

# 2024 - 2028 GROWTH AND INFRASTRUCTURE POLICY WORK SESSION #5 – OUTSTANDING TOPICS FOR TRANSPORTATION, SCHOOLS, AND IMPACT TAXES

## Description

Montgomery Planning is undertaking the quadrennial update of the Growth and Infrastructure Policy (GIP). On Thursday, May 23, 2024, the Planning Board held a public hearing for the 2024 GIP draft. Over the course of five weeks, the Planning Board will have the opportunity to review and provide policy direction on each recommendation throughout a series of work sessions. The fifth work session will address certain transportation, schools, and impact tax recommendations that were not resolved at previous work sessions.

Complete: 06-21-2024

MCPB

Item No. 14

6/27/2024

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**Summary**

- The GIP addresses the adequacy of public facilities as it relates to the regulatory or development review process. It sets standards for evaluating individual development proposals to determine if the surrounding public infrastructure, such as transportation networks and school facilities, can accommodate the demands of the development. It also outlines requirements for mitigating inadequate infrastructure.
- This staff report outlines outstanding recommendations for transportation, schools and impact taxes in the 2024 – 2028 Growth and Infrastructure Policy (GIP) update.
- The County Code directs the Planning Board to transmit a draft of the GIP to the County Council by August 1, 2024, and for the County Council to adopt the 2024-2028 policy by November 15, 2024.

## 2024 – 2028 GROWTH AND INFRASTRUCTURE POLICY WORK SESSION #4 -- OUTSTANDING TOPICS FOR SCHOOLS AND TRANSPORTATION

### Overview of Work Sessions

The Planning Board has held three previous work sessions on the Growth and Infrastructure Policy:

- Work Session #1: On May 30, 2024, the Planning Board began its review of the schools element recommendations (**Attachment C**).
- Work Session #2: On Thursday, June 6, 2024, the Planning Board began its review of the transportation element recommendations (**Attachment D**).
- Work Session #3: On Thursday, June 13, 2024, the Planning Board began its review of the impact tax element recommendations (**Attachment E**).
- Work Session #4: On Thursday, June 20, 2024, the Planning Board revisited outstanding transportation topics (**Attachment F**).

The GIP comment matrix (**Attachment G**) provides Planning Staff’s responses to comments and testimony.

During Work Session #6, scheduled for July 18, 2024, the Planning Board will review a track changes version of the document, incorporating all of the Planning Board’s policy direction during the course of the five work sessions.

Chapter 33A of the County Code requires a quadrennial review of the GIP, with the current review to be completed in 2024. The Planning Board must transmit its policy recommendations along with a report on the county’s growth context to the County Council by August 1, 2024. The Council will adopt the updated policy via resolution by November 15, 2024. The following table highlights the upcoming timeline for GIP milestones and activities.

Milestone	Dates	Notes
Work Session #1	May 30, 2024	Schools
Work Session #2	June 6, 2024	Transportation
Work Session #3	June 13, 2024	Impact Taxes
Work Session #4	June 20, 2024	Outstanding Topics for Transportation and Schools
Work Session #5	June 27, 2024	Outstanding Topics
Work Session #6	July 18, 2024	Track Changes
Planning Board approval of Planning Board Draft and Resolution	July 25, 2024	Transmit to the County Council and County Executive by August 1

County Council Public Hearing	September 2024	
County Council Review and Approval	September – November 2024	Council adoption is required by November 15, 2024

## Background

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* (GIP) 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 GIP builds upon the transformational growth policies of 2016 and 2020 to further refine and enhance them. A primary goal of the 2024 GIP update is to ensure the policy aligns with the County’s priorities and the current growth context. The Public Hearing Draft of the GIP ensures adequacy while improving development conditions in the county by enhancing predictability, transparency, and proportionality in the approval process.

