Final Draft 2007-2009 Growth Policy: Summary Staff Report

INTRODUCTION

This report contains the recommendations of the Montgomery County Planning Department for amending the County's Growth Policy. The *Growth Policy* is a resolution adopted by the Montgomery County Council that contains guidelines for administering the adequate public facilities ordinance, or APFO.

Although commonly referred to as a separate ordinance, the APFO is actually part of Montgomery County's subdivision regulations: Section 50-35 (k) of the County Code. The APFO was adopted by the County Council in 1973 with the goal of synchronizing development with the availability of public facilities needed to support that development. The introductory sentence states, "A preliminary plan of subdivision must not be approved unless the Planning Board determines that public facilities will be adequate to support and service the area of the proposed subdivision." How, exactly, the Planning Board should make that determination, is the focus of the Growth Policy resolution.

The Capital Improvements Program, or CIP, is the vehicle through which the County increases the capacity of its public facilities to support additional growth. One role of the Growth Policy is to determine how much additional growth can be supported by public facilities that are added to the CIP. Another role is to highlight where in the County additional public facilities are needed.

Between 1986 and 2003, the Growth Policy was adopted annually, and was called the *Annual Growth Policy*, or *AGP*. Many people still refer to the resolution as the AGP. Since 2003, most Growth Policy-related work is conducted every two years, although school adequacy is still reviewed by the Planning Board every year.

Since its inception, the focus of the Growth Policy has been the timing, or *staging*, of development and public facilities. The County's General Plan, master plans, and sector plans, determine the *amount*, *type* and *location* of development. Because of its name, many people expect the Growth Policy to be a typical policy document, containing the County's goals and objectives with respect to growth. Instead, the Growth Policy contains few broad policy statements but focuses on the administrative procedures needed to test the adequacy of public facilities when new development projects are proposed.

In spite of this, or perhaps because of this, the APFO and the Growth Policy has been the subject of much discussion, debate, research and study in the 34 years since the APFO was adopted. One of the documents accompanying this report is a history of growth management in Montgomery County. It is a testament to the importance and complexity of the growth management issue that many of its aspects have been studied in depth numerous times. This is particularly true of the two tests for transportation adequacy, called Policy Area Transportation Review and Local Area Transportation Review, and the test for school adequacy. It is also true for an equally difficult issue: finding sources of the funds needed to finance infrastructure.

One such comprehensive review of the Growth Policy occurred in 2003 and resulted in substantial changes that placed less emphasis on staging development and greater emphasis on generating revenues for infrastructure. In December 2006, the County Council adopted a resolution directing the Planning Board to conduct a study to revisit many of those issues.

This report responds to the Council's resolution. In simple terms, the resolution deals with three primary topics: (1) possible changes to the guidelines for administering the adequate public facilities ordinance; (2) setting desirable rates for new development's financial contribution to infrastructure; and (3) other ways to improve the County's approach to growth management now and in the future. This report is organized around these three main topics.

CONCEPTS AND THEMES

Staff developed a few concepts or themes to help us organize and evaluate the various growth management options that are the subject of this study. These concepts provided a basis for us to treat one type of public facility differently than another, to distinguish between new development and existing development's responsibility for increasing demand on public facilities, and to recommend whether the remedy for inadequate public facilities should be moratoria, developer contributions, or other means.

Point Facilities and Network Facilities

The adequate public facilities ordinance cites the following as public facilities by which development is to be regulated: transportation, schools, water and sewerage, and public safety (police, fire and health) facilities. These facilities differ in their characteristics, and hence must be measured differently. Schools and public safety facilities are what may be called "point" facilities, in the sense that they occupy "points" of land, relatively small spatial areas that stand alone within the larger area that they serve. For example, each school receives students from a

MONTGOMERY COUNTY COUNCIL RESOLUTION 16-17:
PLANNING BOARD STUDY OF GROWTH POLICY ISSUES
Adopted December 12, 2006

1) The County Council directs the Montgomery County Planning Board, in cooperation with appropriate County Executive agencies, to prepare an analysis of growth policy issues and recommendations for managing growth in Montgomery County. By May 21st, 2007, the Planning Board must submit:

   a) A recommended set of tools to manage growth and fund infrastructure as needed to maintain and enhance Montgomery County's quality of life, including:

      i) proposals to direct future growth and manage the pace of that growth to promote the objectives of the General Plan;

      ii) identifying and prioritizing the infrastructure needed to support existing and future residents, businesses, and visitors; and

      iii) recommendations to strengthen the relationship between the pace of growth and the provision of public facilities, services, and infrastructure.

   b) Recommendations to better coordinate the County's growth management and affordable housing goals.

   c) Analysis and recommendations regarding:

      i) the current test for public school facilities and alternatives to it;

      ii) the current Local Area Transportation Review test and alternatives to it, including those considered during the 2005 Review of the Growth Policy;

      iii) Reinstating a form of Policy Area Transportation Review;

      iv) Treatment of traffic originating from outside the County and/or to destinations outside County borders,

      v) Treatment of traffic generated by federal government installations in the County, and

      vi) Any other adequate public facilities-related issues the Board finds relevant.

   d) An update of Planning Board's 2005 analysis of the number, age, and other characteristics of projects in the pipeline of approved development. The Board must also analyze regulations governing the time limits for the validity period of a finding of adequate public facilities, including extension provisions.

   e) Recommendations for measuring the success and evaluating the outcomes of the County's growth and development policies.

2) The Planning Board must also analyze the County's impact tax program and ways to improve them, including analysis of the full impacts of growth and possible expansion of impact taxes for public benefits other than transportation and public schools.

3) The Planning Board must submit analysis and recommendations sufficient to allow County Council action on major recommendations prior to its August recess. The Planning Board may also submit recommendations for further study, analysis, and Council consideration.

