




MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION


MCPB
Item #4
6/16/11

MEMORANDUM

DATE: June 9, 2011

TO: Montgomery County Planning Board

VIA: Mary Dolan, Acting Chief Functional Planning 

FROM: Catherine Conlon, Supervisor (301-495-4542) 
Development Applications and Regulatory Coordination

RE: Request for changes to previously approved language for the Application of the Provisional Adequate Public Facilities Review

RECOMMENDATION: Retain the existing approved language to modify the LATR/PAMR Guidelines to permit application of Provisional Adequate Public Facilities (PAPF) to an *accelerated public infrastructure through private investment*.

BACKGROUND

In February of this year, staff presented a proposal to the Planning Board for modification of the LATR/PAMR Guidelines to permit application of Provisional Adequate Public Facilities (PAPF) approval to a project that facilitates accelerated public infrastructure through private investment (see Attached 2/10/11 Staff Report, Attachment B). After discussion of the issue and staff's recommendations, the Planning Board decided to approve the proposal with some modifications to the language that had been proposed by staff. The approved changes (underlined text) were as follows:

On the Page 6 Introduction to the Guidelines:

A. Background

County Code Section 50-35(k) (the Adequate Public Facilities Ordinance or APFO) directs the Montgomery County Planning Board to approve preliminary plans of

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subdivision or other approvals that require a finding of Adequate Public Facilities (APF) only after finding that public facilities will be adequate to serve the subdivision. This involves forecasting future travel demand from private development and comparing it to the capacity of existing and programmed public transportation facilities.

In accordance with the *FY 2009-2011 Growth Policy* adopted by the County Council on November 10, 2009, subdivision applications are subject to two transportation tests called Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR).

B. Policy Areas

The County is divided into traffic zones, which are grouped into policy areas (Map 1). The congestion standards for both LATR and the mitigation requirements for PAMR are established by the County Council, adopted in these Guidelines, and applied to policy areas.

C. Local Area Transportation Review and Policy Area Mobility Review Standards

The *Local Area Transportation Review and Policy Area Mobility Review Guidelines* are to be used by applicants in preparing reports to the Planning Board that determine the requirement for and the scope of a traffic study or review prepared by an applicant for APF review and mandatory referral cases brought before the Planning Board.

The Guidelines are also recognized as the standard for reports to the Board of Appeals and the Hearing Examiner for special exception and zoning cases.

The Guidelines may also apply to building permit review for cases requiring an APF finding without subdivision, though in limited cases (less than 12 months vacancy, no increase in square footage, fewer than 30 peak hour trips) the APF test may be approved administratively by staff.

The Guidelines also apply to Provisional Adequate Public Facilities (PAPF) applications associated with Development Districts as described in Appendix G. The Planning Board may consider the use of the PAPF process for an individual property, in the absence of a Development District, in the event that it would accelerate public infrastructure through private investment.

In Appendix G. Provisional Adequate Public Facilities Finding

Section TP4 of the Subdivision Staging Policy provides guidance on Provisional Adequate Public Facilities (PAPF) applications for Development District Participation, as specified in Chapter 14 of the Montgomery County Code. Section TP4 is designed to facilitate:

- Acceptance of transportation APF mitigation through public / private partnerships, and

- Identification and conditioning of APF mitigation requirements in advance of the submission of a preliminary plan that would trigger APF requirements under Section 50-35(k).

The PAPF process described in Section TP4 includes details on the administration of the application for development districts. For development districts, the APF of those developments included in the development district is satisfied once all required infrastructure improvements have been fully financed.

The Planning Board may choose to accept a PAPF application without a development district, in the event that an applicant proposes *accelerated public infrastructure through private investment*. The *accelerated public infrastructure investment* may be for any or all of the types of facilities identified Section TP4.

The Planning Board review of a PAPF for an *accelerated public infrastructure through private investment* must make the additional findings:

- The APF validity period begins at the time that the Planning Board approves the PAPF.
- The duration of the APF validity period should consider the proposed project schedule, and may be at or near the maximum length allowed by County law, reflecting the fact that the APF validity period may begin substantially in advance of subdivision approval.
- The process (financing or construction) and timing of all infrastructure delivery represents a significant acceleration in schedule and that commitments to that schedule can be provided in the form of a condition of PAPF approval, an adopted CIP project, or other memorandum of understanding.
- That the value of the public infrastructure, based on the difference between the construction cost required for access improvements under subdivision regulations and the extent of financing improvements through the PAPF process, provides a timely private investment in public infrastructure.
- No reimbursement for the private investment will occur beyond that otherwise already provided for in the law.