## SCHOOLS

### 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.

#### Planning Board Comments

During the Planning Board Work Session on May 30, 2024, Planning Staff presented the Board with the following options to address the classification of stacked flats:

- **Option A:** Reclassify stacked flats as single family attached units as recommended in the Public Hearing Draft.
  - This will increase the student generation rates and impact tax rates of stacked flats, but the rates for multi-family low-rise units will decrease to reflect their true impact.
- **Option B:** Maintain the current classification of stacked flats as multi-family low-rise units.
  - The student generation rates and impact tax rates for multi-family low-rise units will be inflated due to the higher student generation rates of stacked flats, and Planning Staff will work with DPS to ensure projects are charged the correct impact tax rates.
- **Option C:** create an additional housing type category for stacked flats.

- Due to the low record counts in each impact area, the student generation rate and impact tax rates will likely fluctuate considerably between each biennial recalculation.

The Board requested actual student generation rate and impact tax rate data for each option to help understand the implications.

### Planning Staff Response

The following tables show student generation rates, impact tax rates, and the number of units for each option and each unit type.

Table 1 Student Generation Rates

<b>Student Generation Rates, K-12 Total</b> (based on all units for SFA, only units built 1990 or later for stacked flats and MFL)		<b>Option A</b> (Stacked Flats = SFA)	<b>Option B</b> (Stacked Flats = MFL)	<b>Option C</b> (Stacked Flats as Own Type)
<b>Infill Impact Areas</b>	Single-Family Attached (SFA)	0.406	0.428	0.428
	Stacked Flats	-	-	0.239
	Multifamily Low-rise (MFL)	0.146	0.162	0.146
<b>Turnover Impact Areas</b>	Single-Family Attached	0.495	0.497	0.497
	Stacked Flats	-	-	0.409
	Multifamily Low-rise	0.232	0.261	0.232

Table 2 Impact Tax Rates

<b>School Impact Tax Rate</b>		<b>Option A</b> (Stacked Flats = SFA)	<b>Option B</b> (Stacked Flats = MFL)	<b>Option C</b> (Stacked Flats as Own Type)
<b>Infill Impact Areas</b>	Single-Family Attached (SFA)	\$28,090	\$29,607	\$29,607
	Stacked Flats	\$28,090	\$11,211	\$16,652
	Multifamily Low-rise (MFL)	\$10,072	\$11,211	\$10,072
<b>Turnover Impact Areas</b>	Single-Family Attached	\$34,419	\$34,562	\$34,562
	Stacked Flats	\$34,419	\$17,997	\$28,276
	Multifamily Low-rise	\$15,981	\$17,997	\$15,981

Table 3 Housing Inventory: Units Built

<b>Number of Units</b> (includes all units for SFA, only units built 1990 or later for stacked flats and MFL)		<b>Option A</b> <b>(Stacked Flats = SFA)</b>	<b>Option B</b> <b>(Stacked Flats = MFL)</b>	<b>Option C</b> <b>(Stacked Flats as Own Type)</b>
<b>Infill Impact Areas</b>	Single-Family Attached (SFA)	15,849	13,988	13,988
	Stacked Flats	-	-	1,861
	Multifamily Low-rise (MFL)	8,739	10,600	8,739
<b>Turnover Impact Areas</b>	Single-Family Attached	57,428	55,204	55,204
	Stacked Flats	-	-	2,224
	Multifamily Low-rise	11,424	13,648	11,424

**Planning Staff Recommendation**

Planning Staff recommend selecting Option B, classifying stacked flats as multifamily low-rise. For the purposes of zoning and SDAT classifications, these units are already classified as multifamily low-rise. However, an implication of this recommendation is that by including stacked flats in the multifamily low-rise category, these projects will not benefit from Recommendation 4.3, which provides a 50% impact tax discount for small attached and detached homes. Multifamily low-rise impact taxes, however, are generally lower than single-family attached and detached, even with the discount, as shown in Table 4.

