

Resolution No: \_\_\_\_\_  
Introduced: October 28, 2003  
Adopted: October 28, 2003

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

---

By: County Council

---

**SUBJECT:** 2003-5 Annual Growth Policy – Policy Element

**Background**

1. County Code Section 33A-15 requires that no later than November 1 of each odd-numbered year, the County Council must adopt an Annual Growth Policy (AGP) Policy Element to be effective until November 1 of the next odd-numbered year, to provide policy guidance to the agencies of government and the general public on matters concerning land use development, growth management and related environmental, economic and social issues.
2. On June 13, 2003, as required by Section 33A-15, the Planning Board transmitted to the County Council its recommendations on the 2003-5 Policy Element. On August 6, 2003, the Planning Board transmitted revised and expanded recommendations. The Final Draft Policy Element as submitted by the Planning Board contained supporting and explanatory materials.
3. On September 16 and 24, 2003, the County Council held public hearings on the Policy Element.
4. On September 22 and 29 and October 7, 14 and 27, 2003, the Council's Planning, Housing, and Economic Development Committee conducted worksessions on the recommended Policy Element.
5. On October 21 and 23, 2003, the Council conducted worksessions on the Policy Element, at which careful consideration was given to the public hearing testimony, updated information, recommended revisions and comments of the County Executive and Planning Board, and the comments and concerns of other interested parties.

## **Action**

*The County Council for Montgomery County, Maryland, approves the following Resolution:*

The 2003-5 AGP Policy Element is approved as follows:

### **Applicability; transition**

#### **AP1 Effective dates**

This resolution takes effect on July 1, 2004, and applies to any application for a preliminary plan of subdivision filed on or after that date. Any preliminary plan of subdivision for which a completed application was filed before July 1, 2004, is subject to all provisions of the previous Annual Growth Policy, as contained in Council Resolution 15-259. All provisions of Resolution 15-259 continue in effect until July 1, 2004.

#### **AP2 Previous approvals**

If any preliminary plan of subdivision that was approved before July 1, 2004, is either modified or withdrawn and replaced by a new application for a subdivision plan at the same location or part of the same location, the Planning Board when it approves or re-approves a preliminary plan of subdivision after July 1, 2004, must retain any transportation improvement required in the previously approved plan.

### **Guidelines for the Administration of the Adequate Public Facilities Ordinance**

County Code Section 50-35(k) ("the Adequate Public Facilities Ordinance or APFO") directs the Montgomery County Planning Board to approve preliminary plans of subdivision only after finding that public facilities will be adequate to serve the subdivision. This involves predicting future demand from private development and comparing it to the capacity of existing and programmed public facilities. The following guidelines describe the methods and criteria that the Planning Board and its staff must use in determining the adequacy of public facilities. These guidelines supersede all previous ones adopted administratively by the Planning Board to the extent that these guidelines conflict with previous ones. They also supersede those provisions of the Adequate Public Facilities Ordinance that were specified to apply only until the County Council had approved an Annual Growth Policy.

The Council accepts the definitions of terms and the assignment of values to key measurement variables that were used by the Planning Board and its staff in developing the recommended Annual Growth Policy. The Council delegates to the Planning Board and its staff all other necessary administrative decisions not covered by the guidelines outlined below. In its administration of the APFO, the Planning Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities.

The ceilings and directives described in this AGP are based primarily on the public facilities in the amended FY 2003-2008 Capital Improvements Program (CIP) and the Maryland Department of Transportation FY 03-08 Consolidated Transportation Program (CTP). The Council also reviewed related County and State funding decisions, master plan guidance and zoning where relevant, and related legislative actions. These ceilings and directives and their supporting planning and measurement process have been the subject of a public hearing and review during worksessions by the County Council. Approval of the ceilings and directives reflects a legislative judgment that, all things considered, these ceilings and procedures constitute a reasonable, appropriate, and desirable set of growth limits, which

properly relate to the ability of the County to program and construct facilities necessary to accommodate growth. These growth limits will substantially advance County land use objectives by providing for coordinated and orderly development.

These guidelines are not intended to be used as a means for government to avoid its responsibility to provide adequate public facilities. Biennial review and oversight allows the Council to identify problems and initiate solutions that will serve to avoid or limit the duration of any moratorium on new subdivision approvals in a specific policy area. Further, alternatives may be available for developers who wish to proceed in advance of the adopted public facilities program, through the provision of additional public facility capacity beyond that contained in the approved Capital Improvements Program, or through other measures which accomplish an equivalent effect.

The administration of the Adequate Public Facilities Ordinance must at all times be consistent with adopted master plans and sector plans. Where development staging guidelines in adopted master plans or sector plans are more restrictive than AGP guidelines, the guidelines in the adopted master plan or sector plan must be used to the extent that they are more restrictive.