4) The Planning Board must submit interim summary reports of progress on or before February 15 and April 15, 2007.

catchment basin of housing units, the boundaries of which are set by the School Board in accordance with educational criteria. Although the educational criteria include a variety of factors, the essential nature of the "adequacy" test is spatially static, being based on the number of students per classroom – a number that is assumed to not vary with time of day or ebb and flow of student volume over time and distance.

Transportation and water/sewerage facilities, on the other hand, may be called "network" facilities. In the case of transportation, the combination of road, transit, and pedestrian facilities form an interconnected web or network of pathways over which people travel in a wide variety of directions. This travel volume fluctuates widely over both time and space. The measurement of traffic capacity, therefore, must take into account variations in travel volume that derive not only from the size and shape of the channels through which it flows (analogous to classrooms spatially), but also from the desires and modes of people to travel to and from different destinations along these pathways. While school capacity is a static phenomenon, traffic capacity is essentially a dynamic phenomenon. Measuring traffic capacity is inherently a more complex matter than measuring school capacity. The water and sewerage system is also a network, and while considerably simpler than the transportation network, is subject to some of the same complexities.

Of course, we are primarily concerned with how the differences in the nature of point facilities and network facilities affect "adequacy' – that elusive balance between demand and capacity. It is comparatively easier to adjust the demand for and capacity of point facilities than to do so for network facilities. For a school, either adding classrooms or adjusting the service boundaries can rebalance demand and capacity. It isn't possible, however, to reassign some auto drivers to other, less-congested roads. Moreover, and more challenging, is the downstream effect – the source of demand for roads (and water and sewerage capacity) at one end of the network could be located a considerable distance "upstream."

Share of Responsibility: Existing and New Development

Another issue or theme running through growth management studies is: to what extent is new development "responsible" for increased demand on public facilities, and to what extent is increased demand the result of changing behavior of residents of existing development? The logical result of answering that question could be: new development should contribute toward new infrastructure an amount that is proportionate to its share of new demand.

Planning staff accepts that logic to an extent, but not entirely. There are a couple of thoughts that undermine the pure application of a principle of proportionate share. The first is that local government can legitimately place a higher priority on safeguarding the quality of life (that is, preserving the adequacy of facilities) for current residents than on providing for new residents. It is not that far from that thought to a position that, when public facilities are not adequate, it is fair to hold new development responsible for not making the inadequacy worse.

The second thought is that the value of land for development comes principally from prior public investments in infrastructure. A parcel of land has considerable added development value once it is served by roads, water and sewer, schools, and public safety facilities. The public sector could seek to recapture some of the added value that its infrastructure investments have created, or not. But the fact of added value from previous public investments does weaken the argument that new development's only responsibility is to contribute to added infrastructure and only a small share of that.

Measures of Adequacy/Remedies of Inadequacy

In one of the interim reports, staff pointed out that the Growth Policy consists of two steps: *measures of adequacy*, and *remedies for inadequacy*. Over time, both have been adjusted to yield desired outcomes. The Growth Policy's school capacity standard isn't just the dividing line between acceptable and unacceptable school crowding conditions. It also reflects a judgment about the relative importance of school capacity to the overall adequacy of schools, the role that new development plays in school enrollment, etc. If one decides that these two relationships are weak, one could develop a test that is difficult to fail (a loose standard of adequacy), or one could have a stricter standard of adequacy but make modest additional requirements on new development when the test fails.

Staff's general preference is that the Growth Policy's standard of adequacy be as close as possible to what most people would consider the dividing line between acceptable and unacceptable. This principle guided our recommendations for Policy Area Transportation Review and the School Test especially. We recognize, of course, that "adequacy" is inherently subjective and that others will have their own, equally valid, viewpoint.

The options for remedies for inadequacy include: development moratoria, provision of public facilities by the public or private sector, and financial contributions by the private sector. Our guideline for evaluating these options has been: are they fair, and are they likely to result in improvements to the inadequate public facilities?

Staging Versus Payments (Time or Money?)

The original purpose for adopting an adequate public facilities ordinance is to synchronize the time of development and facilities. In practice, this has meant building infrastructure as expeditiously as possible, and restraining new development where it is not yet provided. The tool for staging, or pacing, development has been the staging ceiling – that point when the Planning Board may no longer approve additional development. When approved and existing development reach the ceiling, a moratorium is declared until the public sector adds more infrastructure.

In other jurisdictions, the blunt instrument of a strict moratorium has been softened by a moratorium of limited duration, say four or six years. In this case, a developer knows that the moratorium will last no longer than some predetermined amount. The locality gets additional time to provide needed facilities, if it has the financial resources to do so.

The use of *delaying development* has always had a competitor as the primary remedy for inadequate public facilities. That competitor is the *developer contribution* – either in-kind (providing more of whatever facility is inadequate) or by agreeing to reduce trips, by providing some other public benefit (such as affordable housing), or by making a payment to the County to be used for public facilities.

The in-kind contribution (called "developer participation" in previous iterations of the Growth Policy) had several conditions, among them: construction on the infrastructure had to precede construction on the development project, and the resulting combination of development + infrastructure could not make the situation worse.

"Developer participation" works most easily in parts of the County that are relatively undeveloped. This is because two of the necessary components are: a potential supply of larger development projects that can absorb the cost of substantial transportation improvements, and a long list of planned-but-unbuilt transportation improvements. This situation reminds us of the essential "lumpiness" of public facilities – an observation made in the first growth policies – that infrastructure typically comes in larger increments than private development, so it is not often easy to match a specific development project with a specific transportation improvement, for example.

At times, the County has sought to find ways to solve the lumpiness issue. One of these was the "road club," where developers could band together to build one or more roads needed for their collective projects. These arrangements could be complicated for the participants as well as the public sector, whose job it was to monitor them. Another was "partial-cost developer participation" which was intended to allow development to pay toward its share of a programmed transportation improvement. This provision was never used, probably because use was tightly controlled and the approval mechanism was elaborate. A third way was to allow developers to reduce their impact on inadequate facilities through trip mitigation programs that could include running shuttles to Metro stations, sponsoring carpools, or agreeing to limit traffic-generating operations during peak travel periods.

