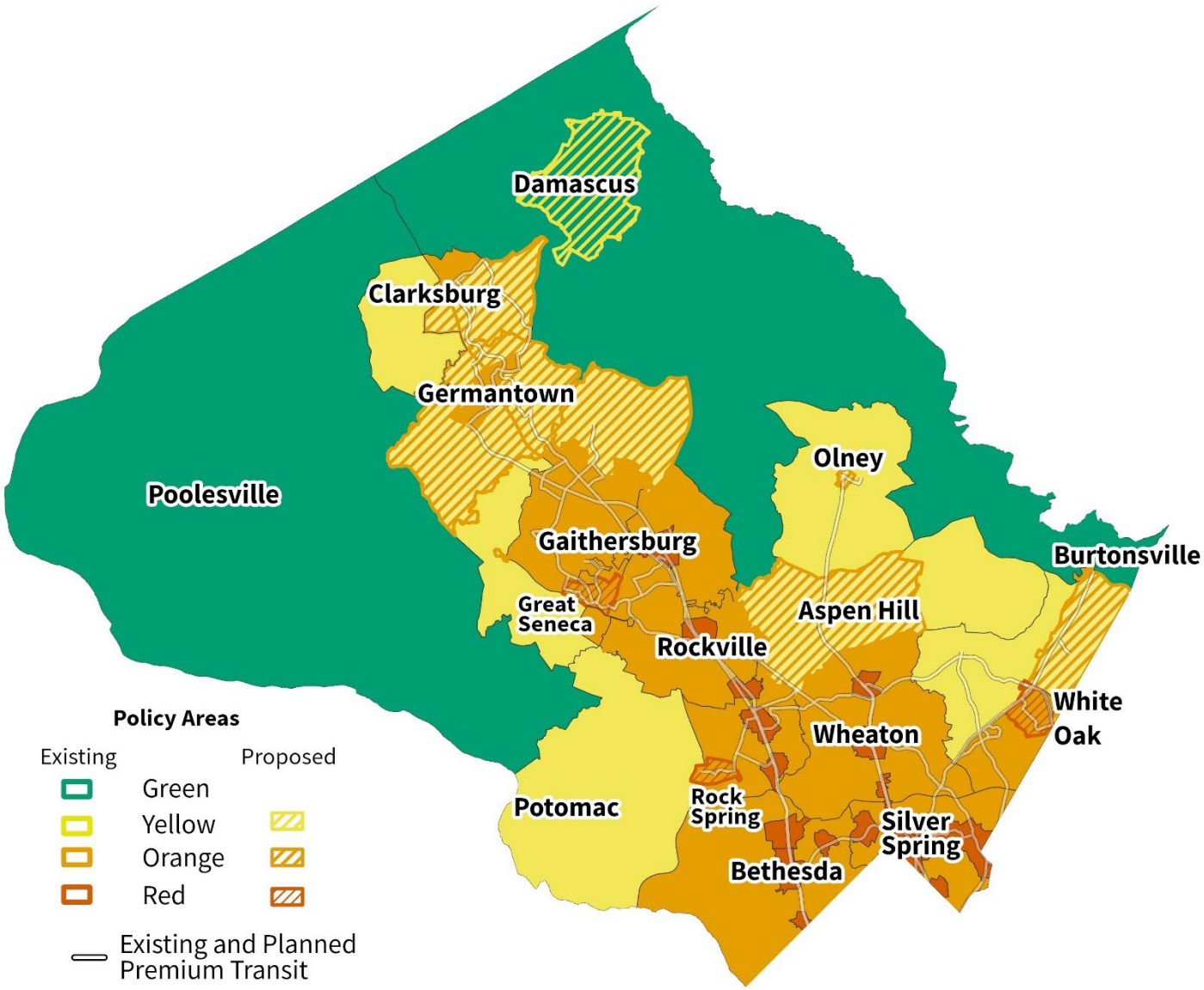
B. LOCAL AREA TRANSPORTATION REVIEW (LATR)

The Planning Board makes transportation adequacy findings through the LATR process. This process evaluates the area surrounding a proposed development and forecasts the development's impacts on transportation facilities. It then determines whether and how the development applicant will mitigate inadequate transportation infrastructure. Development applicants must either demonstrate that the surrounding facilities are adequate, provide needed facilities, or pay for mitigation.

Measuring Impact

The threshold for requiring LATR studies has evolved over the years, as summarized in Table 7. Under the 2020–2024 GIP, any project generating at least 50 net peak-hour 50-person trips must complete an LATR study.

Figure 7. Recommended Transportation Policy Areas



Assessing a development project's impact on the transportation network using person trips[9] as a metric can pose a problem because the metric treats pedestrian trips and vehicle trips equally. As a result, a project that generates 50 pedestrian trips is held to the same standards as one that generates 50 vehicle trips, even though the latter has a more significant negative impact on the transportation system. Treating pedestrian, bicycle, and transit trips as negative impacts that need mitigation instead of encouraging them as positive outcomes is inconsistent with the goals of *Thrive Montgomery 2050*.

Recommendation 3.2: *Require LATR studies for a proposed development project generating 30 or more peak-hour vehicle trips.*

The vehicle trip metric provides a more accurate picture of a development project's transportation impact. The peak-hour vehicle trip metric is used widely in other jurisdictions and is simple to understand. It serves as a more precise measure, helping to ensure that required analysis and mitigation are related to a proposed development project's impact. Peak-hour vehicle trips would serve as the metric for:

- Conducting a LATR study, including all tests.
- Determining the size of the study area for all tests.
- Determining the maximum cost of mitigation via the LATR Proportionality Guide.

