Toward Sustainable Growth For Montgomery County: A Growth Policy for the 21st Century

Along Montgomery County's northeast boundary

Statement of the Montgomery County Planning Board, M-NCPPC

INTRODUCTION

The 2007 Growth Policy marks an important evolution in the management of growth and change in Montgomery County. It moves from its historical roots as guideline for *staging* new development in concert with the provision of basic public facilities, such as transportation and schools, toward managing growth and change in ways that are *sustainable* and monitoring their consequences for the County's economy, environment, and social equity.

This evolution in growth policy is possible because of the cumulative experience of the past 20 years and the development of better ways of modeling and measuring growth and its consequences. It is necessary because of heightened awareness of consequences of inappropriate or unwise development choices for a maturing County. This is especially the case in light of the widely recognized implications of global climate change for development patterns and practices that conserve energy and protect the natural environment. Thus, the 2007 Growth Policy is an initial step in a transition from measuring public facility deficits and restricting development until the facilities able to support it are provided, to a framework that more fairly allocates the marginal costs of growth and also provides guidance for master plans, the Capital Improvement Program (CIP), and the development review process to encourage patterns and practices of development (including redevelopment) that, over time, produce better and more sustainable places in which to live, work, conduct business, and enjoy leisure time.

Although the analysis on which this policy is based is relatively complicated, the public policy principles are straightforward and should be kept at the front of deliberations and action on the details. Those principles are:

1. Development should pay the marginal costs of the capital facilities needed to serve or accommodate it. This facilitates concurrent provision of facilities and long-term fiscal stability.
2. In the aggregate, development should foster a more robust and diverse economy, and a balance of jobs and housing opportunities.
3. Development, at a minimum, should not degrade environmental resources, and at its best, should produce net environmental benefits and stronger linkages between the built and natural environments.
4. Development projects should be designed and built “green” to foster energy and resource conservation.
5. The design of the built environment should foster alternatives to the automobile for a wide variety of trips.
6. Activity centers should provide a mixture of uses and activities.
7. Infill development should respect the scale and integrity of host communities.
8. Development patterns should encourage social interaction through attention to human scale, the pedestrian environment and streetscape, and gathering places.
9. The consequences of growth policies should be monitored through the use of indicators in order to assess the effectiveness of policy in achieving outcomes and to identify areas for timely adjustments.

Applying these principles involves a conceptual adjustment from thinking of growth policy as primarily an instrument governing administration of the Adequate Facilities Ordinance (APFO) through the denial or delay of subdivisions until facilities—primarily roads—meet certain standards for levels of service. While growth policy continues to perform its traditional function, our recommendations are designed to perform a broader set of functions. These include:

> *Reinvigorating Growth Policy’s role in establishing priorities for the Capital Improvements Program,* which was an original impetus for its creation. Over time, the focus migrated to an almost exclusive focus on infrastructure needed for new development. As the County matures, equal attention needs to be given to the needs of established communities. This is especially the case when an increasing proportion of development activity involves redevelopment of older centers and infill in established communities. And as the staff report demonstrates, demographic changes can have greater effects on demand for facilities and services in

much of the County than physical changes to the built environment. Furthermore, standards of “adequacy” evolve with public understanding and tastes.

Shifting from reliance primarily on a strategy of denial or delay of development projects until such time as adequate facilities are provided or programmed and financed, to a strategy of requiring all development to cover the marginal cost of the additional facilities needed to provide it with an adequate level of service. This has been recent practice for water and sewerage facilities, which are fee-based. It has not been the case for the two most expensive facilities — transportation and schools. Aside from the occasional Road Club, in which developer-members share the cost of a needed road segment or interchange, or where a subdivision is required to ameliorate inadequacies through intersection improvements or by agreeing to a traffic management program, the needed incremental transportation improvements have been made primarily through public expenditures paid for by all County taxpayers. Transportation impact taxes and, more recently, school impact taxes do not currently cover actual costs of needs generated by either new development or population turnover in established neighborhoods.

