MONTGOMERY COUNTY SUBDIVISION STAGING POLICY

DRAFT PEER REVIEW

Existing Policy

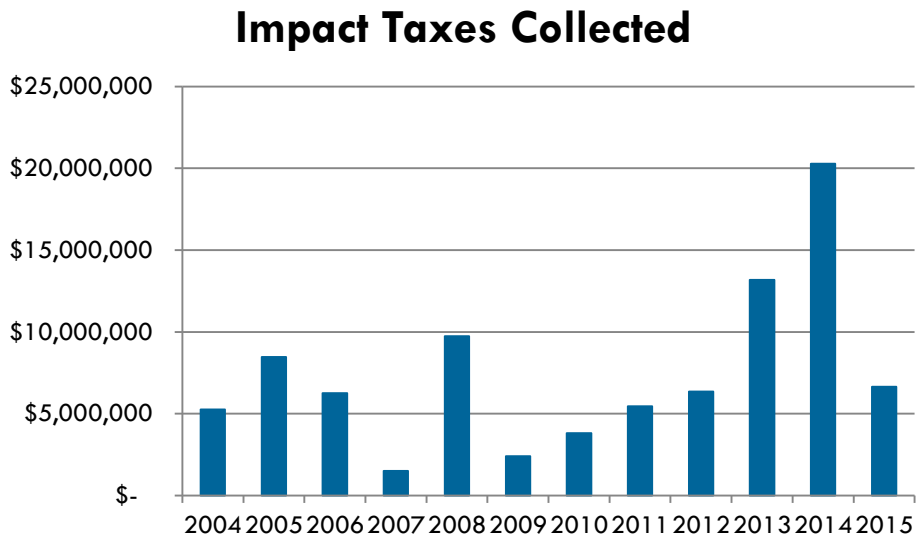
This is a summary of the county's Subdivision Staging Policy (SSP) as it relates to transportation. The policy also covers school capacity.

All new residential and commercial development in Montgomery County is subject to an impact tax regardless of location, which raises money for capital improvements to support new development. Impact taxes fund improvements for schools and transportation, and are levied based on dwelling unit type and, for transportation improvements, by commercial square footage. The County Council sets the impact tax, while the Department of Permitting Services (DPS) collects the tax, which must be paid before DPS will issue a building permit or use and occupancy permit.

Impact taxes follow a schedule based on the building type or use, and where in the county the development is located. Transportation impact taxes are 50% lower in Metro Station Policy Areas, which are generally in established communities with lower infrastructure needs. In Clarksburg, a new development area in the Upcounty with higher infrastructure needs, impact taxes are between 30% and 200% greater depending on property type/use (except for retail, which is 70% lower than the general fee).

Building Type	Metro Station Policy Area	Clarksburg	General
Single-family detached (per unit)	$6,984	$20,948	$13,966
Single-family attached (per unit)	$5,714	$17,141	$11,427
Multi-family low-mid rise (per unit)	$4,443	$13,330	$8,886
Multi-family high rise (per unit)	$3,174	$9,522	$6,347
Multi-family senior (per unit)	$1,269	$3,808	$2,539
Office (per sqft of GFA)	$6.35	$15.30	$12.75
Industrial (per sqft of GFA)	$3.20	$7.60	$6.35
Bioscience (per sqft of GFA)	$0	$0	$0
Retail (per sqft of GFA)	$5.70	$3.70	$11.40
Place of Worship (per sqft of GFA)	$0.35	$0.90	$0.65
Private School (per sqft of GFA)	$0.50	$1.35	$1.05
Hospital (per sqft of GFA)	$0	$0	$0
Social Service Agency (per sqft of GFA)	$0	$0	$0
Other non-residential (per sqft of GFA)	$3.20	$7.60	$6.35

Since Fiscal Year 2004, Montgomery County has collected $89.3 million in transportation impact taxes. Collections vary widely from year to year, ranging between $1.5 million and $20.2 million.



The SSP uses two tests to assess transportation adequacy and determine an additional transportation mitigation payment for new development: Transportation Policy Area Review (TPAR) and Local Area Transportation Review (LATR). TPAR looks at the "adequacy" of local arterial roads and transit (defined as existing local bus service) in the development's surrounding community, defined as a policy area. There are 34 policy areas in Montgomery County, ranging in size from a few hundred acres (the Silver Spring CBD policy area) to over one hundred square miles (the "Rural West" policy area).