### **Guidelines for Transportation Facilities**

#### **TP Policy Areas**

##### **TP1 Policy Area Boundaries and Definitions**

For the purposes of transportation analysis, the County has been divided into 313 areas called traffic zones. Based upon their transportation characteristics, these areas are grouped into transportation policy areas, as shown on Map 1. In many cases, transportation policy areas have the same boundaries as planning areas, sector plan areas, or master plan analysis (or special study) areas. The policy areas in effect for 2004-5 are: Aspen Hill, Bethesda CBD, Bethesda-Chevy Chase, Clarksburg, Cloverly, Damascus, Derwood, Fairland/White Oak, Friendship Heights, Gaithersburg City, Germantown East, Germantown Town Center, Germantown West, Glenmont, Grosvenor, Kensington/Wheaton, Montgomery Village/Airpark, North Bethesda, North Potomac, Olney, Potomac, R&D Village, Rockville City, Shady Grove, Silver Spring CBD, Silver Spring/Takoma Park, Twinbrook, Wheaton CBD, and White Flint. The following are Metro Station Policy Areas: Bethesda CBD, Friendship Heights, Glenmont, Grosvenor, Rockville Town Center, Shady Grove, Silver Spring CBD, Twinbrook, Wheaton CBD, and White Flint. Detailed boundaries of the policy areas are shown on Maps 2-31.

The boundaries of the Gaithersburg City and Rockville City policy areas reflect existing municipal boundaries, except where County-regulated land is surrounded by city-regulated land. The boundaries of these municipal policy areas do not automatically reflect any change in municipal boundaries; any change in a policy area boundary requires affirmative Council action.

##### **TP2 Transportation Pipeline**

Planning staff must keep a record of all previously approved preliminary plans and other data about the status of development projects, and continuously update the pipeline number of approved preliminary plans, thus constantly keeping in view, and presenting to the Planning Board, the amount of capacity still available at any given time. The continuous updating must include all changes to the amount of development approved under outstanding preliminary plans, with the exception of those which result from the discovery of accounting errors. Such errors must be reported to the Council each year in May, and must be reported on a quarterly basis, or more frequently, to the Planning Board who may bring them to

the attention of the Council if the Board judges them to be significant. The Planning Board should maintain a periodically updated queue list of applicants for preliminary plan of subdivision approval.

Under County Code §50-20(c), the Planning Board must set the period of validity for a finding of public facilities adequacy on a case-by-case basis for each subdivision, although the validity period for any subdivision must not be less than 5 years nor more than 12 years, not including any extension allowed under §50-20. In general, the Planning Board must set the validity period of a subdivision at 5 years unless:

- (a) for non-residential development, the subdivision is larger than 150,000 square feet and consists of more than one building; or
- (b) for residential development, the subdivision consists of more than 200 housing units.

### **TP3 Unique Policy Area Issues**

Because of the unique nature of the Georgetown Branch Trolley Project and the North Bethesda Transitway in comparison with other transportation systems which are normally used in calculating development capacity, it is prudent to approach the additional capacity from these systems in a conservative way, particularly with respect to the timing of capacity and the amount of the capacity recognized. Therefore, the capacity from the Georgetown Branch Trolley Project must not be counted until the actual system is constructed and operated, or at least until there is reasonable certainty as to its exact date of operation and amount of actual ridership. The initial capacity from the North Bethesda Transitway must not be counted until the project is fully funded in the first 5 years of either the County or State capital improvements program, and until the County Council has approved projected ridership.

To discourage sprawl development, no capacity for new development may be counted beyond the boundary of the Town of Brookeville existing on March 9, 1999, as a result of relocating MD 97 around Brookeville.

The Local Area Review for the Silver Spring CBD policy area must use the following assumptions and guidelines:

- All traffic limitations are derived from the heaviest traffic demand period, in Silver Spring's case, the p.m. peak hour outbound traffic.
- When tested during a comprehensive circulation analysis, the critical lane volumes for intersections in the surrounding Silver Spring/Takoma Park policy area must not be worse than the adopted level of service standards shown in Table 1 unless the Planning Board finds that the impact of improving the intersection is more burdensome than the increased congestion.
- The Planning Board and the Department of Public Works and Transportation must implement Transportation Systems Management for the Silver Spring CBD. The goal of this program must be to achieve the commuting goals for transit use and auto occupancy rates set out below.
- The County Government, through the Silver Spring Parking Lot District, must constrain the amount of public and private long term parking spaces.