The issue of lumpiness goes away if the developer's contribution becomes a requirement to pay money rather than to supply infrastructure. There are several valid ways to assess a per-unit or per-job payment on new development to be used by the public sector for infrastructure. This would be a perfect solution from one perspective, but problematic from another: revenues from these payments are often not sufficient to pay for needed improvements. As a result, one might have lots of partially-funded, or a few fully-funded infrastructure projects – either situation is unsatisfactory if it leaves some areas with new development and inadequate facilities.

Allowing development to "pay-and-go" essentially eliminates the timing aspect of the APFO – development is not delayed – in favor of increased revenues. If revenues are insufficient to provide facilities to keep pace with approvals, then the pace of development and facilities is no longer synchronized.

A solution to that last problem is to raise fees so that they are sufficient to pay for needed infrastructure. This can result in some payment rates that are much higher than public officials and the private sector are used to seeing.

The prospect of very large development approval fees or impact taxes brings us full circle, perhaps: Very large fees might act as a *de facto* time delay (for those developers who prefer to wait for public infrastructure over making such a large payment. But they may be an attractive alternative for developers for whom a time delay would be a bigger penalty than a large payment.

The recommendations that follow are based on staff's judgments about the relative roles that *time delay* and *payments* play in the County's administration of the APFO.

Effect of Impact Taxes

The Saturday, April 28, 2007 *Washington Post* reported that Prince William County officials are proposing to increase the fees that developers pay the county for permission to build houses to $51,113 for each single-family detached house, $43,262 for each townhouse, and $26,545 for each multifamily unit. The article's headline was *"Higher Builder Fee Sought; Home Price Increase Feared."*

Among the issues that staff explored during this review of the Growth Policy: the potential for impact taxes to support County land use policies by encouraging or penalizing development in certain locations (or other attributes), and the possibility that impact taxes would have a negative effect on the cost of housing.

Our conclusions on this issue, facilitated by academic research and other widely-reviewed studies, are:

- Impact taxes are not "passed on to the homebuyer" but are instead recaptured by the developer by paying less for land, and
- Because of this effect, impact taxes are not an effective tool for steering development to certain locations.

A developer or builder typically cannot pass impact taxes onto homebuyers because he is already pricing his product at the highest price the market will bear. If the builder has determined that he can sell a new home for $500,000, he will not be able to sell that home for $520,000 just because the locality has imposed a $20,000 impact tax. Particularly as impact taxes become routine, the developer includes the impact taxes into his calculations of the cost to develop and finds economies elsewhere. Research shows that this is often done by bidding less for the developable parcel....in other words: passing the impact taxes onto the land seller. Over time, this might mean that large impact tax rates would not have the time delay effect discussed above.

In a tight housing market with escalating home prices, a builder may be able to recapture impact taxes through higher than expected profits on the sale of his homes, but that is not the same as passing the taxes onto the homebuyer. There is also some research that indicates that when impact taxes result in a higher level of services in a community, the value of the homes in that community also increases.

If developers are successful in bidding less for land to account for impact taxes, then there is little benefit to the developer of choosing a low impact tax area over a high impact tax area. This makes theoretical sense and is borne out in the real world. San Diego imposed a very high impact fee (in the $80,000 range) on rural development but saw no slowing of development in rural areas.

Planning staff circulated two studies on this and related issues in mid-March to the Planning Board and the County Council.[1] One of these studies also looked at the effect of growth management on housing prices and displacement (pushing development to a different location). Staff's conclusions from reading these and other studies: the housing supply must be constrained on a regional basis (and not just in one or two jurisdictions) to exert substantial upward pressure on housing prices; zoning is the "growth management" tool that has, by far, the greatest effect on limiting the supply of housing; and adequate public facilities ordinances, unless they result in moratoria for long periods in large areas, have a weak housing price and displacement effect.

The Growth Policy and the CIP

The first set of recommendations in this report are designed to reinvigorate the Growth Policy's role as a source of information for capital programming. This is a role that the Growth Policy was literally "born to play" as it was a reason why the Growth Policy was instituted.

Our recommendations add some value to the historical focus of the Growth Policy, which has been on the infrastructure needed to support new development. We would now include in the biennial Growth Policy's CIP review increased attention to the needs of established communities. In part this is because the dividing line between "facilities for new development" and "facilities for established neighborhoods" is often blurry.

Growth Management Improvements

The Growth Policy is only one tool in the toolkit of the County's growth management system. Coordinating as it does with the CIP on a biennial basis, it provides the opportunity for the Council and Executive to pause, in the midst of the daily/weekly/monthly flood of decision making pressures, to take stock, from a larger time and spatial perspective, of the degree to which the County's land policies and fiscal policies are in balance with each other. Other equally, and in some cases even more, important tools for maintaining a high quality of life include: the General and community Master Plans; the Zoning, Subdivision, and Building Ordinances; and the coordination that takes place between the administrative decisions of the Planning Board and those of the various agencies and departments of government responsible for building and maintaining the service facilities of the County. Only good coordination across all these decision making points can effectively bring about and maintain a high standard of livability as growth and change occur over time.

In response to the Council's request for analysis and recommendations regarding other ways to enhance the growth management in the County, staff has prepared reports on two important topics that we believe should be kept in mind when considering the overall growth management system at this time. The first is on the topic of Sustainability, and the second on the topic of Design. Both are somewhat "conceptual" topics, in that they deal with goals and values that are still evolving in the public consciousness, and have not yet matured into precisely defined criteria such as those the Growth Policy deals with in regard to the APFO factors. But evidence from around the nation, and indeed the world, is strong that the future will require ever more attention to be paid to exploring their meaning and application by governments at all scales.