DISCUSSION OF THE CURRENT REQUEST

The representatives for Symmetry at Cloverleaf, LLC, the individuals who originally approached staff with the proposal to use PAPF in the approved manner, were given the opportunity to review the final language presented above. They believe it reflects the changes sought by the Board as part of their approval, but now they are requesting Board consideration of a new change to the first bullet of the new language in Appendix G. The requested language is as follows:

- The APF validity period begins at the time that the Planning Board approves the PAPF; or at such other time as the conditions of approval state based upon the individual facts of the subject application.

Based on staff's discussion with the Symmetry representatives, they want the additional language because they want the opportunity to request a delayed start to an APF validity period as a means of extending the overall validity period to account for circumstances beyond the control of an applicant which might delay or prevent the delivery of conditioned public infrastructure improvements. For the Symmetry project, such a delay could be caused by the County's need to go through condemnation proceedings

In staff's opinion, the requested change is not necessary because the existing language in the Subdivision Regulations (Chapter 50 of the Montgomery County Code) already provides sufficient opportunities for an applicant to request Planning Board extension of APF validity periods (see Attachment A). The Board has authority to review such requests on a case by case basis. The grounds for extensions include project delays that may result from government imposed moratorium, or other government action that results in a similar effect. In addition, the Board is authorized to grant the maximum 12 year validity period if it is justified by the circumstances of a particular project. The existing provisions provide sufficient flexibility for Board establishment and extension of validity periods to address the concerns of the future Symmetry applicant. For these reasons, staff recommends retaining the previously approved language for modification of the LATR/PAMR Guidelines.

Sec. 50-20. Limits on issuance of building permits.

- (a) The Department of Permitting Services must not approve a building permit for the construction of a dwelling or other structure, except a dwelling or structure on a farm strictly for agricultural use, unless the dwelling or structure would be located on a lot or parcel of land which is shown on a plat recorded in the County plat books, and which has access as prescribed in Section 50-29(a)(2). However, the Department may issue a building permit for:
 - (1) A parcel covered by an exception specified in Section 50-9;
 - (2) A parcel covered by a valid site plan approved after October 8, 1981, under Division 59-D-3, on which construction had begun by October 8, 1985, or on the medical center; or
 - (3) A parcel covered by a special exception approved under Division 59-G-1, which was being implemented as of October 8, 1985.
- (b) A building permit must not be approved for the construction of a dwelling or other structure, except a dwelling or structure strictly for agricultural use, which is located on more than one lot, which crosses a lot line, which is located on the unplatted remainder of a resubdivided lot, or which is located on an outlot, except a building permit:
 - (1) applied for on or before February 1, 1985;
 - (2) approved after February 1, 1985, for development that crosses a lot line where a wall is located on, but not over, the lot line and there are projections for the roof, eaves, and foundation footings which project not more than 2 feet across the vertical plane of the lot line; and projections for sills, leaders, belt courses and similar ornamental features which project not more than 6 inches across the vertical plane of the lot line;
 - (3) for an aboveground or underground public facility or amenity that crosses the vertical plane of any lot line, as projected below grade, if shown on a CBD Zone Project Plan for optional method development, approved in accordance with the procedures of Division 59-D-2; or if shown on a Development Plan approved in accordance with the procedures of Division 59-D-1;
 - (4) for an underground parking facility that crosses the vertical plane of any lot line, as projected below grade, or extends into a public right-of-way if that extension is approved by the appropriate public agency;

- (5) for the reconstruction of a one-family dwelling that is located on part of a previously platted lot, recorded by deed before June 1, 1958, if the dwelling is destroyed or seriously damaged by fire, flood or other natural disaster or;
 - (6) for an addition to an existing one-family dwelling, a porch, deck, fence or accessory structures associated with an existing one-family dwelling located on part of a previously platted lot, recorded by deed before June 1, 1958.
- (c)
- (1) Words and phrases used in this subsection have the meanings indicated in Section 8-30.
 - (2) Except as provided in this subsection and Article IV of Chapter 8, the Department of Permitting Services may issue a building permit only if the Planning Board has made a timely determination of the adequacy of public facilities to serve the proposed development under this Chapter. However, the Department may issue a building permit for any proposed development that is:
 - (A) exclusively residential on a lot or parcel recorded before July 25, 1989, or otherwise recorded in conformance with a preliminary plan of subdivision approved before that date; or
 - (B) otherwise exempt from the requirement for determining adequacy of public facilities before a preliminary plan of subdivision is approved.
 - (3) (A) A determination of adequate public facilities made under this Chapter is timely and remains valid:
 - (i) for 12 years after the preliminary plan is approved for any plan approved on or after July 25, 1989, but before October 19, 1999;
 - (ii) for no less than 5 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after October 19, 1999, but before August 1, 2007;
 - (iii) for no less than 7 and no more than 12 years after the preliminary plan is approved, as determined by the Planning Board at the time of approval, for any plan approved on or after April 1, 2009, but before April 1, 2013; and