Table 7. Thresholds for LATR Adequacy Tests

Policy	LATR Adequacy Tests	Peak-Hour Trip Threshold
2012–2016 Subdivision Staging Policy (SSP)	Motor Vehicle	≥30 vehicle trips
2016–2020 SSP	Motor Vehicle	≥50 person trips
	Bus Transit	≥50 transit trips
	Pedestrian	≥50 pedestrian trips
	Bicycle	≥50 bicycle trips
2020–2024 GIP	Motor Vehicle	≥50 person trips
	Bus Transit	
	Pedestrian	
	Bicycle	
2024–2028 GIP (Recommended)	Motor Vehicle	≥30 vehicle trips
	Non-Motor Vehicle	

Motor Vehicle Adequacy

The motor vehicle adequacy test evaluates a project's impact on vehicle delay. The development project must mitigate its impact or reduce the delay to the applicable policy area standard. The GIP defines adequacy with the Critical Lane Volume (CLV) and Highway Capacity Manual (HCM) level of service metrics.[10] The

[9] A "person trip" is a trip made by one individual, regardless of transportation mode.

[10] A transportation impact study often evaluates intersections to determine if there is sufficient capacity to accommodate new trips generated by a proposed development. The study may also identify improvements to ensure the intersection will continue to operate adequately. Critical Lane Volume is a planning-level tool to measure congestion at signalized intersections and is most appropriate in locations where traffic signals are not closely spaced. Highway

HCM standard applies to all intersections in Orange policy areas. In Yellow and Green policy areas, the CLV standard applies to intersections with a CLV of 1,350 or less, and the HCM standard applies to intersections with a CLV of over 1,350. Red policy areas are exempt from motor vehicle adequacy and mitigation.

Recommendation 3.3: *Update the LATR intersection delay standards to reflect changes to policy area boundaries and designations.*

Table 8. Updated LATR Intersection Delay Standards

Policy Area	HCM Average Vehicle Delay Standard (seconds/vehicle)	
	2020–2024 GIP	2024–2028 GIP
Aspen Hill	59	63
Clarksburg East	51	55
Fairland-Briggs Chaney	59	63
Germantown East	51	55
Germantown West	51	55
Gaithersburg	51	59
Montgomery Village/Airpark	51	59
Olney Town Center	55	63

Capacity Manual analysis is a more detailed measure of intersection delay that is appropriate in congested areas where traffic queues are likely to back up into another intersection.

Table 8 displays updated intersection delay standards for policy areas newly classified as Orange in the 2024-2028 GIP. The standards align with those for comparable Orange policy areas.

Non-Motor Vehicle Adequacy Test

In addition to the motor vehicle test, each development completes a series of non-motor vehicle tests evaluating the adequacy of the pedestrian, bicycle, and bus transit systems in the area surrounding the site. The 2020–2024 GIP has separate tests for each mode (pedestrian, bicycle, and bus transit). This recommendation reorganizes the tests to reduce duplication and increase clarity.

Recommendation 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. This test replaces the individual pedestrian, bicycle, and bus transit systems tests.*

Non-Motor Vehicle Adequacy will have five components with the following standards:

- Pedestrian Level of Comfort (PLOC): "Somewhat Comfortable" (PLOC-2) or "Very Comfortable" (PLOC-1) score.

- Illuminance: Montgomery County Department of Transportation (MCDOT) streetlight and illuminance standards.
- ADA Compliance: The Americans with Disabilities Act (ADA) standards.
- Bicycle System: Low Level of Traffic Stress (LTS-2).
- Bus Transit System: ADA-accessible bus shelter and amenities per MCDOT guidelines.

Non-Motor Vehicle Adequacy must be achieved along all streets (excluding Controlled Major Highways and Freeways and their ramps, Neighborhood Streets, and Neighborhood Yield Streets), intersections with at least one leg of an included street type, and pathways within independent rights-of-way within a certain walkshed beyond the site frontage, specified in Table 9.

Recommendation 3.5: *Modify the non-motor vehicle adequacy test requirements to maintain the county's high standards while minimizing unnecessary data collection and analysis.*

Changes (as shown in Table 9) from the 2020–2024 GIP standards include:

- Condensing the non-motor vehicle adequacy test components into a single table and replacing the peak-hour person trip thresholds with peak-hour person thresholds.
- Standardizing study area extents across policy areas.[11]

Table 9. Non-Motor Vehicle Adequacy Test: Study Area Extent by Evaluation Category and Motor Vehicle Trips

Peak-Hour Motor Vehicle Trips (Net New)	ADA Compliance	Pedestrian Level of Comfort (PLOC)	Illuminance	Bicycle	Transit
30–64	125′	250′	250′	400′	500′
65–124	200′	400′	400′	750′	1000′
125–224	250′	500′	500′	900′	1300′
225 +	300′	600′	600′	1000′	1500′

    - For PLOC, illuminance, and ADA evaluations, this will reduce the study area for Red and Orange policy areas, therefore limiting excessive study. These assessments require extensive analysis and typically identify many more deficiencies than projects can address.
    - For bike and transit components, this will increase the study area for Yellow and Green policy areas, allowing more meaningful adequacy assessment of these modes.
- Simplifying the bus transit adequacy standards by referring applicants to published MCDOT guidelines for shelters and amenities when available.
- Removing the bus transit adequacy exemption for Green policy areas to align with county goals to expand transit access.