Linking Growth Policy and Area/Functional Master Planning more closely so that infrastructure staging and design elements advance growth policy objectives, and growth policy, in turn, implements the General Plan and Master Plans. The biennial growth policy report should include analyses of the status of capital improvements recommended by master plans and their capacity to serve the residential and economic activities recommended for planning or policy areas, and a review of development on the ground and in the pipeline in order to assess whether the growth policy and master plans are working in concert. If there are substantial incongruities, the growth policy should recommend appropriate changes. This review can also identify important priorities for the next CIP. Master Plans ultimately define *adequacy* in terms of the way in which facilities serve residents and firms. In this regard, design can have a substantial effect on the carrying capacity of both the engineered and natural systems in the immediate planning area, in a corridor, and in the County at large.

Providing a biennial analysis of the pace and patterns of growth, the factors influencing development and demand for public facilities, and the economic, environmental, and social consequences of public policies that guide growth and development. One of the most important functions of a biennial report on growth policy should be assessment of whether policies are producing the expected and desired outcomes, and if they are not, recommendations for improvement.

Working within this conceptual framework, the Planning Board recommends that the Council adopt the following elements in its 2007 Growth Policy Resolution:

1. **The adequacy of transportation facilities to serve a development project should be subject to a two-part test that assesses the adequacy of transportation facilities for the Policy Area and the impact of the project on local capacity.**

   a. *Policy Area Mobility Review (PAMR) should be adopted as the best method of measuring the adequacy of the transportation system serving the policy area within which a project is proposed.* Metro areas should be included in the Policy Areas of which they are a part for purposes of this test of adequacy. We recommend this approach because it has a well-established basis in transportation research and neither depends on nor is subject to subjective manipulation; it focuses on the mobility experience of the traveler in terms of the relative time it takes to reach one's destination by driving or using public transportation. This approach acknowledges the tradeoff between auto and mass transit. It is simple and inexpensive to administer. It is relatively easy to understand by both the public and applicants. It can be annually revised to account for changes to the condition of either mode, and it can be used to assess the transportation performance of Policy Areas in order to make recommendations for transportation improvements in both the CIP and master plan amendments.

      The PAMR test is dichotomous—an applicant either passes or fails it. If failed, the applicant must provide transportation mitigation measures in addition to any actions taken to meet Local Area Transportation Review requirements and payment of the transportation impact tax (discussed below). The board agrees with staff's "stair step" approach to applying the PAMR test, as a more objective approach. Although in some instances it may be counter-intuitive in that travelers may still experience congestion induced delay on some roadways, the objective of this policy is to encourage the choice of transit when it enables people to travel in less time than it takes to drive. In this sense, relieving perceived congestion (even when the total elapsed trip time may be well within acceptable bounds) can defeat shifting travel behavior to transit. Changing the stair-step to a continuous line that divides the areas of adequate service from those with inadequate service does not have a sound theoretical or statistical basis.

   b. *Local Area Transportation Review (LATR) should continue to be used in the subdivision approval process.* This process is well-established and state-of- the-art. It requires developments generating more than 30 trips to prepare a traffic study by a certified professional. While no major changes are recommended in LATR standards, we do recommend the following adjustments in administration:

i. A traffic study should be required for the Alternative Review Procedure involving Metro Station Areas. This will assist the staff and Board in evaluating an applicant's trip mitigation proposals, and assist in identifying and prioritizing needed public investments.

ii. Payments-in-lieu of non-automobile transportation amenities should be permitted in cases where Metro or the County cannot or will not accept the optimal mitigation measures agreed to by the applicant and Board. This will permit a transit-oriented project to proceed and apply the payment to a more acceptable mitigation project.

iii. LATR practices should be revised to allow applications for expansion of an existing or approved project to focus on the incremental increase rather than the entire project.

iv. To ensure an increased emphasis on non-auto solutions to transportation capacity deficits, the policy should require that all applicants document their consideration of traffic mitigation or trip reduction measures.

v. The Transportation Planning staff should expand its intersection database to provide an improved foundation for traffic analysis and for verifying developer-provided counts. This will require additional funding in the FY 2009 budget, or a supplemental appropriation if instituted before July 2008.

vi. All applicant traffic studies must be conducted by a licensed or certified professional.