Table 4 School Impact Tax Rates for Single-Family Attached and Multifamily Low-Rise

<b>School Impact Tax Rates</b>		
<b>Infill Impact Areas</b>	Single-Family Attached (SFA)	\$21,664
	Single-Family Attached (SFA) with a 50% reduction	\$10,832
	Multifamily Low-rise (MFL)	\$6,584
<b>Turnover Impact Areas</b>	Single-Family Attached	\$29,456
	Single-Family Attached (SFA) with a 50% reduction	\$14,728
	Multifamily Low-rise	\$13,625

## TRANSPORTATION

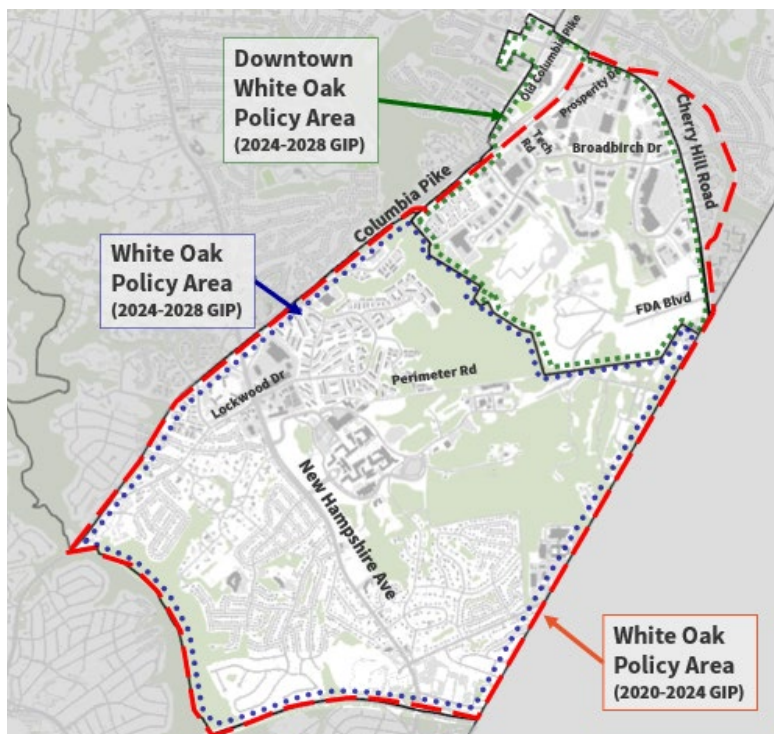
### Recommendation 3.19: Retain the current boundaries of the White Oak Local Area Transportation Improvement Program (LATIP) area.

#### Background

The Public Hearing Draft 2024-2028 GIP splits the White Oak Policy Area into two separate policy areas (White Oak and Downtown White Oak) to better reflect the master planned vision for the area (**Figure 1**). This creates an issue because the geographic extent of White Oak Local Area Transportation Improvement Program (LATIP) is defined as “the White Oak Policy Area.”

The White Oak Policy Area Pro Rata Share process, established under Resolution [18-107](#), states that the Planning Board may approve a subdivision in the White Oak Policy Area conditioned on the applicant paying a fee to the county commensurate with the applicant's proportion of the cost of a White Oak Local Area Transportation Improvement Program (LATIP). The proportion is based on a subdivision's share of net additional peak-hour vehicle trips generated by all master-planned development in the White Oak Policy Area approved after January 1, 2016.

Figure 1 Proposed White Oak and Downtown White Oak Policy Areas (2024-2028 GIP) and 2020-2024 White Oak Policy Area





## Planning Staff Recommendation

Planning Staff recommends reconciling this issue by defining a geographic area called the “White Oak LATIP Area” using the same extents as the 2020-2024 GIP White Oak Policy Area (**Figure 2**).