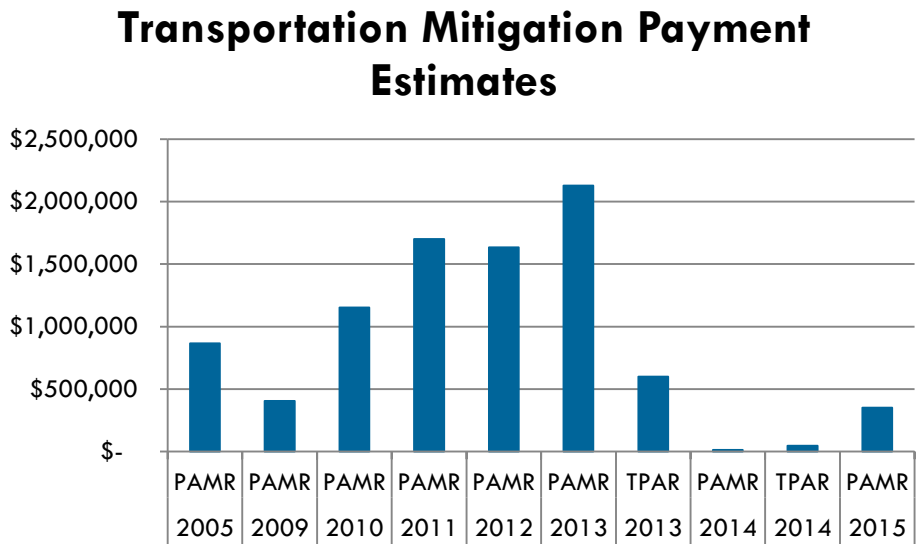
Under TPAR, the congestion level in each policy area is measured by the PM peak period congested speed as a percentage of free flow speed in the peak direction of travel. The "adequate" percentage is 40% in urban areas, 50% in suburban areas, and 60% in rural areas. If the average arterial roadway congestion level falls below that standard, roads in the policy are deemed "inadequate."

Transit adequacy is determined based on three standards. **Coverage** measures how much of a policy area lies within walking distance of transit, from 50% for rural areas, 70% for suburban areas, and 80% for urban areas. **Headway** measures the frequency of transit service. Policy areas with adequate transit service have 60 minute headways or better in rural areas, 20 minute headways or better in suburban areas, or 14 minute headways or better in urban areas. **Span of service** measures the duration of transit service during a typical weekday. Policy areas with adequate transit service have minimum span of service of 4 hours in rural areas, 14 hours in suburban areas, and 17 hours in urban areas. If any of these three measures are found inadequate, the policy area is considered inadequate for transit.

Where roads or transit are inadequate, the fee is 25% of the impact tax; where both are inadequate, the fee is 50% of the impact tax.

LATR tests the capacity of nearby intersections and is applied to all projects estimated to generate 30 or more peak hour trips, according to the *Local Area Transportation Review/Transportation Policy Area Review Guidelines*. It uses Level of Service (LOS) as a measure of an intersection's ability to move vehicle traffic. If an intersection receives a "failing" grade, the developer must either provide transportation improvements, such as adding road or transit capacity, or provide a payment that covers the cost of the improvement. Developers can also agree to implement a trip

reduction program. In some cases, developers can purchase "trip credits" at a rate of $12,000 per vehicle trip.



In 2016, the County Council gave direction for updating the Subdivision Staging Policy to make it a more accurate reflection of the county's planning goals:

- Refine the Metropolitan Washington Council of Governments' (MWCOG) regional transportation model to make it more applicable to Montgomery County.
- Update trip generation rates used in LATR (Local Area Traffic Review), last updated in 1989, to reflect how mixed-use development and access to active transportation changes travel habits.
- Refine and update the LATR process through the Transportation Impact Study Technical Working Group.
- Refine the transit component of the Transportation Policy Area Review to reflect how Bus Rapid Transit will affect travel habits.

Planning staff is currently exploring alternatives to LATR, including incorporating Vehicle Miles of Travel into the LATR process, and consolidating LATR and TPAR into a single test. Another possibility is expanding the "pro-rata" share concept beyond White Flint and White Oak.

Planning staff is also looking at ways to change the formulas for infrastructure funding, so that the impact fees levied on new development accurately reflects the cost of that development on the public. Proposals include updating impact fees based on current construction cost, using transportation impact fees within the local area of a project (as is currently done for school impact fees), changing the recordation tax rate, and considering options for public-private partnerships.

The SSP review process began in December 2015 and will culminate in a working staff draft in May 2016. If the Planning Board approves the draft in July 2016, the County Council will take it up in the fall before voting on it no later than November 2016.

RESPONSES TO SCOPE OF WORK QUESTIONS

This section addresses the specific questions the County provided about its current review process.

What is a reasonable time interval for the review?

Scheduling major policy reviews involves difficult trade-offs, particularly weighing the cost of the staff time burden against the benefits of building public trust and incremental policy improvement. There is no correct schedule, but we generally recommend more frequent reporting on performance, and less frequent deep reviews that would result in a major shift in approach.