The parking constraints and commuting goals needed to achieve satisfactory traffic conditions with these staging ceilings are as follows:

**Parking constraint:** A maximum of 17,500 public and private long-term spaces when all nonresidential development is built; (this maximum assumes a peak accumulation factor of 0.9, which requires verification in Silver Spring and may be subject to revision). Interim long-term parking constraints must be imposed in accordance with the amount of interim development. Long-term public parking spaces must be priced to reflect the market value of constrained parking spaces.

**Commuting goals:** For employers with 25 or more employees, attain 25 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 46% non-drivers during the peak periods. For new nonresidential development, attain 30 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 50% non-drivers during the peak periods.

Progress towards achieving these goals should be measured annually by using scientific and statistically valid survey techniques.

To achieve these goals it will be necessary to require developers of new development in Silver Spring to enter into traffic mitigation agreements and the employers and certain owners to submit transportation mitigation plans under Chapter 42A of the County Code.

Each Annual Growth Policy must reflect the Annual Report of the Silver Spring Transportation Management District, which must include a report of the status of critical signalized intersections (as defined in the report of October 5, 1987). The Annual Growth Policy must include a projection of future traffic conditions based on intersection improvements in the proposed CIP and full achievement of the Transportation Management District goals. The Council will take this information into account in the decisions on the Growth Policy and the CIP.

In accordance with the amendment to the Silver Spring Sector Plan, subdivision applications for nonresidential standard method projects throughout the CBD may be approved for development or additions of not more than 5,000 square feet of gross floor area. However, if, for a particular use the addition of five peak hour trips yields a floor area greater than 5,000 square feet, that additional area may be approved for that particular use.

In the North Bethesda Transportation Management District, the goal is 39 percent non-driver mode share for residents of multifamily housing in the peak hour. In the Bethesda Transportation Management District, the goal is 37 percent non-driver mode share for workers and residents of multifamily housing. In the Friendship Heights Transportation Management District, the goal is 39 percent non-driver mode share for workers.

#### **TP4 Development District Participation**

Under Chapter 14 of the County Code, development districts may be created by the County Council as a funding mechanism for needed infrastructure in areas of the County where substantial development is expected or encouraged. The Planning Board may approve subdivision plans in accordance with the terms of the development district's provisional adequate public facilities approval (PAPF).

##### **TP4.1 Preparation of a PAPF**

The development district's PAPF must be prepared in the following manner:

One or more property owners in the proposed district may submit to the Planning Board an application for provisional adequate public facilities approval for the entire district. In addition to explaining how each development located in the district will comply with all applicable zoning and subdivision requirements, this application must:

- show the number and type of housing units and square footage and type of the non-residential space to be developed, as well as a schedule of proposed buildout in five-year increments;
- identify any infrastructure improvements necessary to satisfy the adequate public facilities requirements for development districts; and
- estimate the cost to provide these improvements.

#### **TP4.2 Planning Board Review**

The Planning Board must then review all developments within the proposed development district as if they are a single development for compliance with the Adequate Public Facilities Ordinance. The Planning Board must identify the public facilities needed to support the buildout of the development district after considering the results of the following tests for facility adequacy:

- Transportation tests for development districts are identical to those for Local Area Transportation Review. Planning Department staff must prepare a list of transportation infrastructure needed to maintain public facility adequacy.
- The PAPF application must be referred to Montgomery County Public Schools staff for recommendations for each stage of development in the proposed district. MCPS staff must calculate the extent to which the development district will add to MCPS's current enrollment projections. MCPS staff must apply the existing school adequacy test to the projections with the additional enrollment and prepare a list of public school infrastructure needed to maintain public facility adequacy.
- The PAPF application must be referred to the Washington Suburban Sanitary Commission for recommendations for each stage of development in the proposed district. Wastewater conveyance and water transmission facilities must be considered adequate if existing or programmed (fully-funded within the first five years of the approved WSSC capital improvements program) facilities can accommodate (as defined by WSSC) all existing authorizations plus the growth in the development district. Adequacy of water and wastewater treatment facilities must be evaluated using the intermediate or "most probable" forecasts of future growth plus development district growth, but only to the extent that development district growth exceeds the forecast for any time period. If a test is not met, WSSC must prepare a list of water and sewer system infrastructure needed to maintain public facility adequacy.
- The PAPF application must be referred to the County Executive for recommendations for each stage of development in the proposed district regarding police, fire, and health facilities. Adequacy of police, fire, and health facilities must be evaluated using the intermediate or most probable forecasts of future growth plus development district growth, but only to the extent that development district growth exceeds the forecast for any time period. Any facility capacity that remains is available to be used by the development district. If any facility capacity deficits exist, the County Executive must prepare a list of infrastructure needed to maintain public facility adequacy.