[11] The 2020-2024 GIP has different study area extents for red/orange and yellow/green policy areas.

- Clarifying that any required mitigation must be proportional to the development's impact while removing specific limits on the physical extent of mitigation (e.g., number of bus shelters, feet of sidewalk). The LATR Proportionality Guide ensures reasonable requirements.

Vision Zero Statement

The Vision Zero Statement was added to the policy in 2020 to ensure that new development aligns with the county's safety goals. Development applicants must prepare a statement assessing existing conditions and proposing solutions to transportation safety issues.

Development applicants acquire and analyze a considerable amount of data for this statement; however, they typically are not required to address the identified safety issues. Because of the limited review time, gaining agency consensus on significant safety-improving roadway modifications is challenging. Proposed solutions often require additional rights of way, speed limit changes, road diets, and other improvements that extend far beyond the development site.

Recommendation 3.6: *Refine the Vision Zero Statement to focus on managing speed for safety. Effective speed management helps reduce roadway fatalities and ensures the safety of all road users. It is one of the best tools for saving lives and reducing serious injuries on our roadways.*

"All LATR studies must assess roadway speeds and suggest safety solutions. With the concurrence of the responsible agency, projects may implement or contribute to the implementation of safety countermeasures as part of their off-site mitigation efforts."

This recommendation removes duplicative requirements, such as the description of safe site access, which the County Code already addresses in Sections 50.4.2 and 59.6.1.1. It also clarifies that 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 (SHA).

Safe Systems Adequacy Test

The 2020–2024 GIP included a placeholder for a future Safe Systems Adequacy Test that was intended to utilize Montgomery Planning's Predictive Safety Analysis. However, this tool is not useful for quantifying adequacy at the development project scale. As other adequacy tests address safety and county design guidance like the Complete Streets Design Guide (2021) and related code updates[12] provide direction for development review, this test would be an additional development expense that would not provide meaningful additional safety benefits.

Recommendation 3.7: *Remove the reference to the Safe Systems Adequacy Test from the GIP.*

[12] Complete Streets was integrated into Montgomery County Code through 2022 L.M.C., ch. 41 and 2022 L.M.C., ch. 31.

C. PROPORTIONALITY AND MITIGATION

After completing the transportation adequacy tests and compiling an inventory of inadequate infrastructure surrounding the site, the developer collaborates with Montgomery Planning and MCDOT to develop a refined list of required mitigation improvements. As constitutionally required, mitigation must be reasonably related and roughly proportional to the development's impact.

LATR Proportionality Guide Calculation

Prior to 2020, the Planning Board rarely required off-site bicycle, pedestrian, or bus transit system improvements because very few applications were tested for those modes. However, the 2020–2024 GIP adopted a multi-modal approach, which increased the likelihood of triggering the non-motor vehicle adequacy tests. This exposed development projects to additional and potentially excessive costs for off-site improvements for these modes.

The Planning Board introduced the LATR Proportionality Guide in 2022 as an immediate measure to address concerns about unpredictable and disproportionate mitigation costs. The LATR Proportionality Guide provides an objective and consistent way to determine the extent of off-site improvements required for a project, ensuring that it is proportionate to the project's impact, as constitutionally required. The current calculation multiplies 1) the full extent of development by 2) the Orange policy area impact tax rate by 3) a policy area non-auto driver mode share (NADMS) goal metric.

While the Proportionality Guide has made mitigation costs more predictable, it continues to generate disproportionate and excessive costs for some projects. The calculation needs further evaluation to ensure that it appropriately accounts for project impacts.

Recommendation 3.8: *As part of the 2025 LATR Guidelines update, develop a vehicle trip–based Proportionality Guide calculation that better accounts for impacts***.**

Planning staff are developing a new LATR Proportionality Guide formula in coordination with expert consultants, MCDOT, and other stakeholders. While the formula will be developed as part of the update to the LATR Guidelines, it is expected that a project's impact will be determined using its net new vehicle trips instead of the number and type of housing units or non-residential square footage.

Mitigation Payments

The county strongly prefers that development applicants fulfill their mitigation requirements by constructing improvements. However, sometimes the county will accept a payment instead of construction. The GIP allows developers to pay a fee in lieu of improving deficiencies if mitigation projects would degrade safety (motor vehicle adequacy only) or are otherwise impracticable. Since May 2021, eight approved plans have included transportation mitigation payment conditions. The sum of the conditioned payments is $3,137,308, with amounts ranging from $1,982 to $1,275,636.

Payments collected in lieu of construction must be spent on similar improvements within the same policy area (or an adjacent one for Red policy areas and Orange town centers) on mode-specific improvements. However, these relatively small amounts

of money attached to discrete areas make tracking, budgeting, and spending challenging.

Recommendation 3.9: *Allow all fee-in-lieu funds to be spent in both the subject policy area and adjacent policy areas.*

Recommendation 3.10: *Rather than limiting the use of funds to specific modes, allow fee-in-lieu funds collected for non-motor vehicle deficiencies to be used for any non-motor vehicle improvement within the subject policy area or an adjacent policy area.*

D. LATR EXEMPTIONS

The policy can promote activities that align with broader community goals by exempting certain land uses from standard regulations.