Figure 2 Proposed White Oak LATIP Area (left) and 2020-2024 White Oak Policy Area (right)



Staff also recommends revising the 2024-2028 GIP Section T7.3 (see Attachment B, Appendix F pages 152-153) as follows:

### T7.3 White Oak **Local Area Transportation Improvement Program (LATIP) Policy Area**

- (a) The Board may approve a subdivision in the White Oak **LATIP Policy Area (Map 52)** conditioned on the applicant paying a fee to the County commensurate with the applicant’s proportion of the cost of the White Oak Local Area Transportation Improvement Program, including the costs of design, land acquisition, construction, site improvements, and utility relocation. The proportion is based on a subdivision’s share of net additional peak-hour vehicle trips generated by all master-planned development in the White Oak **LATIP Policy Area** approved after January 1, 2016.
- (b) The components of the White Oak Local Area Transportation Improvement Program and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The Council may amend the Program and the fee at any time, after a public hearing.
- (c) The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-51 of the Montgomery County Code.
- (d) The Department of Finance must retain funds collected under this Section in an account to be appropriated for transportation improvements that result in added transportation capacity serving the White Oak **LATIP Policy Area**.



## IMPACT TAXES

**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.**

### Public Testimony

Miles & Stockbridge P.C. (“The Miles Group”) notes that MCPS receives funding from the state for construction costs associated with a student seat, thereby lowering the cost to MCPS. Therefore, impact taxes should be recalibrated to reflect the actual cost to MCPS.

### Planning Staff Response

The FY24 breakdown of MCPS’ individual school CIP projects funding by source shows that state aid was assumed for about 30% of the approved capital budget for individual schools (see Table 5).

Table 5 Breakdown of FY 2024-2029 MCPS Individual School CIP by Funding Source

Funding Source (dollars in thousands)		
G.O. Bonds	\$ 681,138	55.2%
State Aid	\$ 373,171	30.3%
Schools Impact Tax	\$ 97,525	7.9%
Recordation Tax	\$ 72,004	5.8%
G.O. Bond Premium	\$ 5,500	0.4%
School Facilities Payment	\$ 3,704	0.3%
Total	\$ 1,233,042	

For the FY 2024-2025 impact tax rate period, which is currently in effect, the following table compares the raw impact tax rate calculation (without the 20% cap<sup>1</sup>), what the rate would have been with a 30% adjustment to reflect State Aid, and the official FY 2024-2025 rates that are currently in effect with a 20% cap from the previous FY 2022-2023 rate applied.

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<sup>1</sup> In 2023 Bill 25-23E was adopted, which requires that the biennial tax rate adjustment for transportation and schools to not 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.

FY 2024-2025 School Impact Tax Rates		FY 2022-2023 Approved Rate	FY 2024-2025 Raw Calculation	FY 2024-2025 With 30% State Aid Adjustment	FY2024-2025 Approved Rate (20% cap on previous rate applied)
Infill Impact Areas	Single Family Detached	\$ 20,837	\$ 30,343	\$ <b>21,240</b>	\$ 25,004
	Single Family Attached	\$ 18,053	\$ 26,028	\$ <b>18,220</b>	\$ 21,664
	Multifamily Low-Rise	\$ 5,487	\$ 9,275	\$ <b>6,493</b>	\$ 6,584
	Multifamily High-Rise	\$ 3,116	\$ 4,911	\$ <b>3,438</b>	\$ 3,739
Turnover Impact Areas	Single Family Detached	\$ 21,737	\$ 30,719	\$ <b>21,503</b>	\$ 26,084
	Single Family Attached	\$ 24,547	\$ 35,018	\$ <b>24,513</b>	\$ 29,456
	Multifamily Low-Rise	\$ 11,354	\$ 17,827	\$ <b>12,479</b>	\$ 13,625
	Multifamily High-Rise	\$ 5,061	\$ 11,601	\$ 8,121	\$ <b>6,073</b>

If, at the time of calculating the FY 2024-2025 impact tax rates, the 30% State Aid adjustment had been applied to the school construction cost, the 20% cap would not have been necessary for all housing units and impact area types except for multifamily high-rise units in Turnover Impact Areas. For Turnover multifamily high-rise units, the 30% adjustment on the raw calculation rate (\$8,121) would still be more than a 20% increase from the previous FY 2022-2023 rate, so the 20% cap would be triggered to keep the FY 2025-2026 rate at \$6,073 and the remaining \$2,048 would be carried over to future impact tax rate calculations.