#### **TP4.3 Planning Board Approval**

The Board may conditionally approve the PAPF application if it will meet all of the requirements of the APFO and AGP. The Board may condition its approval on, among other things, the creation and funding of the district and the building of no more than the maximum number of housing units and the maximum nonresidential space listed in the petition.

For an application to be approved, the applicants must commit to produce the infrastructure improvements needed to meet APF requirements in the proposed district as well as any added requirements specified by the Planning Board. The Planning Board must list these required infrastructure improvements in its approval. The infrastructure improvements may be funded through the development district or otherwise. The development district's PAPF must be prepared in the following manner:

The Planning Board must not approve a PAPF application unless public facilities adequacy is maintained throughout the life of the plan. The timing of infrastructure delivery may be accomplished by withholding the release of building permits until needed public facilities are available to be "counted," or by another similar mechanism.

Infrastructure may be counted for public facilities adequacy, for infrastructure provided by the district, when construction has begun on the facility and funds have been identified and committed to its completion, and, for infrastructure provided by the public sector, when:

- for Local Area Transportation Review, the project is fully-funded within the first 4 years of the approved County, state, or municipal capital improvements program;
- for water and sewer facilities, the project is fully-funded within the first 5 years of the approved WSSC capital improvements program;
- for public school facilities, the project is fully-funded within the first 5 years of the approved Montgomery County Public Schools capital improvements program; and
- for police, fire, and health facilities, the project is fully-funded within the first 6 years of the relevant approved capital improvements program.

#### **TP4.4 Additional Facilities Recommended for Funding**

The County Executive and Planning Board may also recommend to the County Council additional facilities to be provided by the development district or by the public sector to support development within the district. These facilities may include, but are not limited to libraries, health centers, local parks, social services, greenways, and major recreation facilities.

#### **TP4.5 Satisfaction of APF Requirements**

As provided in Chapter 14 of the County Code, once the development district is created and the financing of all required infrastructure is arranged, the development in the district is considered to have satisfied all APF requirements, any additional requirements that apply to development districts in the AGP, and any other requirement to provide infrastructure which the County adopts within 12 years after the district is created.

### **TL Local Area Transportation Review (LATR)**

#### **TL1 Standards and Procedures**

To achieve an approximately equivalent transportation level of service in all areas of the County, greater congestion is permitted in policy areas with greater transit accessibility and usage. Table 1 shows the

intersection level of service standards by policy area. Local Area Transportation Review must at all times be consistent with the standards and staging mechanisms of adopted master plans and sector plans.

Local area transportation review must be completed for any subdivision that would generate 30 or more peak-hour automobile trips. For any subdivision that would generate 30-49 peak-hour automobile trips, the Planning Board after receiving a traffic study must require that either:

- all LATR requirements are met; or
- the applicant must make an additional payment equal to 50% of the applicable transportation impact tax before it receives any building permit in the subdivision.

In administering the Local Area Transportation Review (LATR), the Planning Board must not approve a subdivision if it finds that an unacceptable peak hour level of service will result after taking into account existing roads, programmed roads, available or programmed mass transportation, and improvements to be provided by the applicant. If the subdivision will affect an intersection or roadway link for which congestion is already unacceptable, then the subdivision may only be approved if it does not make the situation worse.

The nature of the LATR test is such that a traffic study is necessary if local congestion is likely to occur. The Planning Board and staff must examine the applicant's traffic study to determine whether adjustments are necessary to assure that the traffic study is a reasonable and appropriate reflection of the traffic impact of the proposed subdivision after taking into account all approved development and programmed transportation projects.

For Local Area Transportation Review purposes, the programmed transportation projects to be considered are those fully funded for construction in the first 4 years of the current approved Capital Improvements Program, the state's Consolidated Transportation Program, or any municipal capital improvements program. For these purposes, any road required under Section 302 of the County Charter to be authorized by law is not programmed until the time for petition to referendum has expired without a valid petition, or the authorizing law has been approved by referendum.

If an applicant is participating in a traffic mitigation program or one or more intersection improvements to meet Local Area Transportation Review requirements, that applicant must be considered to have met Local Area Transportation Review for any other intersection where the volume of trips generated is less than 5 Critical Lane Movements.

Each traffic study must examine, at a minimum, the number of signalized intersections in the following table unless the Planning Board affirmatively finds that special circumstances warrant a more limited study.

Maximum Peak-Hour Trips Generated	Minimum Signalized Intersections in Each Direction
< 250	1
250 – 749	2
750 – 1,249	3
1,250 – 1,750	4
> 1,750	5

At the Planning Board's discretion, each traffic mitigation program must be required to operate for at least 12 years but no longer than 15 years. The Planning Board may select either trip reduction measures or road improvements (or a combination of both) as the required means of traffic mitigation.