Affordable Housing

Recognizing that providing affordable housing is a fundamental element of the County's General Plan and economic development strategy, the current GIP exempts affordable housing from making transportation mitigation payments. The LATR Guidelines strongly favor requiring applicants to build improvements that mitigate transportation adequacy issues, allowing mitigation payments only in exceptional cases. This means affordable housing projects only receive relief if the desired improvements are infeasible and thus not constructible. Revising the policy to exempt affordable units from constructed mitigation improvements, in addition to mitigation payments, will enhance the financial viability of affordable housing development projects.

Recommendation 3.11: *Expand the current off-site mitigation exemption for affordable housing[13] units, which currently only includes mitigation payments, to include constructed improvements. Adjust the Proportionality Guide limit by subtracting trips attributed to new affordable units. The trips generated by these units will still count toward the 30-vehicle-trip LATR threshold.*

Multi-family Units with Three or More Bedrooms

Thrive Montgomery 2050 recommends enacting policies that encourage the construction of housing units in multi-family buildings suitable for households with children. This will help increase the amount and variety of housing in the county.

Recommendation 3.12: *Exempt multi-family units with three or more bedrooms from off-site mitigation construction and payment. Adjust the Proportionality Guide limit by subtracting trips attributed to new multi-family units with three or more bedrooms. The trips generated by these units will still count toward the 30-vehicle-trip LATR threshold.*

This adjustment will enhance the financial viability of these units in support of county goals.

[13] As defined in County Code 52-41(g)(1-4)

Daycare

LATR studies can significantly burden daycares, which are a greatly needed land use typically operating on thin margins. Many of the trips are pass-by and, therefore, already captured on the road system. Site access and circulation are covered in County Code Sections 50.4.2 and 59.6.1.1.

Recommendation 3.13: *Exempt daycares from the requirement to complete an LATR study.*

Bioscience

The 2020-2024 GIP exempted bioscience facilities from all LATR tests, enabling faster approval of facilities supporting biological research, development, and manufacturing. This exemption helps support an industry that provides significant employment opportunities in the county. The LATR exemption applies to applications for preliminary plans, site plans, or building permits approved after January 1, 2021, and before January 1, 2025. The application for a building permit must be filed within three years after the approval of any required preliminary plan or site plan.

Recommendation 3.14: *Extend the Bioscience LATR exemption for another four years, so it applies to applications filed before January 1, 2029.*

E. NON-AUTO DRIVER MODE SHARE (NADMS) GOALS

The GIP lists NADMS goals for policy areas, master plans, and transportation management districts. Many master plans include NADMS goals for their respective planning or policy areas, whereas other NADMS goals are established through the GIP.

Recommendation 3.15: *Establish NADMS goals for new policy areas and other areas without goals. Update the NADMS goals to reflect recently adopted master plans.*

Table 10 displays recommended NADMS goals for new policy areas. The goals were determined based on the existing NADMS goals and 2019 American Community Survey (ACS) data derived from the United States Census.

Table 10. NADMS Goals for New Policy Areas

Policy Area	2020–2024 GIP	2024–2028 GIP
Clarksburg East	25% (Clarksburg)	26%
Clarksburg West	25% (Clarksburg)	18%
Colesville	27% (Fairland/ Colesville)	27%
Fairland/Briggs Chaney	27% (Fairland/ Colesville)	27%
Olney Town Center	22% (Olney)	23%

Table 11 displays NADMS goals for existing policy areas or portions of areas without goals. The goals were determined based on the (1) proximity and comparability to areas with already established NADMS goals or (2) 2019 American Community Survey (ACS) data derived from the United States Census.

Table 12 displays goals that will be updated in the GIP to reflect changes made in master plans.

Table 11. NADMS Goals for Areas without Goals

Policy Area	2020–2024 GIP	2024–2028 GIP
Damascus	-	19%
Montgomery Village/Airpark	-	30%
North Bethesda (Elsewhere)	-	42%
R&D Village (Elsewhere)	-	28%
Rural East	-	26%
Rural West	-	27%

Table 12. Master Plan Updates to NADMS Goals

Policy Area	2020–2024 GIP	2024–2028 GIP
Fairland/ Briggs Chaney	27% (Fairland/ Colesville)	27%
Silver Spring CBD	50% for employees in TMD	65%
Shady Grove	• 35% transit ridership for residents in TMD • 25% transit ridership for residents elsewhere • 12.5% transit ridership for employees	• 50% for residents and 20% for employees in TMD • 39% blended elsewhere

F. POLICY REVISIONS

As part of the 2024 update, Planning staff thoroughly reviewed the entire policy text. The recommended revisions include substantial edits to address ambiguities, streamline language, and enhance clarity. Outdated or irrelevant terms, references, and provisions were removed or revised to align with current practices and understanding. Appendix F contains the draft *2024-2028 Growth and Infrastructure Policy*.

Recommendation 3.16: *Revise the GIP resolution text to reflect updated county plans, policies, laws, regulations, and guidance.*

G. REORGANIZE AND UPDATE THE LOCAL AREA TRANSPORTATION REVIEW (LATR) GUIDELINES

The transportation adequacy tests are implemented through the LATR Guidelines. The guidelines detail the specific documentation and analysis required to describe the condition of the non-motor vehicle and motor vehicle networks surrounding the proposed development.