### Planning Staff Recommendation

Planning Staff recommends modifying the recommendation as follows:

Recommendation 4.1: Modify the calculation of the standard school impact tax rates to reflect the true per student cost of school construction to the county. Do this by adjusting the rates to account for the portion of funding for school capacity projects in the adopted 6-year CIP attributed to state aid.

**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.**

**Public Testimony**

David Barnes, on behalf of the **Edgemoor Citizens Association**: The County's approach to measuring infrastructure impact, which focuses on large-scale development and excludes small-scale residential development, may have worked previously when most single-family homes were torn down and replaced with larger single-family homes. But if conversions of single-family homes to duplexes, triplexes, and quadplexes increases once the Attainable Housing Strategies initiative is implemented, the GIP should incorporate infrastructure assessments of attainable housing units.

**Planning Staff Response**

Small scale attainable housing units will pay both transportation and school impact taxes and school UPP payments if necessary. However, small scale attainable housing units are unlikely to be required to contribute to offsite transportation improvements due to the de minimis threshold for transportation adequacy.

Michael Larkin, **Montgomery for All Steering Committee**, and Dan Reed, **Greater Greater Washington (GGWash)**, support this recommendation.

Pat Harris of **Lerch, Early & Brewer**, recommends raising the 1,500 square foot (SF) threshold to at least 1,600 SF. The **Miles Group** also supports increasing the eligible unit size. Katie Wagner, **on behalf of the NAIOP and MBIA**, supports a threshold of 2,000 SF, explaining that it is not financially viable to build homes smaller than 1,500 SF because of the required width of the units and the market preferences for the larger number of bedrooms.

Matthew Gordon and Robert Dalrymple on **behalf of Selzer Gurvitch Rabin Wertheimer & Polott, P.C. (“Selzer Gurvitch”)**, say the recommendation is insufficient to incentivize conversions from office to multifamily as the market demands housing units that are larger than 1,500 SF.

At the June 12, 2024, Planning Board meeting, the Planning Board agreed to update the recommendation to allow a discount **for single-family attached and detached homes smaller than 1,800 SF**. As noted in Recommendation 2.4, this has implications for the stacked flats recommendation, as Planning Staff recommended updating its recommendation to classify stacked

flats at multifamily low-rise, and thus stacked flats would be ineligible for the reduction in impact taxes.

### **Planning Staff Recommendation**

Based on the Planning Board’s policy direction during the June 13, 2024 work session, Planning Staff recommends maintaining the revised recommendation as follows:

Recommendation 4.3: Offer a 50% transportation and school impact tax discount to single-family attached and detached units that are ~~1,500~~**1,800** square feet or smaller.

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

#### **Background**

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. In practice, only improvements enhancing regional transportation capacity receive credit, and improvements along state highways are ineligible for tax credits.

#### **Planning Board Comments**

During the Planning Board work session on June 14, 2024, the Planning Board supported the recommendation and asked Staff to revisit the topic at a future work session with specific proposed changes to the code.

#### **Planning Staff Response**

The Planning Staff is revising the impact tax language in the code and will meet with MCDOT during the week of June 24, 2024, to discuss potential recommendations. Planning Staff will present recommended revisions to the Planning Board at the June 27, 2025, work session.

### **Attachments**

[Attachment A – 2024 Growth and Infrastructure Policy Update – Public Hearing Draft](#)

[Attachment B – 2024 Growth and Infrastructure Policy Update – Appendices](#)

[Attachment C – GIP Work Session #1: Schools Element \(May 30, 2024\) Staff Report](#)

[Attachment D – GIP Work Session #2: Transportation Element \(June 6, 2024\) Staff Report](#)

[Attachment E - GIP Work Session #3: Impact Taxes \(June 13, 2024\) Staff Report](#)

[Attachment F - GIP Work Session #4: Outstanding Topics for Transportation and Schools \(June 20, 2024\) Staff Report](#)

Attachment G – Testimony and Comment Response Matrix

[Attachment H – Current Impact Tax Rates](#)