(iv) for no less than 5 and no more than 10 years after the preliminary plan is approved, as determined by the Board at the time of approval, for any plan approved on or after August 1, 2007, and before April 1, 2009, or on or after April 1, 2013.

(B) If an applicant requests a validity period that is longer than the minimum specified in this paragraph, the applicant must submit a development schedule or phasing plan for completion of the project to the Board for its approval. At a minimum, the proposed development schedule or phasing plan must show the minimum percentage of the project that the applicant expects to complete in the first 5 or 7 years, as appropriate, after the preliminary plan is approved. To allow a validity period longer than the minimum specified in this paragraph, the Board must find that the extended validity period would promote the public interest. The Board may condition a validity period longer than the minimum specified in this paragraph on adherence to the proposed development schedule or phasing plan, and may impose other transportation improvement or mitigation conditions if those conditions are needed to assure adequate levels of transportation service during the validity period.

(3A) A determination of adequate public facilities made under this Chapter is timely and remains valid:

(i) For 10 years after the date of the conveyance of land to the County, or possession of building space by the county for an arts or entertainment use, under a preliminary plan for an optional method of development project approved under Section 59-C-6.2356.

(ii) The Board must grant an application to extend the validity period established under this paragraph for an additional 5 years if:

a. at least 20% of the approved development, excluding the arts or entertainment use, either separately or in combination:

1. has been built;
2. is under construction;
3. is subject to building permits that have been issued;

- 4. is subject to a valid lease; or
 - 5. has had a site plan approved under Section 59-D-3; or
 - b. at any time during the 24 months before the application for extension being filed, the vacancy rate for class A office buildings in the Central Building District in which the project is located reaches 10% for direct and sublet space combined, as measured by CoStar or a similar commercial Multiple Listings Service benchmark; or
 - c. the applicant makes a binding commitment to the County to make a contribution, as compensation for potential loss of property tax revenues, an amount equal to \$2 for each square foot of approved taxable improvements and thereafter makes the contribution within 6 months of final approval of the extension.
- (iii) The validity period is extended for the duration of any government imposed moratorium, or other government action resulting in a similar effect, that would prevent the applicant from:
- a. completing the regulatory approvals necessary for obtaining a building permit; or
 - b. obtaining a building permit.
- (iv) If the applicant proposes to change a use in a project that is approved under Section 59-C-6.2356 and the new use would have the same or lesser impact as the original determination of adequate public facilities, the adequate public facilities approval for the project remains valid.
- (4) The Planning Board may extend a determination of adequate public facilities for an exclusively residential subdivision beyond the otherwise applicable validity period if the Department has issued building permits for at least 50 percent of the entire subdivision before the application for extension is filed. The Board may approve one or more extensions if the aggregate length of all extensions for the development does not exceed:

- (A) for a preliminary plan approved before April 1, 2009, or on or after April 1, 2013:
 - (i) 2 - years for a subdivision with an original validity period of 5 years; or
 - (ii) 6 years for a subdivision with an original validity period longer than 5 years; and
- (B) for a preliminary plan approved on or after April 1, 2009, and before April 1, 2013:
 - (i) 2 - years for a subdivision with an original validity period of 7 years; or
 - (ii) 6 years for a subdivision with an original validity period longer than 7 years.
- (5) The Planning Board may extend a determination of adequate public facilities for a preliminary plan of subdivision for nonresidential development beyond the otherwise applicable validity period if:
 - (A) at least 40% of the approved development has been built, is under construction, or building permits have been issued, such that the cumulative amount of development will meet or exceed 40%;
 - (B) all of the infrastructure required by the conditions of the original preliminary plan approval has been constructed, or payments for its construction have been made; and
 - (C) the development is an active project, meaning that either occupancy permits have been issued or a final building permit inspection has been passed for at least 10 percent of the project within the 4 years before an extension request is filed, or occupancy permits have been issued for at least 5 percent of the project within the 4 years before an extension request is filed if 60 percent of the project has been built or is under construction. If occupancy permits are not typically issued for the type of development for which an extension is requested, a part of the development can be treated as complete when its final inspection has been approved. The Board may treat a building as complete even if occupancy permits have been issued for only part the building.