The LATR Guidelines serve as a key reference for development reviewers in Montgomery Planning and partner agencies, developers, and community stakeholders. However, the guidelines have undergone multiple updates across various GIP cycles and this iterative process has made it difficult to follow. The guide also lacks explicit direction for some common challenges, adding uncertainty and delay to the development process.

Recommendation 3.17: *Reorganize and update the LATR Guidelines. The revised version will reduce duplicative and contradictory language, address frequently asked questions, and include example documents and directions for common challenges.*

H. STAKEHOLDER COORDINATION

The Maryland State Highway Administration (SHA) plays a crucial role in the multi-agency development review process. It reviews proposed development projects and provides valuable insights into a project's potential impacts on surrounding roadways.

However, sometimes SHA review comments diverge from what is described in the LATR Guidelines, leading to unpredictability in the scope of review. Additionally, SHA's 45-day review period[14] does not align with the Development Review Committee's review timeline, which often exceeds the 45-day review period and includes multiple rounds of comments. This extended timeline can lead to delays for applicants.

The 2023 Development Review Workgroup[15] recommended codifying language in state law to limit SHA review time to 30 days. This change will align the SHA review time with County DOT review time and ensure that the applicant has all transportation comments at the same time so they can address them efficiently while staying on schedule.

Recommendation 3.18: *Continue to work with SHA and State Delegates to codify SHA review times. Clarify mutual expectations in the development review process, particularly for projects in Red policy areas, where motor vehicle analysis and mitigation are not a county priority.*

[14] SHA has a general communicated practice of 45 days per review cycle, but it is not mandated or codified.

[15] In 2023, the Montgomery County Planning Department, the Montgomery County Executive, and the Montgomery County House of Delegates Delegation formed a workgroup to examine the county's process for reviewing and approving development projects, with a special focus on ensuring the county remains economically competitive. Following a five-month process, the Development Review Process Workgroup came to consensus on 22 recommendations to improve the development review process.

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Chapter 4. Impact Tax Recommendations

Recent GIP updates applied a context-based framework to the impact tax regime to help focus growth by introducing Transportation Policy Areas in 2016 and School Impact Areas in 2020. Recent updates have also focused on encouraging more housing production while balancing the need to ensure that our school and transportation systems are adequately funded.

The recommendations for development impact taxes as part of the 2024 GIP update continue to use the impact tax system to advance county priorities, like housing for all, economic competitiveness, racial equity, and social justice.

While development-provided transportation and school funding are important, the county pays a significant price when development projects do not advance or are pared down due to the county's high development costs. High development costs can hinder new development, at a time when the county is facing a serious housing supply gap and needs to build 31,000 new housing units by 2030 to meet its housing goals. Addressing the county's housing supply gap involves using every available tool, including its impact tax regime, to help advance new housing. While some recommended changes may result in less impact on tax revenue from specific projects, others may lead to increased revenues.

Additional development will provide new long-term sustainable revenue through increased property tax receipts to support the county's capital budget priorities, including transportation and schools.

About Impact Taxes

Impact taxes are not part of the *Growth and Infrastructure Policy*. However, because they are so closely related, the Planning Department reviews and prepares recommendations related to impact taxes in conjunction with the GIP update.

Chapter 52 of the 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.

Private developers are responsible for investing in public schools, roads, and sidewalks by paying development impact taxes on new development. Development impact taxes are set by the Montgomery County Council and are assessed on new residential and commercial buildings and additions to commercial buildings in the county to fund, in part, the improvements necessary to increase the transportation or public-school systems capacity, thereby allowing development to proceed. Development impact taxes are an important source of funds, representing 4% of the transportation capital budget and 7% of the school capital budget in fiscal year 2024.

Revenue from impact taxes is used to fund transportation and school improvement projects. The funds are not geographically constrained. They can be used to fund infrastructure anywhere in the county. Sections 52-50 and 52-56 detail the types of capital projects that can be funded by transportation and school impact taxes, respectively.

Impact Tax Exemptions and Discounts

Table 13 identifies the school and transportation impact tax exemptions and discounts that currently apply and indicates which exemptions and discounts Planning staff recommend changing.

Table 13. Current Impact Tax Exemptions and Discounts

	Current Exemption or Discount	Schools	Code Section	Transportation	Code Section	Recommendation
1	Any Moderately Priced Dwelling Unit (MPDU)	Exempt	§52-54	Exempt	§52-41	Maintain
2	Any dwelling unit for which the price or rent charged is limited for at least 15 years to make the unit affordable to households earning equal to or less than 60% of the area median income, adjusted for family size	Exempt	§52-54	Exempt	§52-41	Maintain
3	Any Personal Living Quarters unit that meets the price or rent eligibility standards for an MPDU	Exempt	§52-54	Exempt	§52-41	Maintain
4	Any dwelling unit in an Opportunity Housing Project that meets the price or rent eligibility standards for an MPDU	Exempt	§52-54	Exempt	§52-41	Maintain
5	Any dwelling unit built by high school students under a program operated by the Board of Education	Exempt	§52-54	Exempt	§52-41	Maintain
6	Any farm tenant dwelling	Not Exempt		Exempt	§52-41	Maintain