We recommend bi-annual reporting on performance. It is critical for the gaining of public trust that the county report regularly on how the policy is helping to meet key goals. This should be a simple, report-card style document identifying, for example:

- Development projects approved
- Mitigations imposed
- Impact fees raised
- Impact fee expenditures
- Available trend data on corridor travel time, bus delay, transit capacity, person delay, person capacity, vehicle miles traveled, etc.

Given staff and budget constraints, it is important to make annual reporting focused on existing and readily available data. Requiring major data collection efforts can make timely reporting impossible.

Following any major change in policy, we also recommend continual internal evaluation of performance for at least one year, focused on identification and correction of unintended negative consequences. That is, staff should work to identify any unexpected problems with the new approach. If significant problems arise, these should be reported and solutions identified.

For programs that are generally meeting their intended goals, a deeper review every five years is generally sufficient. Given the increased pace of change of major issues affecting new development (climate change, demographic shifts, market shifts, etc.), more frequent reviews should be undertaken anytime it becomes clear that the program is no longer producing the desired outcomes.

Does the process used for evaluating the existing metrics reflect the county's goals and objectives?

The county has clear goals goal is to decrease automobile dependency, protect agricultural lands, manage congestion, and focus new development in compact, transit-oriented, mixed-use, and walkable communities. While the county's subdivision staging policy is more sophisticated than most jurisdictions, its policies are not fully in alignment with its goals. These policies unintentionally exacerbate traffic levels, and maintain unnecessary obstacles against low-impact development. See additional recommendations below.

What metrics are useful to track that are not easily applied in a regulatory context?

First, we reiterate the importance of using existing or readily available data in order to reduce data collection costs. Existing data also makes it easier to track historic trendlines.

Second, we would point out that all policy goals and objectives must have a data strategy to determine the degree to which they are being achieved. Goals without data will be ignored and will rightly result in public mistrust.

Third, data reporting should be designed to be intuitive to the public and policymakers, and should be designed to inform the difficult trade-offs in development policy. For example, constraining housing production may reduce vehicle trips, but may also result in increased rents. Similarly, new housing production in areas with little traffic may reduce impacts on local urban congestion, but would result in overall higher VMT and significantly higher household transportation costs. The data should reveal the tensions between goals and help policymakers make policy decisions that reflect local values.

Given the scale of the county, most data should be mapped in GIS and presented in the form of heatmaps. In addition to mapping current conditions, the county should identify change over time and, where possible, predictions of future conditions under different scenarios. Where in the county is moving toward meeting the goal, and where is moving further away?

Some potential metrics that may be useful:

Economic development

- Net new jobs created and lost
- Net new housing created and lost
- Real estate value per acre
- Total retail sales, and retail sales per square foot
- Retail sales and other expenditures reinvested in local community
- Workforce accessible within 30 minutes by transit and all modes
- New infrastructure costs per unit or employee
- Agricultural land lost, and agricultural production
- Person capacity by transportation corridor
- Peak period person throughput by transportation corridor
- Peak period average vehicle, transit vehicle, and person speed by transportation corridor

Quality of Life

- Household accessibility to grocery stores, schools, rapid transit, daycare, parks, and other key services
- Jobs accessible within 30 minutes by transit and all modes
- Percent tree canopy
- Transportation injuries and fatalities, total and by exposure rate
- Transportation personal and personal property crimes, total and by exposure rate
- Active transportation usage
- Obesity and cardiovascular disease rates

Environment

- Greenhouse gas emissions per capita and per employee
- VMT per capita and per employee
- Non-permeable surface per capita
- Potable water use per capita
- NO_x, SO_x, CO and particulate exposure per capita

Social Equity

- Density of communities of concern, particularly race, income, and age
- Most of the above data factors, parsed by communities of concern demographics. To what degree, for example, do communities of concern have access to jobs and services, or face added pollution burdens?
- Housing plus transportation costs, particularly for households in bottom quintile income

How does the applicability of any set of metrics vary by the size of the area or specific project under consideration?

In order to avoid having developers simply shrink their projects to avoid paying their fair share, we prefer metrics that treat all projects the same, regardless of size. This means focusing on per capita or per employee metrics that render project size irrelevant.

That said, larger projects should face greater scrutiny since their potential impacts are greater, and very small projects may have significantly less or no analytical burden, since it is inappropriate to require a massive data analysis exercise for a small project.

How exactly does urban design influence VMT on a project level?

The relationship between travel behavior and built form is well documented, and many sketch planning tools are now available to estimate VMT according to baseline site characteristics (density, distance to transit, destination accessibility, street pattern design, mix of uses, etc.), and adjust based upon the specifics of the project (parking supply and management, Transportation Demand Management, etc.). For a summary of the sketch planning tools California recommends for calculating VMT, see Appendix F at https://www.opr.ca.gov/docs/Final_Preliminary_Discussion_Draft_of_Updates_Implementing_SB_743_080614.pdf. For more detail on California's efforts generally, see https://www.opr.ca.gov/s_sb743.php.