- (6) For any development that consists of more than one preliminary plan, the requirements in paragraph (5) apply to the combined project. A project consists of more than one preliminary plan if the properties covered by the preliminary plans of subdivision are contiguous and:
 - (A) were owned or controlled by the same applicant at the time of subdivision, and approved contemporaneously, or
 - (B) were owned or controlled by different applicants at the time of subdivision, but covered by a single approved comprehensive design plan.
- (7) For each extension of an adequate public facilities determination;
 - (A) the applicant must submit a new development schedule or phasing plan for completion of the project to the Board for approval;
 - (B) the applicant must not propose any additional development beyond the amount approved in the original determination;
 - (C) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;
 - (D) the applicant must file an application for an extension with the Board before the applicable validity period has expired; and
 - (E) the Board may require the applicant to submit a traffic study to help the Board decide if the extension would promote the public interest.
- (8) The length of any extension of the validity period, or all extensions taken together if more than one extension is allowed, under paragraph (5) must be based on the approved new development schedule under paragraph 7(A), but must not exceed 2 . years for any development with less than 150,000 square feet, or 6 years for any development with 150,000 square feet or greater. The extension expires if the development is not proceeding in accordance with the phasing plan unless the Board has approved a revision to the schedule or phasing plan.
- (9) The Planning Board may approve one or more additional extensions of a determination of adequate public facilities, up to the time period allowed under paragraph (8), beyond any extension allowed under paragraph (5), if:

- (A) no more than 30% remains to be built of either the entire approved development or the share of the development to be built by that applicant; or
 - (B) the applicant will commit to reduce the amount of unbuilt development by at least 10%, and the validity period for the amount to be reduced will expire as scheduled.
- (10) The Planning Board may extend a determination of adequate public facilities once for up to 12 more years beyond the otherwise applicable validity period if the Board finds that:
 - (A) the preliminary subdivision plan for the development required a significant commitment of funds by the applicant, amounting to at least \$2,500,000, to comply with specified infrastructure conditions;
 - (B) the applicant has met or exceeded the required infrastructure conditions during the original validity period; and
 - (C) the applicant's satisfaction of the required infrastructure conditions provides a significant and necessary public benefit to the County by implementing infrastructure goals of an applicable master or sector plan.
- (11) The Board may approve an amendment to the new development schedule approved under paragraph 7(A) if the applicant shows that financing has been secured for either:
 - (A) completion of at least one new building in the next stage of the amended development schedule; or
 - (B) completion of infrastructure required to serve the next stage of the amended development schedule.
- (12) The validity period of a finding of adequate public facilities is not automatically extended under any circumstance, including when an applicant has completed all conditions imposed by the Planning Board at the time of preliminary plan approval to meet adequate public facilities requirements.
- (13) If a new adequate public facilities determination is required under this subsection, the procedures in section 8-32 apply.



MONTGOMERY COUNTY PLANNING DEPARTMENT
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

MCPB
Item #4
1/27/11

MEMORANDUM

DATE: January 18, 2011

TO: Montgomery County Planning Board

VIA: Rose Krasnow, Chief *RK*
Area 1
Dan Hardy, Chief *DKH*
Functional Planning

FROM: Catherine Conlon, Supervisor (301-495-4542) *CC*
Development Applications and Regulatory Coordination

RE: Policy Discussion: Change in Application of the Provisional Adequate Public Facilities Review



RECOMMENDATION: Modify the LATR/PAMR Guidelines to permit application of Provisional Adequate Public Facilities (PAPF) to an *accelerated public infrastructure through private investment*.

BACKGROUND

Early last year, staff was approached by the representatives for Symmetry at Cloverleaf, LLC ("Symmetry" or "Property Owner") the property owner of a tract of land in the northwest quadrant of the intersection of Interstate 270 (I-270) and Father Hurley Boulevard in Germantown ("Property"). The property consists of approximately 24 acres and is part of the Cloverleaf Center assemblage previously owned by Creamore Germantown Associates. Two preliminary plans were approved for the Cloverleaf Center; Preliminary Plan 119881560 by Opinion dated July 23, 1996, and after that plan expired, Preliminary Plan 120020950 by Opinion dated August 14, 2002.