	Current Exemption or Discount	Schools	Code Section	Transportation	Code Section	Recommendation
7	Any dwelling unit in a development that is age-restricted for seniors 55 and older	Technically not exempt, but the rate is set to $0		Not Exempt		Maintain
8	Single-Family Attached or Detached Dwelling Unit smaller than 1,500 square feet.	Not Exempt		Not Exempt		Introduce 50% Discount
9	Any development located in an Opportunity Zone certified by the U.S. Treasury Department (except the city of Rockville)	Exempt	§52-54	Exempt	§52-41	Maintain
10	Any development located in an Enterprise Zone designated by the state	Exempt	§52-54	Exempt (including commercial uses)	§52-41	Maintain
11	Any development located in a Desired Growth and Investment Area (except the city of Rockville)	Not Exempt		60% of applicable rate if in Orange Policy Area; or 68% of applicable rate if located in a Yellow Policy Area	§52-49	Remove
12	Any building that would be located within one-half mile of the Germantown, Metropolitan Grove, Gaithersburg, Washington Grove, Garrett Park, or Kensington MARC stations	Not Exempt		Discount	§52-49	Maintain

	Current Exemption or Discount	Schools	Code Section	Transportation	Code Section	Recommendation
13	Any otherwise non-exempt dwelling unit in a development in which at least 25% of the dwelling units are MPDUs	Exempt or Discount	§52-55	Exempt or Discount	§52-49	Maintain
14	Multi-family units with three or more bedrooms	Discount; pay the tax at 40% of the otherwise applicable rate in an Infill Impact Area	§52-55	Not Exempt		Expand exemption for schools and introduce for transportation.
15	Office-to-Residential Conversions	Not Exempt		Not Exempt		Introduce Exemption
16	Bioscience			Does not pay; rate set to zero		Maintain; add to code

A. CALCULATION OF SCHOOL IMPACT TAXES

In its simplest form, school impact taxes are calculated as follows:

Average # of Students per Unit x School Construction Cost per Student = Impact Tax per Unit

In 2016, the County Council changed the calculation of impact taxes, which had previously been calculated at 90% of the cost of a student seat, to 120%. This was done, in part, to compensate for the elimination of additional developer facility payments that were required when a school cluster exceeded certain projected utilization thresholds.

In 2020, the calculation was changed to 100% of the cost of a seat factor with the introduction of Utilization Premium Payments.

Recommendation 4.1: *With the recommended continued use of Utilization Premium Payments, continue to calculate standard school impact taxes at 100% of the cost of a seat using School Impact area student generation rates.*

B. CAP AND CARRYOVER SYSTEM

In 2023, Bill 25-23E was passed in response to anticipated higher-than-usual biennial impact tax adjustments.

Before changes from Bill 25-23E were adopted, transportation impact tax rates were recalculated based on the annual average increase or decrease in a published construction cost index over the most recent two calendar years. Bill 25-23E changed the biennial recalculation from an annual average to the cumulative increase or decrease in the construction cost index rather than an annual average every two years.

Bill 25-23E does not change how school impact tax rates are calculated. School impact tax rates are calculated on a biennial basis by the Planning Department on behalf of the Department of Finance based on the latest school enrollment data (from MCPS), housing inventory data (from SDAT), and school construction costs (from MCPS). For the school impact taxes, the tax rates are reset and recalculated to their true value every biennial update based on actual SGRs and actual MCPS school construction costs.

However, for both the school and transportation biennial updates, Bill 25-23E requires that the biennial tax rate adjustment for transportation and schools cannot exceed 20%. If it does exceed 20%, then the excess dollar amount must be carried over and added to the tax rate before calculating the next update.

Recommendation 4.2: *Continue the use of the cap and carryover system as adopted through Bill 25-23E. Its implementation is relatively new and will help soften any anticipated upward adjustments.*

C. DISCOUNT FOR SMALLER HOMES

The size of a house has a big impact on the affordability and attainability of that home. According to MRIS, in 2023, the average detached home sold in Montgomery County for over $965,000, compared with $440,000 for attached homes, which are typically smaller than detached homes. As part of the ongoing Attainable Housing Strategies initiative, the Planning Department is trying to spur the creation of more types of housing that are smaller and more attainable for buyers than the typical new detached homes. Offering an impact tax discount to builders is one way to help advance the production of these smaller dwelling units by making them easier to finance and build.