2. **The test for the adequacy of public school facilities should be revised so that the threshold that triggers a School Facilities Payment is 110 percent of MCPS program capacity.** "Program capacity" is the definition of capacity used by the school system. In recent years the difference between "program capacity" and the capacity definition used by the growth policy has increased due to class-size reduction initiatives and other factors. Setting the standard at 110 percent of program capacity should eliminate the concern about tying the growth policy test too closely to Board of Education programming decisions, such as specialized uses of some classrooms or other changes in curricula or programming that can change capacities even though the physical facilities are unchanged.

a. *Revision of the School Facilities Payment threshold would mean that several clusters would be designated "inadequate" and residential development in those clusters would be required to make the payment.* The School Facilities Payment would be required at the high school level in the Wootton cluster; at the middle school level in the Clarksburg cluster; and at the elementary school level in the Blake, Clarksburg, Einstein, Kennedy, Northwest, and Wheaton clusters.

b. *The Planning Board recommends that the School Facilities Payment be set at the cost-per-pupil of school infrastructure, which is the same basis that the Board recommends for the school impact tax.* The payment would be $32,524 for each full-time equivalent (FTE) elementary school student, $42,351 for each FTE middle school student, and $47,501 for each FTE high school student. *The Board recommends that the School Facilities Payment be assessed only at the level that is inadequate and for the number of students the development generates at that level.* For example, the Blake cluster would be inadequate at the elementary school level. Each single-family detached home generates an average of 0.32 elementary students, so the School Facilities Payment for a single-family detached home in the Blake cluster would be $10,407 ($32,524 x 0.32).

c. *A moratorium on development in an area should be imposed if schools are operating at 135 percent of MCPS program capacity.*

3. **The normal time limits for the validity of a finding that public facilities are adequate to serve a project should be limited to five years.** The time limit is for receiving the last building permit and, thus, does not require that the project be completed, although most projects are completed in five years. Large and complex projects should be allowed a longer validity period, based on a staging plan, but initial validity periods of greater than 10 years should not be granted. For the Planning Board to approve a validity period longer than five years, the applicant must present a staging plan for the project, the Board must find that the longer period has a public benefit, and it may require additional transportation mitigation measures. Traffic studies are generally valid for about five years. Moreover, projects with long validity periods but low activity levels essentially hoard capacity, and can prevent other projects that are ready to build from proceeding due to lack of available capacity. This is a particular problem in Metro station areas and other locations where development advances County policy goals.

a. The Planning Board should have clear authority to require a new traffic study when reviewing a request for extension of the validity *period for APF.* New traffic studies are not appropriate in all extension cases, but the Board should have explicit authority to require a fresh study where changes in capacity, facilities, traffic, or development activity; any or all of which may have affected capacity that was available when the application was initially considered.

4. **New development projects should be assessed impact taxes that reflect the marginal costs of expansion of school and transportation infrastructure capacity required to serve new development and sustain current levels of service.**

a. *The cost of marginal additions to the transportation network necessary to support person-trips generated by new development should be recovered through transportation impact taxes allocated according to trips generated by different kinds of land uses.* The transportation impact tax should be based on the total cost of new transportation capacity in the approved Constrained Long-Range Plan that is associated with new development. The tax rate for each type of land use should reflect its relative trip generation rate. This approach excludes projects that involve improvements designed to improve service to existing development.

Table 1 (on the following page) reflects actual impacts on transportation facilities and their costs for each type of development in Metro areas, Clarksburg, and the rest of the County. *For policy reasons, we recommend that hospitals not be assessed the infrastructure tax.* They are important parts of community infrastructure and are not profit-making institutions. It is useful, however, to understand the fiscal effect of their impact, and to use the information in this table in calculating the need for capital improvements to the transportation system.

Bio-Science facilities are included as a separate category in the current impact tax schedule, but, like hospitals, are not assessed a transportation impact tax, as it has been the policy of the County to stimulate such projects. The Board does not find a justification for exclusion of such projects, which can generate substantial numbers of trips, from the tax. Because of their nature, however, they are often hybrid land uses, including some industrial and some office uses. We recommend, therefore, that the tax on Bio-Science and other mixed-use facilities be assessed according to the proportions of each use contained in the project.