The mounting evidence that climate change presents a problem of enormous magnitude already has been recognized by the Council in numerous ways, including its recent public forum on this subject and its initiatives in finding ways to save energy and promote "green" buildings. "Sustainability" has become globally a one word shorthand for the idea that public policy should be designed to take into account the interaction of the environment, the economy, and social equity in guiding growth and making decisions about public investment. Considering how actions can reinforce improvements in all three areas can help the world avert the worst of the effects of global warming and adapt to the changes that are unavoidable.

A number of County agencies have begun thinking about and working on this issue. The staff paper on this topic is the Planning Department's contribution to this growing dialog. It is a preliminary work that evaluates how other places have approached this issue, and offers some suggestions for further refinement of how these insights might be developed further to keep Montgomery County in the forefront of creative public policy.

The Design report reminds us of the importance of good urban design to the perceptions of citizens that they live in a community that cares about its quality of life. As we know from the favorable public reaction to the streetscapes and building improvements made in recent years to the central business districts of Silver Spring, Bethesda, and Friendship Heights, good urban design is a highly valued commodity. It may be difficult to define, but there is no question that it is important. We believe it will become increasingly important in the future, as the County matures from a rural "edge" jurisdiction into a more mixed use "creative class" working and living environment.

This paper rehearses the ways that the Planning Department seeks to assist both the private and the public sectors to continually search for better design solutions in each of the decision points that naturally occur in the development process. *Sustainability* may be the new goal of good planning in the twenty-first century, but *Design* is the process by which it will be achieved. The roots of these two ideas, Sustainability and Design, are already deep in Montgomery County's growth management system. Elevating their profile and the public understanding of their value to the future, while challenging to be sure, should not be as difficult in this County as in many others without as much of a planning tradition.

ACCOMPANYING REPORTS

Immediately following this report are two background reports: *Montgomery County and Growth*, and *History of Montgomery County's Growth Policy*.

The Planning Department's Growth Policy recommendations that are summarized below are explored in detail in attached reports. These are:

- **APFO Reform Part 1**, which includes the Planning Department's recommendations for improving the Growth Policy's role in identifying and prioritizing new infrastructure. This report also contains Planning staff's recommendations for modifying the school adequacy test, the test for adequacy of other public facilities, and staff's analysis of the pipeline of approved development.
- **APFO Reform Part 2,** which addresses the Department's recommendations for transportation adequacy tests, including reinstating a form of Policy Area Transportation Review and modifying Local Area Transportation Review.
- **Infrastructure Financing,** which includes recommendations for modifying the County's impact taxes and other infrastructure financing issues.
- **A Vision of Sustainable Development for Montgomery County,** which addresses how to assure that all policy changes and physical investments in Montgomery County direct growth and development in a way that is sustainable.
- **Design Excellence: Tools to Achieve a Quality Environment,** which discusses the role that design plays in achieving Growth Policy, General Plan, sustainability, and other policy objectives as well as the planning and regulatory tools that could be strengthened to better ensure high quality design.

SUMMARY OF RECOMMENDATIONS

The Montgomery County Planning Department recommends several changes to the County's growth policies, including changes to the guidelines for the administration of the Adequate Public Facilities Ordinance (the "Growth Policy") and its infrastructure financing mechanisms. Moreover, Planning staff has identified opportunities to increase the application of principles of sustainability and quality design in the land use planning process.

Identifying and Prioritizing Infrastructure

Planning Department staff recommends **that the biennial component of the Growth Policy review be substantially expanded** to provide improved information and guidance for the Capital Improvements Program and other public decisions. The Growth Policy was designed to provide input to the Capital Improvements Program by identifying areas where public facilities are inadequate. Over the years, the Growth Policy has had varying success in meeting this responsibility. More recently, the Highway Mobility Report is succeeding in providing detailed analysis and recommendations for prioritizing roadway improvements.

Planning staff suggests that the biennial component of the Growth Policy include:

- An analysis of current and future pace and pattern of growth in the County and the factors affecting demand for public facilities in established communities.
- An update on the County's success in meeting a set of indicators (if the County agrees to institute an indicators program, such as a Sustainability Indicators program based on General Plan principles and more that Planning staff recommends). Sample indicators: percentage of development that is mixed-use and location within one-half mile of a transit station; percentage of non-SOV commuting trips; acres of impervious surface. These indicators may also include desired levels of service for public facilities that are not regulated by the APFO: parks, libraries, community centers, etc.
- An implementation status report for each master plan and sector plan, that will include a review of how planned development is proceeding, and whether the public actions/facilities in the plan are occurring in a timely way. If the plan contains a staging element, this would be an opportunity to review the current status determine if the Growth Policy is reinforcing or working against the staging envisioned when the plan was adopted.
- A comprehensive list of priority facilities that are recommended for addition to the Capital Improvements Program. The report may also recommend other public actions needed to achieve master plan objectives, or to improve the County's performance on its adopted set of indicators (if the County chooses to pursue an indicators program).
- The current biennial Growth Policy schedule requires a staff draft report in May and a Planning Board final draft in June in odd-numbered years. This schedule would result in Planning Board facility recommendations as the County Executive is beginning the biennial Capital Improvements Program cycle.

When the County Executive's Recommended CIP is released, Planning staff would use the Growth Policy recommendations and analysis as the basis for preparing comments on the CIP for Planning Board review and transmittal to the County Council.