Recommendation 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.*

D. DESIRED GROWTH AND INVESTMENT AREAS EXEMPTION

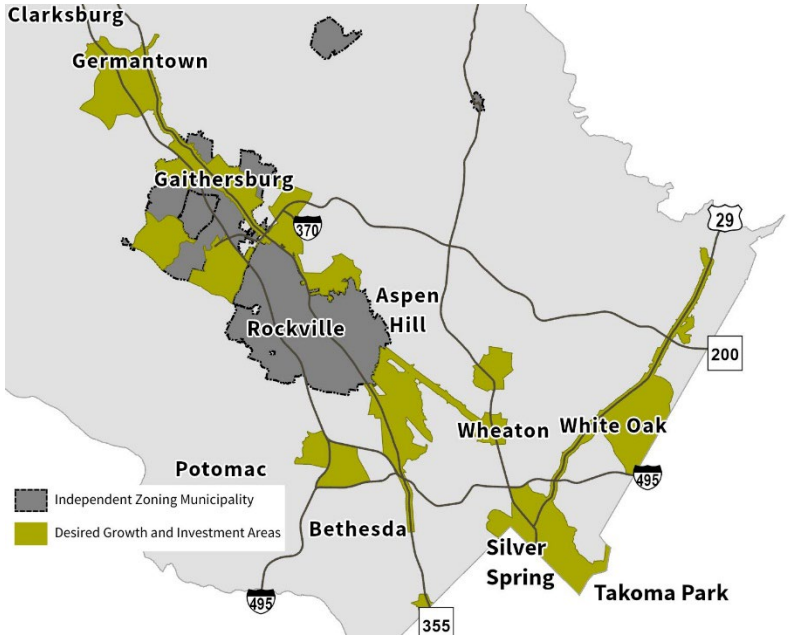
Desired Growth and Investment Areas (as shown below in Figure 8) include specific Metropolitan Washington Council of Governments (MWCOG) designated Activity Centers and a 500-foot buffer around existing and specific planned bus rapid transit (BRT) lines. Desired Growth and Investment Areas give a 40% transportation impact tax discount for Orange policy areas and 32% for Yellow policy issues. Desired Growth and Investment Areas discounts were added in the 2020 GIP update.

While Planning staff support the concept of corridor-focused compact growth, other policies outlined in the GIP update, such as changing the colors of several policy areas, have a similar effect in achieving the goal of corridor-focused compact growth.

Recommendation 4.4: *Remove the Desired Growth and Investment Areas exemption and rely on other policies to advance*

corridor-focused compact growth and housing. This will simplify the number of boundaries used in conjunction with the policy.

Figure 8 Map of Desired Growth and Investment Areas



E. EXEMPTION FOR MULTI-FAMILY UNITS WITH THREE OR MORE BEDROOMS

The 2020 GIP update provided a new incentive in the form of a discount for units with three or more bedrooms located in an Infill Impact Area. Currently, a three-bedroom multi-family dwelling in an Infill Impact Area pays impact taxes at 40% of the otherwise applicable rate. The county has prioritized building these units in the past, desiring more family-friendly units, especially in high-rise buildings.

According to CoStar, only around 1,050 units with three or more bedrooms (roughly 4% of all rental housing units) have been built since 2010 in rental projects.

Thrive Montgomery 2050 recommends enacting policies that encourage the construction of housing units in multi-family buildings suitable for larger households. This will help increase the amount and variety of housing in the county.

Recommendation 4.5: *Expand 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.*

F. OFFICE-TO-RESIDENTIAL CONVERSIONS

The office vacancy rate in Montgomery County increased about 40% from 2018 to late 2023, and remains at around 18% (see Figure 9).

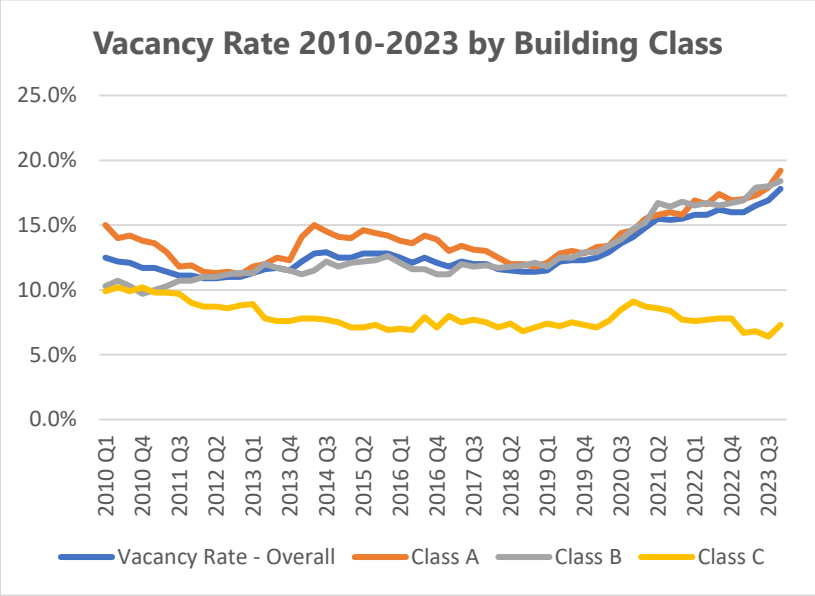
In response to sizable vacancies in office buildings, many property owners and jurisdictions have been pursuing office-to-residential conversions, a strategy with the added benefit of helping address the county's housing shortage.

Given the complexity and expensive nature of conversion, many jurisdictions have created financial incentives to assist in the conversion. For example, Washington, D.C. offers a tax abatement for certain residential developments, including office conversions, via the Housing in Downtown (HID) program.

Currently, office-to-residential conversions get their impact taxes credited for their original office use against their new residential

impact taxes (note: office uses only pay transportation impact taxes).

Figure 9. Office Vacancy Rate in Montgomery County, MD (Source: CoStar)



Recommendation 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. Table 14 illustrates an example of a potential office-to-residential conversion and how the exemption could work.*

G. BIOSCIENCE EXEMPTION

Bioscience companies constructing new facilities are currently exempt from the county's impact taxes, which are imposed on all new commercial development except for bioscience structures.

This exemption can help promote economic development by promoting key cost savings in development costs while supporting this critical county industry. Currently, bioscience uses' impact taxes are set to zero.