The Planning Board has adopted guidelines to administer Local Area Transportation Review. To the extent that they are consistent with this Policy, the Planning Board guidelines may continue to apply or may be amended as the Planning Board finds necessary.

After consulting the Council, the Planning Board may adopt administrative guidelines that allow use of a "delay" or queuing analysis, different critical lane volume standards, or other methodologies, to determine the level of congestion in appropriate geographic locations such as in urbanized areas, around Metrorail stations, or in specific confined areas planned for concentrated development related to other forms of transit.

In administering Local Area Transportation Review, the Planning Board must carefully consider the recommendations of the County Executive concerning the applicant's traffic study and proposed improvements or any other aspect of the review.

To achieve safe and convenient pedestrian travel, the Planning Board may adopt administrative guidelines requiring construction of off-site sidewalk improvements consistent with County Code §50-25. To maintain an approximately equivalent transportation level of service at the local level considering both auto and non-auto modes of travel, the Planning Board may permit a reduction in the amount of roadway construction or traffic mitigation needed to satisfy the conditions of Local Area Transportation Review in exchange for the construction of non-automobile transportation amenities, such as sidewalks or bus shelters.

## **TL2 Metro Station Policy Area LATR Standards**

In each Metro Station Policy Area, the Planning Board, in consultation with the Department of Public Works and Transportation, must prepare performance evaluation criteria for its Local Area Transportation Review. These criteria must be used to accomplish: (a) safety for pedestrians and vehicles; (b) access to buildings and sites; and (c) traffic flow within the vicinity, at levels which are tolerable in an urban situation. The County Executive also must publish a Silver Spring Traffic Management Program after receiving public comment and a recommendation from the Planning Board. This program must list those actions to be taken by government to maintain traffic flow at tolerable levels in the Silver Spring CBD and protect the surrounding residential area.

## **TL3 Potomac LATR Standards**

In the Potomac Policy Area, only the areas contributing traffic to the following intersections must be subject to Local Area Transportation Review: (a) Montrose Road at Seven Locks Road; (b) Democracy Boulevard at Seven Locks Road; (c) Tuckerman Lane at Seven Locks Road; (d) Democracy Boulevard at Westlake Drive; (e) Westlake Drive at Westlake Terrace; (f) Westlake Drive at Tuckerman Lane; (g) Bradley Boulevard at Seven Locks Road; (h) River Road at Bradley Boulevard; (i) River Road at Piney Meetinghouse Road; and (j) River Road at Seven Locks Road.

## **TA Alternative Review Procedures**

### **TA1 Metro Station Policy Areas**

An applicant for a subdivision which will be built completely within a Metro station policy area need not submit any application or take any action under **TL Local Area Transportation Review** if the applicant

agrees in a contract with the Planning Board and the County Department of Public Works and Transportation to:

- meet trip reduction goals set by the Planning Board as a condition of approving that subdivision, which must require the applicant to reduce at least 50% of the number of trips attributable to the subdivision, either by reducing trips from the subdivision itself or from other occupants of that policy area;
- participate in programs operated by, and take actions specified by, a transportation management organization (TMO) to be established by County law for that policy area (or a group of policy areas including that policy area) in order to meet the mode share goals established under the preceding paragraph;
- pay an ongoing annual contribution or tax to fund the TMO's operating expenses, including minor capital items such as busses, as established by County law; and
- pay double the applicable development impact tax without claiming any credits for transportation improvements.

## **TA2 Expiration of Approvals Under Previous Alternative Review Procedures**

Annual Growth Policy resolutions in effect between 1995 and 2001 contained Alternative Review Procedures that required any development approved under those procedures to receive each building permit no later than 4 years after the Planning Board approved the preliminary plan of subdivision for that development. Any outstanding development project approved under an Alternative Review Procedure is subject to the expiration dates in effect when that development project was approved, with the following 2 exceptions.

### **TA2.1 Certain multi-phased projects**

A multi-phased project located in the R&D or Life Sciences Center zone may receive some of its building permits later than 4 years after its preliminary plan of subdivision is approved if:

- when the Planning Board approves or amends a site plan for the development, it also approves a phasing schedule that allows an extended validity period, but not longer than 12 years after the preliminary plan of subdivision was approved; and
- the applicant receives the first building permit for a building in the development no later than 4 years after the Planning Board approves the preliminary plan of subdivision for the development.

### **TA2.2 Certain developments in I-3 zone**

Similarly, if the development is located in the I-3 zone, and a previously approved subdivision plan and site plan contains more than 900,000 square feet of office space and at least 40% of that space has been constructed by November 1, 2001, the Planning Board may approve an amendment to its site plan which allows an extended validity period, but not longer than 12 years after the preliminary plan of subdivision was approved.