Schools

Planning Department staff recommends **that the County revise the test so that the definition of adequacy more closely conforms to the MCPS definition of capacity** by lowering the threshold that triggers the School Facilities Payment. That threshold should be based on "MCPS program capacity," not "Growth Policy capacity" but should be inflated to avoid the problems that have kept the County from using program capacity in the past. In addition, for the purposes of determining if a School Facilities Payment is required, the practice of "borrowing" high school capacity should not be used. Staff recommends that the threshold be when enrollment reaches 110 percent of program capacity, which would cause development in the following clusters to pay the school facilities payment: Blake, Clarksburg, Einstein, Kennedy, Northwest, Wheaton, and Wootton. If policymakers prefer to continue to use "Growth Policy capacity," staff would recommend that the threshold for the School Facilities Payment be set at the point when enrollment reaches 95 percent of capacity. This would cause residential development to pay the School Facilities Payment in Bethesda-Chevy Chase, Blake, Clarksburg, Kennedy, Northwest, Quince Orchard, and Springbrook.

Planning Department staff recommends **increasing the School Facilities Payment from $12,500 per student to $35,524 per elementary school student, $42,351 per middle school student, and $47,501 per high school student.** This figure is derived from per-student costs for new schools by type of school. If enrollment exceeds the capacity threshold in a particular cluster, the school facilities payment would equal the per student rate for the type of school exceeding capacity.

Planning Department staff recommends **retaining an upper limit so that when enrollment greatly exceeds capacity, development approvals in that cluster stop.** This upper limit has very rarely been exceeded, but when it was, new school facilities were promptly programmed. This suggests that this upper limit is serving an "alarm" function when enrollment and capacity are severely out of balance.

Planning Department staff recommends that **the County consider capturing development that occurs outside the subdivision process.** As smaller housing units are replaced with larger ones, or are expanded with additions, some additional student generation can be expected. There is sufficient academic study of this issue to legitimately link student generation to size of home. Although the total number of additional students is small, the County could consider applying the School Facilities Payment or the School Impact Tax to these properties.

Planning Department staff recommends **some technical corrections to the Growth Policy resolution regarding schools.** The current Growth Policy resolution implies that the Planning Board must continue to conduct the School test annually even if the Council fails to pass a new Growth Policy resolution, but explicit language is needed. The language in the Growth Policy concerning school clusters in municipalities is confusing, now that municipalities have passed APFOs that are more stringent than Montgomery County's.

Planning Department staff recommends **monitoring the Office of Legislative Oversight (OLO) review of indicators for Montgomery County Public Schools** to see if they serve as a basis for further modification of the School Test.

Water and Sewerage Facilities

Planning Department staff recommends **no changes to the adequacy test for water and sewerage systems.** For purposes of the APFO, our primary concern is the potential for new development to be approved even when water and sewerage systems are not adequate to support that development. Staff believes the current test, backed up by planning and implementation of system improvements, is working as intended.

Police

Planning Department staff recommends **no changes to the adequacy test for police service.** Planning staff reviewed public safety facilities and services in detail in 2005 and recommended no changes at that time. For police services in particular, staff noted that the number and location of police “facilities”-that is, police stations - is not closely related to levels of service. Staff suggests that there are benefits to having the Police Department participate in the Development Review Committee for Crime Prevention through Environmental Design (CPTED) review of new development.

Fire and Rescue Services

Planning Department staff recommends **no changes to the adequacy test for fire and rescue services.** Planning staff reviewed public safety facilities and services in detail in 2005 and recommended no changes at that time. For fire and rescue services in particular, staff noted that the number and location of fire stations is correlated to adequacy (as measured in response times) because, unlike police, fire and rescue personnel are located at a station until a call comes in. Staff’s 2005 research indicated that the major challenge for adding stations was finding suitable locations and that the master plan process is the best mechanism for designating those locations. Montgomery County Fire and Rescue Services representatives participate in the master plan process, and MCFRS has an up-to-date master plan.

During the course of our study this year, staff noted several aspects of fire and rescue services that may be useful for making land use recommendations during the master plan process. These include the fact that the great majority of calls are for emergency medical services, which suggests that Planning staff discuss with MCFRS the possibility of identifying locations for emergency medical units in master plans. The observation that only 12 percent of calls are for fires, and that most of these are for brush and vehicle fires, suggests to Planning staff that there are opportunities to increase the use of smaller fire trucks in the fleet, which allows use of smaller fire stations and road turning radii. Planning staff raises these issues only from a land use perspective: larger parcels of land are becoming rare, and the future of neighborhood design depends in part on narrower streets with smaller turning radii.

Other Public Facilities

Planning Department staff **does not recommend adding to the list of public facilities tested in the APFO.** However, Planning staff’s review of these facilities has prompted us to offer some suggestions about how the adequacy of these facilities can be strengthened. The chief suggestion has to do with the Growth Policy itself.

Planning staff recommends that **the Recreation Guidelines applied in the regulatory process be revised.** This project is included in the Planning Department’s requested FY08 work program. Among the issues to consider: whether to eliminate provisions that allow developers to count existing public facilities as part of satisfying the recreational requirements for new development.

Planning staff's research indicates **that additional study of parking policies and procedures is warranted.** In this study, Planning staff reviewed Parking Lot Districts (PLDs) as a "public facility" for APFO purposes. Although we don't suggest that they be incorporated in the APFO, we note that broader application of PLDs can support trip reduction initiatives and serve revitalization objectives outside of Central Business Districts. County parking policies could bear re-examination, including the minimum parking requirements in the zoning ordinance.

Transportation

Policy Area Review

The Montgomery County Planning Department believes **that a second transportation test, in addition to Local Area Transportation Review (LATR), is desirable to stage growth in concert with the implementation of adequate public facilities**. However, based on the level of concerns regarding the importance, coherence, and reliability of the Policy Area Transportation Review (PATR), Planning staff staff recommends against reinstating the PATR system as previously defined.