Table 1. Projected Marginal Transportation Impact Tax Rates

	General	Metro Station	Clarksburg
Residential (per dwelling unit)			
Single-family detached	$8,380	$4,191	$12,572
Single-family attached	$6,856	$3,429	$10,286
Multi-family attached (except high-rise)	$5,884	$2,943	$7,591
High-rise residential	$4,204	$2,102	$5,422
Multi-family senior residential	$1,682	$840	$2,169
Non-residential (per square foot GFA)			
Office	$11.55	$5.80	$13.90
Industrial	$5.40	$2.65	$6.40
Retail	$18.80	$9.50	$22.55
Place of worship*	$0.55	$0.30	$0.65
Private elementary and secondary school	$0.75	$0.35	$1.00
Hospital*	$4.85	$2.40	$5.80
Other non-residential	$4.85	$2.40	$5.80

** The Planning Board recommends that hospitals be exempted from the impact tax and that houses of worship be charged at the current rates: General-$0.30; Metro Station-$0.15; Clarksburg-$0.35*

Places of Worship and Private Schools are included in the current impact tax schedule. The rates assigned to them are based on their forecast proportion of “Other Non-Residential” development. The new rates represent substantial increases for both categories. These rates should also be reduced or excluded for policy reasons. Religious institutions have unique traffic generation characteristics, which can vary by denomination, and they tend to generate traffic in off-peak periods. They are also important components of well-functioning communities and, thus, are candidates for reduced or nominal rates. *We recommend that their rates not be increased from current levels, as indicated in the footnote to the table.* Private Schools present a more complex issue, as some are proprietary, while others are parochial or non-profit. Private schools ameliorate the impact on public schools but they often generate large numbers of trips, particularly in the a.m. peak hours.

b. *The cost of marginal additions to school capacity necessary to serve students resulting from new residential development should* *be recovered through school impact taxes allocated according to the average number of students generated by each type of residential unit.* The school impact tax should be based on the total cost of new school capacity associated with new development. This approach excludes new capacity designed to meet programmatic changes and demand for space generated by demographic turnover in the existing housing stock. It also recognizes that different types of housing tend to generate different needs at the three levels of public schools. The tax should apply to all new residential development, regardless of whether it is located in a cluster with inadequate capacity because the new residents in such communities are using capacity that has been paid for by all taxpayers of the County. The tax is a one-time payment for the marginal impact of new students on school facilities.

Table 2 contains the Board's recommendation for the school component of the infrastructure impact tax.

Table 2. Proposed School Impact Tax Rates

For each FTE Student, Each new housing unit of:	Would be taxed:
Single-family detached	$ 22,729
Single-family attached	17,112
Multi-family non high-rise	10,815
Multi-family high-rise	4,585

As the table suggests, this component of the infrastructure impact tax applies only to residential development. It applies to all such development, regardless of where it occurs in the County and regardless of the extent to which schools in the immediate cluster serving it are operating above or below capacity. As with the transportation component of the infrastructure impact tax, *its purpose is to fund the marginal cost of new development to the system, in order to sustain the current levels of service over time.* After all, new development benefits from investments that have been made by several generations of taxpayers in the infrastructure systems of the County. These one-time taxes represent "buying in" to a going system.

Once again, the County may decide, for policy reasons, to reduce or forgive entirely the tax on some units, such as MPDUs, workforce, or subsidized housing. It remains important to recognize, however, the costs such tax expenditures impose on the school system, and to provide the necessary funding for them in the capital budget.

c. *The Board recommends that the transportation and school impact taxes be phased in over 12 months as follows: Impose 25 percent of the increase within three months; 50 percent in six months, and 100 percent in 12 months.*

5. The Recordation Tax levied on housing sales, resales, and other housing transactions should be increased to help fund school improvements, modernizations, and additions.