Table 14. Example of a Potential of Office-to-Residential Conversion Impact Tax Exemption

Original Office Impact Taxes	
Building GFA	200,000
Transportation Impact Tax Rate (Orange)	$22.10
Total Impact Taxes	$4,420,000
Office-to-Residential Conversion Impact Taxes	
# of Market Rate Units Converted	175
Transportation Impact Tax Rate (MFL/Orange)	$15,366
Turnover Impact Area (MFL/Turnover)	$13,625
Transportation Impact Tax	$2,689,050
School Impact Tax	$2,384,375
Total Impact Taxes	$5,073,425
Potential Office-to-Residential Conversion Impact Taxes Waived	
$653,425	

Recommendation 4.7: *Given the importance of this sector to the economic vitality of the county, continue exempting bioscience projects and add the exemption to the county code.*

H. IMPACT TAX CREDIT

The County Code (§52-47) permits developers to receive transportation impact tax credits for constructing transportation

improvements that reduce traffic demand or increase transportation capacity. Section 52-50 lists eligible improvements. However, unclear and conflicting definitions in the code can create confusion during the development process. In practice, only improvements enhancing regional transportation capacity receive credit. Improvements along state highways are ineligible for tax credits.

Recommendation 4.8: *Update the County Code to provide more clarity and allow credit for capacity improvements along state roadways.*

I. LEGACY LANGUAGE FOR OPPORTUNITY ZONES

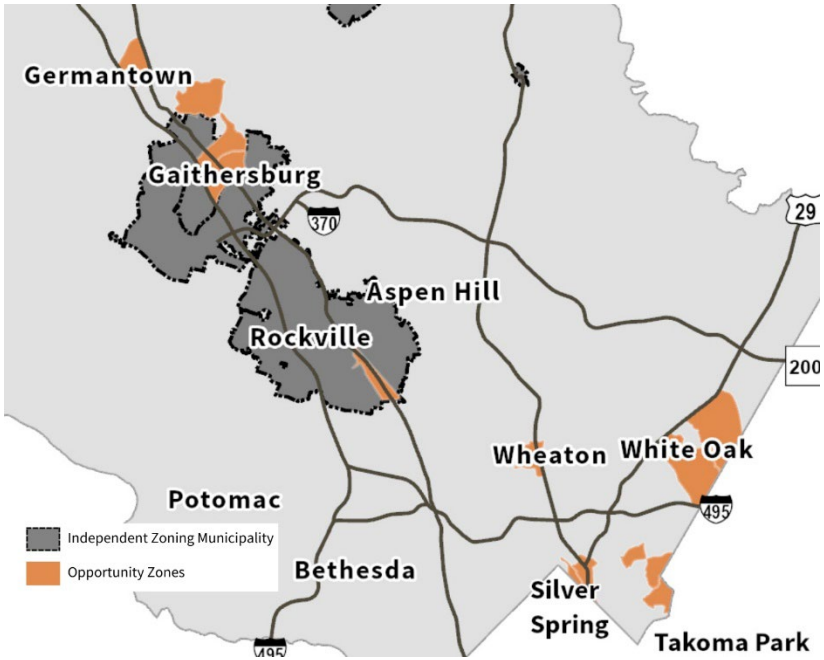
Opportunity Zones are economically distressed communities where private investments may be eligible for capital gain tax incentives. They were created in 2017 as part of the federal Tax Cuts and Jobs Act. The program requires state-nominated areas to be certified by the U.S. Treasury Department.

To date, 14 census tracts in the county have been certified as Qualified Opportunity Zones. These have been aggregated into the areas shown in Figure 10. Opportunity Zones are expected to expire at the end of 2026.

In the 2020 GIP, an exemption was added that allowed projects in Opportunity Zones to have their school and transportation impact taxes fully exempted.

Recommendation 4.9: *Given that the program is expected to expire at the end of 2026, Planning staff recommend adding legacy language to allow Planning Board–approved projects that have not yet received building permits to continue to receive the impact tax exemption.*

Figure 10. Opportunity Zones



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3.5	Modify the non-motor vehicle adequacy test requirements to maintain the county's high standards while minimizing unnecessary data collection and analysis.	27
3.6	Refine the Vision Zero Statement to focus on managing speed for safety. Effective speed management helps reduce roadway fatalities and ensures the safety of all road users. It is one of the best tools for saving lives and reducing serious injuries on our roadways. "All LATR studies must assess roadway speeds and suggest safety solutions. With the concurrence of the responsible agency, projects may implement or contribute to the implementation of safety countermeasures as part of their off-site mitigation efforts."	29
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3.11	Expand the current off-site mitigation exemption for affordable housing units, which currently only includes mitigation payments, to include constructed improvements. Adjust the Proportionality Guide limit by subtracting trips attributed to new affordable units. The trips generated by these units will still count toward the 30-vehicle-trip LATR threshold.	31
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4.7	Given the importance of the bioscience sector to the economic vitality of the county, continue exempting bioscience projects and add the exemption to the county code.	42
4.8	Update the County Code to provide more clarity and allow credit for capacity improvements along state roadways.	42
4.9	Given that the Opportunity Zones program is expected to expire at the end of 2026, add legacy language to allow projects that have their approvals but have not yet gone to building permit to receive the impact tax exemption.	43

Appendices