Instead, staff recommends **that the Planning Board support continued development of a new policy area test, tentatively called Policy Area Mobility Review (PAMR)**, that we find builds upon the many positive characteristics of PATR while improving:

- Coherence, as the adequacy standards are based on forecasted traveler delays rather than the forecasted Average Congestion Index
- Reliability, as the equivalency between transportation system capacity and vehicle trips for areas that "fail" the PAMR test is defined in a lookup table, rather than through an iterative process of travel demand model runs
- Applicability, as the lookup table allows both the public and private sector opportunities to address areas that fail the PAMR test through a wider range of actions in the form of non-auto amenities such as transit and pedestrian facilities in addition to providing roadway capacity.

Staff suggests that the Policy Area Mobility Review (PAMR) system have the following characteristics:

- Uses the existing policy area geographies.
- Considers a horizon year that includes current jobs and households, all the approved development in the pipeline, and the transportation system of current plus future projects fully-funded in the six year CIP and CTP.
- Uses the travel demand forecasting model to determine the relative mobility for both transit vehicles and autos and compares these relationships against a standard for groups of policy areas.

- Makes a single finding for each policy area; either the policy area is adequate or not adequate in terms of PAMR.

For policy areas that are found inadequate, the Planning Department recommends that development applicants (other than those with *de minimis* impacts) given the following options to meet the policy area-level transportation conditions:

- Conduct a trip reduction program with an agreement signed with MNCPPC to reduce or eliminate peak hour trips.
- Provide non-auto amenities such as sidewalks, handicap ramps, or bike lockers to gain vehicle trip credits as specified in the LATR guidelines (up to a maximum of 120 trips).
- Construct additional roadway capacity with the amount based on a table that will be provided in the Growth Policy that will be related to the type of development, its size, and the type of roadway to be widened or added to – major highway, arterial/ business district street, or master planned primary. All improvements must be in the master plan, and be a logical continuous segment, from one intersection to another. The Planning Board would have the approval authority over the segment to be constructed.
- Provide transit capital improvements in terms of adding to the fleet of transit vehicles.
- Apply for a fee-in-lieu of provision of capital improvements, but only after demonstration to the Planning Board of a good-faith effort to pursue capital improvement implementation.

The PAMR process outlined by staff does not yet contain proposals on some of the more specific procedures that were part of PATR in the past, although we have given them attention. These include procedures for special treatment of affordable housing, strategic economic development projects, and other land uses. Staff can bring these recommendations forward fairly quickly once there is consensus on major points.

Local Area Transportation Review

The Planning Department recommends **retaining the Local Area Transportation Review (LATR) congestion standards currently in effect, but recommends other changes to strengthen the intersection congestion test.**

Planning staff recommends **requiring an LATR traffic study from development that takes advantage of the Alternative Review Procedure in Metro Station Policy Areas**.

Staff recommends **revising the practice for already approved development sites being expanded** to provide for:

- Allowing an increase of five peak hour trips to avoid a traffic study altogether based on “de minimis” logic.

- Basing the number of signalized intersections in the study on the increased number of peak hour trips rather than the total number of peak hour trips, in cases where use and occupancy permits for at least 75% of the originally approved development were issued more than twelve years prior to the LATR study scope request for the expansion.

The Planning Department further recommends: a**llowing payment in lieu of implementation for non-automobile transportation amenities** with the agreement of the DPWT, WMATA, SHA, or Maryland Transit Administration; **requiring documentation that traffic mitigation or trip reduction measures were considered in all cases**; and **requiring traffic studies be submitted by certified professionals** (Professional Engineer, Professional Transportation Planner, or Professional Transportation Operations Engineer).

Planning staff recommends **continuing the Highway Mobility Report** on a two year cycle, and **expanding the traffic data collection program** to allow for improved reporting of intersection conditions and travel time analysis in the report and verification of developer-submitted traffic studies.

Additional procedural clarifications to the Planning Board's LATR Guidelines are described in the Appendix to this report. These clarifications are for the Board's information and will be considered when an update to the LATR Guidelines is prepared.

INFRASTRUCTURE FINANCING

Planning staff understands that the Council may devote the summer to addressing changes to the Growth Policy resolution itself and may defer discussions of impact tax issues to the fall. Staff has prepared "short term" infrastructure financing recommendations which focus on changing the tax rates only, which staff understands does not require changes to the County Code. Staff has also prepared "long term" recommendations, which principally focus on issues that would likely require more study and deliberation.

We have noted that the market eventually accommodates impact taxes by reducing land values, but we also recognize that developers will have varying abilities to adjust to abrupt increases in taxes. Planning staff believes that the period required for the market to reach a new equilibrium level could be fairly short, given the sophistication of the home building industry in managing risk, but this is not an issue we have explored in any detail. We also recognize that delays in implementing new impact tax rates in the past created a rush for building permits that was undesirable from a revenue-generation perspective. If the Council plans to take up impact tax issues in the fall, they may wish to direct staff of all relevant agencies to look into these issues before then, possibly with the assistance of economic consultants.

Short Term School Impact Tax Recommendation

The Planning Department recommends that the County adopt school impact tax rates that reflect the cost of planned increases in school capacity. The schedule of tax rates that would accomplish this goal is the following:

$ 22,729 single-family detached*
$ 17,112 single-family attached
$ 10,815 multi-family non high-rise
$ 4,585 multi-family high-rise

* For single-family units there is a surcharge of $1 per square foot for each square foot of gross floor area above 4,500 square feet to a maximum of 8,500 square feet (gross floor area calculation includes basement).

This proposed impact tax rate schedule reflects the marginal costs for schools associated with new housing. They are adjusted by housing type to reflect the student generation rates calculated from the *2005 Census Update Survey.* These rates would be more than double the rates that will go into effect in July, when rates will be adjusted for inflation.