Figure 3 Downtown White Oak Policy Area

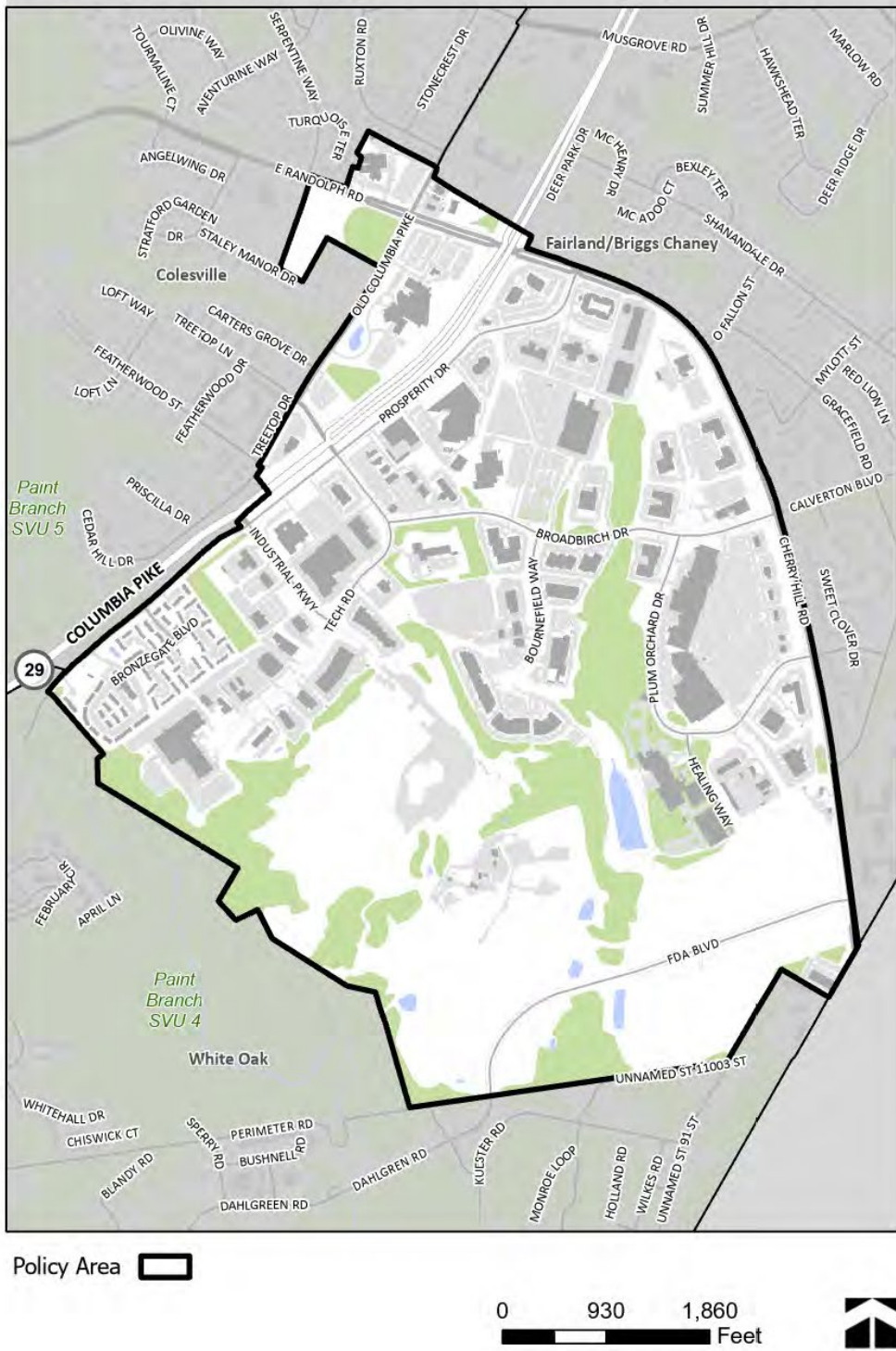





Figure 4 White Oak Policy Area



Policy Area 

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