## **TA3 Golf Course Community**

An applicant for a planned unit development in the Fairland-White Oak policy area that includes a golf course or other major amenity which is developed on a public/private partnership basis need not take any action under **TL Local Area Transportation Review** if the applicant pays to the County a Development Approval Payment, established by County law, before the building permit is issued. However, the

applicant must include in its application for preliminary plan approval all information that would have been necessary if the requirements for Local Area Transportation Review applied.

The Planning Board may approve the application if:

- not more than 100 units, in addition to Moderately Priced Dwelling Units (MPDUs), are built in the first fiscal year after construction of the development begins, and
- not more than 100 units, in addition to MPDUs and the unbuilt remaining portion of all prior years' approved units, are built in any later fiscal year.

### **TA3.1 MPDU Requirements**

Any applicant for a subdivision under **TA3** must agree, as part of the application, that it will build the same number of MPDUs among the first 100 units that it would be required to construct at that location if the subdivision consisted of only 100 units, or a pro rata lower number of MPDUs if the subdivision will include fewer than 100 units.

### **TA3.2 Requirement to Begin Construction**

Any applicant for a subdivision approval under **TA3** must agree, as part of the application, that it will not begin to construct any residential unit approved in the application later than 3 years after the plat is recorded or the site plan is approved (whichever occurs later).

## **TA4 Corporate Headquarters Facility**

### **TA4.1 LATR**

An applicant for a preliminary plan of subdivision need not take any action under Local Area Transportation Review if the applicant meets the following conditions:

#### **TA4.1.1 Jobs/Location**

The applicant must have employed an average of at least 500 employees in the County for the 2 years before the application was filed, and the applicant must seek to build or expand a corporate headquarters located in the North Bethesda Policy Area.

#### **TA4.1.2 Size/Use**

Any new or expanded building approved under this Procedure must not exceed 900,000 square feet, and must be intended primarily for use by the applicant and the applicant's affiliates or business partners.

#### **TA4.1.3 Traffic Information**

Each application must include all information that would be necessary if the requirements for Local Area Transportation Review applied.

#### **TA4.1.4 Mode Share Goals**

Each applicant must commit to make its best efforts to meet mode share goals set by the Planning Board as a condition of approving the subdivision.

#### **TA4.1.5 TMO Participation**

Each applicant must participate in programs operated by, and take actions specified by, the transportation management organization (TMO), if any, established by County law for that policy area to meet the mode share goals set by the Planning Board.

#### **TA4.1.6 TMO Payment**

If an applicant is located in a transportation management district, the applicant must pay an annual contribution or tax, set by County law, to fund the TMO's operating expenses, including minor capital items such as busses.

#### **TA4.1.7 Development Approval Payment Limits**

The applicant must pay the applicable Development Approval Payment (DAP) as provided in County Code §8-37 through 8-42, but not more than the DAP in effect on July 1, 2001.

#### **TA4.1.8 Eligibility**

An applicant may use this Procedure only if it met the criteria in **TA4.1.1** for number of employees and site location on November 1, 2003.

#### **TA5 Strategic Economic Development Projects**

An applicant for a preliminary plan of subdivision need not take any action under **TL Local Area Transportation Review** if all of the following conditions are met.

##### **TA5.1 Traffic information**

The applicant files a complete application for a preliminary plan of subdivision which includes all information that would be necessary if the requirements for LATR applied.

##### **TA5.2 Designation**

The County Council has approved the County Executive's designation of the development as a strategic economic development project under procedures adopted by law or Council resolution.

##### **TA5.3 Transportation Impact Tax Payments**

The applicant must pay double the applicable transportation impact tax without claiming any credits for transportation improvements.

### **Public School Facilities**

#### **S1 Geographic Areas**

For the purposes of public school analysis and local area review of school facilities at time of subdivision, the County has been divided into 24 areas called high school clusters, as shown in Map 32. These areas coincide with the cluster boundaries used by the Montgomery County Public School system.

The groupings used are only to administer the Adequate Public Facilities Ordinance and do not in any way require action by the Board of Education in exercising its power to designate school service boundaries.

## **S2 School Capacity Measures**

The Planning Board must evaluate available capacity in each high school cluster and compare enrollment projected by Montgomery County Public Schools for each fiscal year with projected school capacity in 5 years. If sufficient high school capacity will not be available in any cluster, the Planning Board must determine whether an adjacent cluster will have sufficient high school capacity to cover the projected deficit.