Short Term Transportation Impact Tax Recommendation

The Planning Department staff recommends setting transportation impact tax rates at levels that reflect the full cost (approximately $1.2 billion) of planned increases in transportation capacity. The schedule of tax rates that would accomplish this goal is the following:

	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	$0.30	$0.15	$0.35
Private elementary and secondary school	$0.75	$0.35	$0.65
Hospital	$0.00	$0.00	$0.00
Other non-residential	$4.85	$2.40	$5.80

In addition to being more closely tied to the cost of infrastructure, staff's methodology for calculating transportation impact tax rates varies from the current approach in some other ways. One of the more notable is that staff is basing the cost allocations on *total daily* auto trips, rather than *peak period* auto trips. The result of this change is to allocate more of the costs to retail uses. Retail excepted, these rates would be an 85 percent increase over the rates that will go into effect in July, when rates will be adjusted for inflation.

Phasing In Impact Tax Rate Increases

A phase-in of the impact tax rate increases is suggested. This assumes that near-term projects are especially cost-sensitive, but that the most cost-sensitive projects can move forward fairly soon.

- Impose 25 percent of the increase within 3 months
- Impose 50 percent in 6 months
- Impose 100 percent in 12 months.

Short Term Recordation Tax Recommendation

Planning staff reviewed the role that the recordation tax plays in infrastructure financing and notes the tax's ability to generate revenues from the turnover of existing housing units, which is one source of changing demand for infrastructure. The current tax in Montgomery County is $6.90 per $1,000 (with the first $50,000 exempt), with $4.40 going toward the general fund and $2.50 dedicated to MCPS and Montgomery College. The share of school infrastructure improvements generated by the turnover of existing units could be funded with an increase in the school's portion of the recordation tax of $11.20. Planning staff recommends that the recordation tax be increased to $11.20 with the total revenue generated dedicated to schools.

Long Term Infrastructure Financing Recommendations

Planning staff's longer term recommendations identify infrastructure financing issues to be explored. These include more sophisticated approaches to account for the various factors that affect the success of an infrastructure financing program: forecasts of growth, estimates of needed infrastructure, the use of exemptions, etc. These ideas have application beyond fine-tuning the tax rates; we think they may also be useful in planning and implementing needed facilities.

The *Infrastructure Financing* report echoes recommendations in the *APFO Reform* report to strengthen the planning and delivery of infrastructure and other public facilities and services, with, for example, regular evaluations of the status of master plan implementation. The *Infrastructure Financing* report also suggests that long-range capital facilities plans, tied to master plan requirements and other standards, will improve the County's ability to set and meet goals for infrastructure financing.

SUSTAINABLE DEVELOPMENT

"Sustainability" became a common term through a 1987 United Nation's World Commission on Environment and Development report titled *Our Common Future*. Since its inception, the notion of "Sustainability" has provided a holistic worldview of how social equity, economic, and environmental forces work together to create the world in which we live and, more importantly, how we may harness these forces to create something better. Planning staff proposes using the following definition to guide future growth and development in Montgomery County:

Sustainable Development meets the needs of the present without compromising the ability of future generations to meet their own needs. It recognizes the fundamental inextricable interdependence between the economy, the environment, and social equity, and works to promote each to the benefit of all.

The concept of sustainability allows us to discuss policies and plans in relationship to one another as plans and development proposals are considered. In this way, we can explore the advantages, conflicts and trade-offs associated with each proposal. Without this examination and measures or targets for sustainability, we will continue to approve development based on the rules it doesn't violate rather than on the goals, objectives and targets it achieves.

Planning staff believes that growth management policy in Montgomery County should incorporate sustainability as a guiding principle. The growth it guides should contribute to the sustainability of the County's environment, economy and social well-being, and it should be updated regularly to account for better information as well as changes in people's concerns and priorities. The sustainability principle should be applied to both new growth and changes in existing development.

The risk of not including sustainability in the growth policy is that growth will continue to be managed only in terms of how and when infrastructure is provided rather than on how well it serves the county's overall needs as a community and as a responsible part of the national effort to address the sustainability problem

This paper discusses how well the General Plan Refinement (GPR) expresses principles and goals that support sustainability, and finds that the General Plan already identifies most, although not all, of the principles needed to guide Montgomery County towards coming to the forefront of the sustainability movement. We suggest how the goals of the GPR can be modified to reflect sustainability more comprehensively.

Our survey of what other local governments are doing to implement sustainability plans around the country shows that many use "indicators" to establish specific targets and evaluate progress in meeting specified goals. Indicators allow residents and decision makers to track and monitor select social, economic and environmental conditions by measuring progress toward specific quantifiable goals or targets. Indicators simplify vast amounts of information and data, and thus provide a common ground on which communities create relationships, build trust and consensus, and base decisions.

Communities take different approaches in developing suitable indicators, but the dialogue between stakeholders both informs the process and engages the public to offer clear direction for the future. Generating a sustainability indicators program offers a logical compliment to effective growth policy. These tools provide a means to accurately gauge the economic, environmental and social conditions within a community over the long term, allowing for more effective and informed decision-making.

The Planning Department currently is exploring how the broader perspective of the sustainability principle may be applied to the 355/I270 Corridor Study. Of necessity, this initial effort at applying this broad principle to a local land use exercise will be conceptual in nature. But it is expected that the product will yield some insights useful to the further refinement and practical application of this new approach.

The Water Resources Element required by state law (HB 1141) presents another opportunity to explore sustainability. This law requires that we demonstrate how planned growth will be supplied with drinking water and wastewater treatment capacity and show how our streams can accommodate the anticipated stormwater runoff while protecting local streams and the Chesapeake Bay.