The impact of turnover in existing ownership housing stock on school capacity serving existing neighborhoods should be recovered in part through an increase in the recordation tax. About 80 percent of the growth in enrollment in the public schools is the result of demographic change in existing communities rather than new development. A slight increase in the recordation tax can recover some of these marginal costs. Although the recordation tax falls on new owners without school age children as well as those with children, it recognizes the importance of good schools to property values. Rental housing is another source of turnover that is typically much more rapid than the turnover of owner-occupied housing. Students living in rental housing are more likely to move frequently, which is an educational challenge that goes beyond issues of capacity. The Board was unable to explore this issue in detail and meet the Council's deadline; however, we suggest that the Board of Education, in its Growth Policy review, offer its perspective on the impact of rental housing turnover on enrollment.

6. **The FY 2007 Growth Policy resolution should direct the Planning Board and other County agencies to develop policy recommendations and adopt practices that foster high quality civic design in planning sustainable centers and communities, regulation of development projects, and construction of public facilities**

Design is an important instrument of Growth Policy on two levels: (1) At the macro, or Countywide level, it is concerned with overall urban form, which is reflected in the Wedges and Corridors General Plan. (2) At the micro level of corridors, centers, and neighborhoods, attention to civic design refocuses growth policy toward the effect of development on people and the quality of their experience as citizens, residents and workers. In contrast to the almost exclusive focus of traditional growth policy on hardware—public facilities and private vehicles—and its use as a tool to prevent premature development in certain locations in the County, the introduction of a design component helps direct development where it can be more sustainable and provides guidance for the kind of development that should occur.

To encourage placing a high priority on improving the design of public facilities, the Planning Board and Executive agencies should cooperate on a design summit to develop consensus on measures to ensure design excellence becomes a core value in all public projects. Design excellence matters in dealing with issues of facility capacity. Creating mixed-use communities and pedestrian environments that encourage walking and use of transit frees roadway capacity for traffic. Green building and articulation of the built environment with natural systems can reduce adverse impacts of growth, such as excess energy consumption, and water and air pollution, which induce need for additional infrastructure. Changes to the Road Code can help create communities and centers that offer higher levels of safety, convenience, and interest.

Revison of the Zoning Ordinance and subdivision regulations should include provisions that establish standard expectations of and incentives for high quality civic design. Because much of the new growth the County will experience in the next generation will be higher in density than in the past, the effect of major projects on sense of place and the quality of life will be profound. Mistakes will be highly visible. The Growth Policy should empower planners and regulators to demand design excellence of applicants. *Master and Sector Plans should include design guidelines that lay a foundation that fosters development projects that aspire to more than meet minimum regulatory requirements.* In this sense, growth policy inaugurates a different way of thinking about growth and a new level of public and developer expectations.

7. **The Planning Board should monitor the sustainability of the development that results from implementation of the Growth Policy, and include in its biennial report information on changes in economic/fiscal, environmental, and social equity outcomes.** With assistance of an advisory group, a discrete set of indicators should be selected that can measure changes in key outcomes or conditions that are objectives of the Growth Policy. The initial set of indicators should make intuitive sense, be supported by data that is available at appropriate geographic levels and time series, enjoys a high level of confidence in its accuracy, and has strong relevance to growth policy objectives. The list below is illustrative, as is the listing in the staff report.

Indicators of Facility Adequacy;

- Policy Area Mobility scores
- School Capacity
- Accessibility of residences to public transit
- Accessibility of residences to jobs

- Accessibility of residences to public parkland

Indicators of Fiscal/Economic Sustainability

- Unfunded CIP projects recommended in Master Plans
- Cost of Deferred Maintenance
- Per capita debt service
- Jobs: Housing ratio

Indicators of Environmental Sustainability

- Air Quality Action Days (Red & Purple)
- Stream Index of Biological Integrity
- Percentage of Impervious Surface
- Forest area/ tree canopy

Indicators of Social Equity

- Percentage of households paying more than 30% of income for housing
- The income gap between top and bottom quintiles
- Percentage of population with post-secondary education
- A public health index
- Labor force participation

SUPPORTING MATERIALS

The materials that follow are staff reports that support the Planning Board's recommendations. These are materials contained in *the Staff Draft 2007-2009 Growth Policy* that have been revised and updated to reflect the Planning Board's recommendations. The final section contains a draft Growth Policy resolution and proposed changes to the County Code that would be necessary to implement the Planning Board's recommendations.