The Planning Board must use 100% of Council-funded capacity at the high school level and 105% of Council-funded capacity at the middle and elementary school level as its measures of adequate school capacity. This capacity measure does not count relocatable classrooms in computing a school's permanent capacity.

Council-funded regular program classroom capacity is based on calculations that assign 25 students for grades 1-6, 44 students for half day kindergarten where it is currently provided, 22 students for all day kindergarten where it is currently provided, and an effective class size of 22.5 students for secondary grades.

## **S3 Grade Levels**

Each cluster must be assessed separately at each of the three grade levels -- elementary, intermediate/middle, and high school.

## **S4 Determination of Adequacy**

After the Council has approved the FY 2005-2010 CIP, the Planning Board must recalculate the projected school capacity at all grade levels in each high school cluster. If the Board finds that public school capacity will be inadequate at any grade level in any cluster, but the projected enrolment at that level will not exceed 110% of capacity, the Board may approve a residential subdivision in that cluster during FY 2005 if the applicant commits to pay a School Facilities Payment as provided in County law before receiving a building permit for any building in that subdivision. If projected enrollment at any grade level in that cluster will exceed 110% of capacity, the Board must not approve any residential subdivision in that cluster during FY 2005.

After the Council in 2005 has approved the amended FY 2005-2010 CIP, the Planning Board again must recalculate school capacity. If capacity at any level is projected to be inadequate, the Board must take the actions specified in the preceding paragraph in FY 2006.

## **S5 Senior Housing**

If public school capacity is inadequate in any cluster, the Planning Board may nevertheless approve a subdivision in that cluster if the subdivision consists solely of multifamily housing and related facilities for elderly or handicapped persons or multifamily housing units located in the age-restricted section of a planned retirement community.

## **S6 Clusters in municipalities**

If public school capacity will be inadequate in any cluster that is wholly or partly located in Rockville, Gaithersburg, or Poolesville, the Planning Board may nevertheless approve residential subdivisions in that cluster unless the respective municipality restricts the approval of similar subdivisions in its part of the cluster because of inadequate school capacity.

### **S7 Development District Participants**

The Planning Board may require any development district for which it approves a provisional adequate public facilities approval (PAPF) to produce or contribute to infrastructure improvements needed to address inadequate school capacity.

#### **Guidelines for Water and Sewerage Facilities**

In accordance with the Adequate Public Facilities Ordinance, applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available, is under construction, is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (i.e., categories I, II, and III), or if the applicant either provides a community water and/or sewerage system or meets Department of Permitting Services requirements for septic and/or well systems, as outlined in the Adequate Public Facilities Ordinance. These requirements are determined either by reference to the Water and Sewerage Plan, adopted by the Council, or by obtaining a satisfactory percolation test from the Department of Permitting Services.

Applications must only be accepted for further Planning staff and Board consideration if they present evidence of meeting the appropriate requirements.

#### **Guidelines for Police, Fire and Health Services**

The Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated. Such a problem is one which cannot be overcome within the context of the approved Capital Improvements Program and operating budgets of the relevant agencies. Where such evidence exists, either through agency response to the Subdivision Review committee clearinghouse, or through public commentary or Planning staff consideration, a Local Area Review must be undertaken. The Board must seek a written opinion from the relevant agency, and require, if necessary, additional data from the applicant, to facilitate the completion of the Planning staff recommendation within the statutory time frame for Planning Board action. In performing this Local Area Review, the facility capacity at the end of the sixth year of the approved CIP must be compared to the demand generated by the "most probable" forecast for the same year prepared by the Planning Department.

#### **Guidelines for Resubdivisions**

An application to amend a previously approved preliminary plan of subdivision does not require a new test for adequacy of public facilities if:

Revisions to a preliminary plan have not been recorded, the preliminary plan has not expired, and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.

Resubdivision of a recorded lot involves the sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties to make small adjustments in boundaries.

Resubdivision of a recorded lot involves more than 2,000 square feet or one percent of the lot area and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.

**Timely Adequate Public Facilities Determination  
and Local Area Transportation Review under Chapter 8.**

**APF1 General.**

Except as otherwise provided by law, an adequate public facilities determination or local area transportation review conducted under Article IV of Chapter 8 (Buildings) must use the standards and criteria applicable under this Resolution when evaluating the adequacy of public facilities to serve the proposed development.

**APF2 Traffic Mitigation Goals.**

Any proposed development that is subject to requirements for a traffic mitigation agreement under Article IV of Chapter 8 and Chapter 42A-9A of the County Code must meet the traffic mitigation goals specified in paragraphs (1) or (4), as appropriate.