It would be possible to create a heatmap of the entirety of Montgomery County showing baseline VMT generation down to the parcel level.

For more detail, see the Victoria Transport Policy Institute's meta-analysis at http://www.vtpi.org/landtravel.pdf.

ISSUES

The current Subdivision Staging Policy, while creating a mechanism to allow development to pay for the infrastructure it uses, does not fully reflect the county's goals to promote active

transportation and transit, nor to focus development in town centers. The current policy penalizes the "last one in" for new development, as projects that can reduce car trips may be blocked if roads in the policy area is deemed "inadequate." Development just outside congested areas is unintentionally rewarded, and development in urban cores is discouraged, even if the former results in significantly greater VMT. It also encourages road widening and reduced density as mitigation strategies, which only results in more vehicle traffic while discouraging active transportation.

Below is a list of recommendations that can be used to make the Subdivision Staging Policy a closer fit to the county's stated policy goals while allowing growth to occur where and how the county wants it to.

RECOMMENDATIONS

- The metrics used to measure transportation performance should reflect the county's planning goals: to direct new development to established communities and town centers; to preserve parkland and agricultural areas; to provide options for transportation other than driving. Level of Service and Critical Lane Volume assume that personal vehicles alone are the only transportation mode that matters and that streets should serve. These metrics should be eliminated or downplayed.
- Use Transportation Demand Management as a development incentive. The new CR Zone allows increased density for mixed-use development if the project participates in a Trip Mitigation Agreement, provides less than the maximum number of parking spaces, shares parking, or improves pedestrian or transit access. Additional incentives should be provided for, unbundled and priced parking, and other key TDM incentives.
- Develop a strong parking management program to ensure adequate availability in commercial districts at all time, and protect existing low density neighborhoods from real or perceived spillover parking. Such programs will eliminate parking search traffic, and make it easier to avoid over-supplying parking.
- Eliminate minimum parking requirements county-wide, and ensure existing parking maximums are set at a rate that balances the development market against traffic management goals. Facilitate parking management districts in commercial areas.
- Require the unbundling of the price of parking from residential and commercial leases, allowing tenants to rent as little or as much parking as they like. Currently, unbundling of parking from residential multi-family development provides a reduction in the amount of required parking; however, it is not a requirement.
- Eliminate indirect subsidies for parking, and have the cost of parking borne by motorists, not society at large. In new development, consider a $1 per hour/$5 per day price floor for parking, either directly paid or through parking cash-out.
- Use vehicle miles traveled (VMT) as a measure of congestion and person hours of travel (PHT) as a measure of travel time. Measure VMT on a per capita basis for residential development, per employee for employment, and on a net total basis for retail and services. These measures reflect the county's goal to reduce congestion from personal vehicles while also reducing time spent in transit.
- Recognizing that the county can never eliminate traffic congestion except through congestion pricing or economic collapse, the county should develop policies to locate congestion in places with the least negative impact on economic development

opportunities, neighborhood quality of life, and social justice. San Francisco, for example, intentionally locates its highway capacity bottleneck in the center of its downtown, in order to favor trips with a downtown destination, and disfavor trips cutting through downtown. Santa Monica locates its bottlenecks at the first signalized intersection at its freeway on- and off-ramps, in order to minimize traffic backing up into its neighborhoods.

- Impact fees should fully reflect the public cost of development. New suburban development requires totally new transportation infrastructure while burdening the transportation system in established communities. Currently, impact fees for urban areas are half the cost in suburban and rural areas, while the actual costs are significantly less than half. Impact fees should reflect the actual cost of development in suburban and rural areas, including new roads, utility lines, and public facilities like schools.
- The transportation basis of impact fees should focus on VMT, so the length of vehicle trips is factored in. Fee discounts should be given based upon TDM and other programs that reduce VMT, such as reduced parking.
- Transportation fee revenue should be used not to accommodate more auto trips, but rather to solve the congestion problem through VMT reduction.
- The county should transition away from using density controls like Floor Area Ratio as a proxy for community character or traffic generation. Rather, community character should be regulated through design controls. Similarly, traffic generation should be regulated directly through caps on VMT generation. Existing property owners should be rewarded for trip reduction efforts through additional development entitlement. The county should not only consider parcel-based VMT caps, but also a VMT cap-and-trade program that would allow property owners to get entitlement credit for off-site vehicle trip reduction. Such programs require ongoing mitigation monitoring programs and strong enforcement tools to ensure ongoing compliance. For more detail, see, for example, the Stanford University General Use Permit, or the Mountain View, California, North Bayshore Precise Plan.