Sustainability Recommendations

We face a tremendous challenge in the next decade: how to assure that policy changes and physical investments in Montgomery County direct growth and development in a way that is sustainable. The Planning Department suggests the following actions to begin meeting that challenge:

- **Work towards adopting a definition of sustainability** tailored to the needs of Montgomery County for use in our County programs.
- **Expand the goals of the General Plan Refinement** to include appropriate sustainability principles.
- **Incorporate into the Planning Board's existing 2007 work program initial efforts at further refining sustainability principles** for application to land use related plans and studies, such as the 355/I-270 Corridor Study and the State mandated Water Resources Element, to be undertaken in FY 2008.
- Using this experience, **undertake a public involvement process to establish countywide indicators and targets** as soon as feasible within upcoming budgets.
- **Apply sustainability principles and goals to the ongoing Growth Policy and Capital Improvements Program process,** especially the analysis of trends and evaluation of public investments that repond to or anticipate growth**.**

DESIGN EXCELLENCE

The attached report, *Design Excellence: Tools to Improve Growth's Contribution to Our Quality of Life,* is intended to address methods to achieve the objectives identified in the other papers included in the Growth Policy report. Design is not an end unto itself; it is the means by which we use the forces of growth and change to achieve objectives that we mutually set. As an example, if the report on sustainability identifies a set of objectives for the preservation of the environment, the design excellence report provides the tools to achieve those objectives.

Planning in Montgomery County in the next century will require significant attention to design quality in community building. Directing development to more dense Metro station areas and the I-270 Corridor and away from rural areas is a hallmark of the *General Plan …on Wedges and Corridors for Montgomery County.* Montgomery County has a limited amount of available land for development. Redevelopment of existing areas including older retail centers will be a focus of development pressure in the coming decades. Preserving the character of the existing rural communities continues to be a challenge. The character of the major transportation travel routes could be significantly improved. From an economic point of view, design excellence should also be part of maintaining the County's competitive edge in attracting quality businesses in the 21st century global market place. These development conditions require attention to design in community building for success as part of a comprehensive growth policy.

The attached report provides options for augmenting and enhancing the planning tools and methods authorized for Montgomery County. Among the design issues that relate most closely to the Growth Policy are: implementing sustainability goals, augmenting and enhancing the public realm, and improving pedestrian access in Montgomery County:

Design Excellence and Sustainability

Emphasizing the design of communities will assist in accomplishing the objective of creating a sustainable environment. Planning for sustainability should occur early in the design of communities. LEED (Leadership in Energy and Environmental Design) standards have been developed as part of a pilot program for planning green neighborhoods. Montgomery County could take a leadership role in reviewing the pilot program and establishing new standards in the design of green communities to assist in creating a sustainable environment.

Design Excellence and the Public Realm

Emphasizing design excellence in the public realm would significantly improve the character of Montgomery County. The following three areas of the public realm should be the focus of design excellence:

- **Streets and Highways** (coordinate with the revisions underway to the Road Code) - The design of streets represents a major determinant of the function and character of neighborhoods in Montgomery County.

- **Public Spaces** (clarify and enhance the requirements for public use space, green space, and active and passive recreation identified in the Zoning Ordinance) - The design of public spaces (the space between buildings) has a significant impact on the character of Montgomery County.
- **Blocks and Buildings** (coordinate with the finding for compatibility, and the finding for the provision of adequate, safe and efficient layout of buildings and open space specified in the Zoning Ordinance) - The layout of blocks and buildings provides the form and structure for the space between buildings.

Design Excellence and Pedestrian Access

Enhancing the design of sidewalks, pathways and park trails would provide opportunities to improve the connections to transit facilities, commercial centers, and recreation areas in Montgomery County. Improving pedestrian connections and enhancing the pedestrian experience provides the opportunity to significantly benefit the overall health of the residents in Montgomery County by encouraging alternatives to travel by the automobile.

(Footnotes)

[1] *Been, Vicki. 2005. Impact Fees and Housing Affordability.*
Citiscape: A Journal of Policy Development and Research
. Volume 8, Number 1, 2005. U.S. Department of Housing and Urban Development, Office of Policy Development and Research.

Nelson, A.C., et. al., 2002. The Link Between Growth Management and Housing Affordability; The Academic Evidence
, The Brookings Institution Center on Urban Metropolitan Policy,
February 2002.

STAFF DRAFT 2007 GROWTH POLICY
MONTGOMERY COUNTY PLANNING DEPARTMENT
STAFF CONTACTS

Gwen Wright, Acting Planning Director

Growth Policy Steering Committee

Khalid Afzal, Community-Based Planning
Melissa Banach, Strategic Planning
John Carter, Community-Based Planning
Mary Dolan, Countywide Planning
Roselle George, Research & Technology Center
Rick Hawthorne, Countywide Planning
Rose Krasnow, Development Review
Karl Moritz, Research & Technology Center

APFO Reform Team

Rick Hawthorne (Team Leader), Neil Braunstein, Cathy Conlon, Shahriar Etemadi, Eric Graye, Glenn Kreger, Karl Moritz, Kristin O'Connor, Jorge Valladares, Ronald Vaughn, and Piera Weiss.

Infrastructure Financing Team

Roselle George (Team Leader), Bill Barron, Fred Boyd, Pamela Dunn, Dan Hardy, Barbara Kearney, John Schlee, and Mark Symborski

Sustainable Growth Team

Mary Dolan (Team Leader), Malaika Abernathy, Tom Autry, Elza Hisel-McCoy, Chuck Kines, Wayne Koempel, Jay Mukherjee, Callum Murray, Tina Schneider, Nkosi Yearwood, and Matt Zisman.

Design Excellence Team

Khalid Afzal (Team Leader), Marion Clark, Larry Cole, Clare Kelly, David Lieb, Marybeth O'Quinn, and Joshua Sloan

Notable Contributors

Faroll Hamer led the Montgomery County Planning Department through most of the initial work on the 2007 Growth Policy. Staff of the Research and Technology Center (principally Lisa Tate and Pamela Zorich) prepared the *Montgomery County and Growth* report. The Strategic Planning Division (Melissa Banach, Bridget Stesney and Matt Zisman) coordinated the Growth Management Speaker's Series and the public forum. Bob Winick consulted on transportation modeling and Dick Tustian advised the Growth Policy Sterring Committee on numerous issues. Nancy Lineman and Valerie Berton provided community outreach and media relations.