- (1) Subject to paragraph (2), the portion of peak-period nondriver trips by employees of a proposed development must be at least the following percentage greater than the prevailing nondriver mode share of comparable nearby land use:

In Policy Areas With LATR CLV Standard of	Required Percentage Greater Than Prevailing Nondriver Mode Share
1800 and 1600	100%
1550	80%
1500	60%
1475 and 1450	40%

LATR CLV standards for each policy area are shown on Table 1.

- (2) The portion of peak-period nondriver trips by employees calculated under paragraph (1) must not be less than 15% nor higher than 55%.
- (3) The applicant for a proposed development in a policy area specified under paragraph (1) is responsible for reviewing existing studies of nondriver mode share; conducting new studies, as necessary, of nondriver mode share; and identifying the prevailing base nondriver mode share of comparable land uses within the area identified for the traffic study. Comparable land uses are improved sites within the area identified for the traffic study for the proposed development that have similar existing land use and trip generation characteristics. As with other aspects of the traffic study required by Article IV of Chapter 8, selection of the comparable studies and land uses to be analyzed and determination of the prevailing base nondriver mode share are subject to review by the Planning Department and approval by the Department of Public Works and Transportation.
- (4) Proposed development in the Silver Spring CBD must meet the commuting goals specified under **TP3**.



- (5) In accordance with County Code Section 42A-9A, the applicant must enter into an agreement with the Director of the Department of Public Works and Transportation before a building permit is issued. The agreement may include a schedule for full compliance with the traffic mitigation goals. It must provide appropriate enforcement mechanisms for compliance.
- (6) As provided by law, these goals supersede traffic mitigation goals established under Section 42A-9A(a)(4).

### **Issues to be Addressed in the Future**

Scheduling of items by the Planning Board under this Section may be reviewed and modified at the Board's regular work program meetings with the County Council.

**F1. Time Limits of a Finding of Adequate Public Facilities:** The Planning Board must examine the number, age, and other characteristics of projects in the pipeline of approved development and make recommendations for revising the time limits of a finding of adequate public facilities, including extension provisions.

**F2. Adequacy of Police and Fire/Rescue Facilities:** The Planning Board, in cooperation with appropriate Executive branch agencies and after consulting the Council's Public Safety Committee, must consider potential options for testing the adequacy of public safety (police and fire/rescue) infrastructure.

**F3. Maximum Unmitigated Trip Level for Metro Station Areas:** The Planning Board must submit to the Council by February 1 an AGP amendment proposing a specific maximum number of unmitigated trips for each Metro Station Policy Area under the Alternative Review Procedure for Metro Station Policy Areas, considering its current number of jobs and housing units and its current congestion levels.

**F4. Annual Development Approval Report:** The Planning Board must submit to the County Council by September 15 each year an updated report listing and describing significant developments approved by that date or expected to be approved by the following July 1 that would impact road and school capacity. The report must include a prioritized list of road and intersection improvements based on current and projected congestion patterns and additional anticipated development.

**F5. Measuring the effect of ATMS:** The Planning Board, with the aid of the Executive and interested transportation professionals and citizens, must evaluate the effect associated with various Advanced Transportation Management System technologies, such as possible increase in intersection capacity or spreading of peak period volumes. A pilot study, perhaps funded as a public/private partnership, should be conducted in one or two selected corridors where these technologies are planned to be installed to quantify the incremental benefits of various technologies, such as automatic vehicle locators in transit vehicles, extended green time at signalized intersections for transit vehicles, real time traffic signal timing, video surveillance, and incident management. If the study identifies actions, the Planning Board should propose policy changes for Council approval, to be implemented in the Board's Local Area Transportation Review guidelines based on the study's findings.

This is a correct copy of Council action.

---

Mary A. Edgar, CMC  
Clerk of the Council

**Local Area Transportation Review**

**Congestion Standards by Policy Area**

*adopted by the Montgomery County Council October 28, 2003*

<b>Critical Lane Volume Standard</b>	<b>Policy Area</b>
1400	Rural areas
1450	Clarksburg Damascus Germantown East Germantown Town Center Germantown West Montgomery Village/Airpark
1475	Cloverly Derwood North Potomac Olney Potomac R & D Village
1500	Aspen Hill Fairland/White Oak
1550	North Bethesda
1600	Bethesda/Chevy Chase Kensington/Wheaton Silver Spring/Takoma Park
1800	Bethesda CBD Friendship Heights Glenmont Grosvenor Shady Grove Silver Spring CBD Twinbrook Wheaton CBD White Flint

**Notes**

*Rural areas are: Darnestown/Travilah, Goshen, Patuxent, Poolesville, and Rock Creek.*

*Potomac, Friendship Heights, and Silver Spring CBD have special LATR rules identified in their master plans or in the Annual Growth Policy.*