Symmetry purchased the Property from Creamore Germantown Associates in 2001 and assumed the obligation to design and participate in the construction of the Century Boulevard Extension. Although the preliminary plan has now expired, Symmetry intends to satisfy its commitment to the road construction. The original concept was for Symmetry to construct two lanes from Century Boulevard's current north terminus located south of Father Hurley Boulevard, proceed under Father Hurley

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Boulevard to Kinster Drive, and then construct four lanes from Kinster Drive to the Boulevard's future connection with Dorsey Mill Road, with Montgomery County constructing the remaining two lanes. It was decided that it would be best to construct the entire road as a single project and an agreement has been reached between Symmetry and Montgomery County for the County to construct the road with Symmetry making a \$4,000,000 commitment toward its cost. Attachment A shows the CIP Project Description Form for this project. Before making this investment, Symmetry is asking for a Provisional Adequate Public Facilities (PAPF) approval that will run in favor of its future Cloverleaf project so that the Property vests its rights to APF credits for the public infrastructure improvements it will be financing before having final development approvals for the site.

The issue before the Planning Board at this time is whether the Board deems it appropriate to modify the LATR/PAMR Guidelines to permit application of PAPF to an *accelerated public infrastructure through private investment*. If it does, Staff will bring Symmetry's application for its PAPF to the Board for action in accordance with the revised Guidelines at a future hearing.

DISCUSSION

Although the Provisional Adequate Public Facilities (PAPF) process in the Growth Policy is currently limited to projects within development districts, staff recommends that the PAPF process be found applicable for development projects such as Symmetry at Cloverleaf without the requirement that they be within a development district. This is an application of the PAPF process that has not previously been used, but staff believes that it is appropriate for limited purposes in order to accelerate private sector investment in public projects, particularly given the current economic climate for CIP funding. In fact, both the Planning Board and County Council have supported such an economic development approach in the CR Zone which provides incentive density for advanced dedication of right-of-way.

The *LATR and PAMR Guidelines* provide the Planning Board's guidance for the preparation and review of transportation impact studies for development. These guidelines provide additional direction on implementing the growth management tools of the County Code and the Subdivision Staging Policy. Currently, the Provisional APF (PAPF) procedure is not addressed separately in the *LATR and PAMR Guidelines* because:

- The Provisional APF process applies to all elements of the APFO, not just transportation elements
- The fact that the transportation test is for a Provisional APF rather than a full APF finding does not affect the administrative or technical aspects of the LATR and PAMR processes such as the trip generation or distribution rates, the number of

intersections to be studied, the elements to be included in the traffic studies, or the mitigation requirements

- The Planning Board has not sought to exercise any application of the PAPF that could be considered by some stakeholders as not entirely consistent with the Subdivision Staging Policy

The staff proposal to apply the PAPF process to facilitate an *accelerated public infrastructure through private investment* only changes the third bullet above. However, it also creates the need to introduce contextual language into the Guidelines that addresses PAPF, both for the development district application detailed in the Subdivision Staging Policy as well as for the accelerated public infrastructure through private investment application proposed by staff. The *LATR and PAMR Guidelines* contain several appendices that address unusual circumstances in applying the Subdivision Staging Policy, including Appendix E delegating certain Planning Board responsibilities to staff for APF findings that occur at building permit and Appendix F describing the Special Mitigation Standards for smart growth development introduced in the 2009-2011 Growth Policy

Staff proposes that the PAPF process (whether for a *development district* or for an *accelerated public infrastructure through private investment*) be described in a new Appendix G to the Guidelines and referenced in the Introduction on Page 6 as shown in the following Exhibits.

Exhibit 1

Page 6 Introduction:

A. Background

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 or other approvals that require a finding of Adequate Public Facilities (APF) only after finding that public facilities will be adequate to serve the subdivision. This involves forecasting future travel demand from private development and comparing it to the capacity of existing and programmed public transportation facilities.

In accordance with the *FY 2009-2011 Growth Policy* adopted by the County Council on November 10, 2009, subdivision applications are subject to two transportation tests called Local Area Transportation Review (LATR) and Policy Area Mobility Review (PAMR).

B. Policy Areas

The County is divided into traffic zones, which are grouped into policy areas (Map 1). The congestion standards for both LATR and the mitigation requirements for PAMR are established by the County Council, adopted in these Guidelines, and applied to policy areas.

C. Local Area Transportation Review and Policy Area Mobility Review Standards

The *Local Area Transportation Review and Policy Area Mobility Review Guidelines* are to be used by applicants in preparing reports to the Planning Board that determine the requirement for and the scope of a traffic study or review prepared by an applicant for APF review and mandatory referral cases brought before the Planning Board.

The Guidelines are also recognized as the standard for reports to the Board of Appeals and the Hearing Examiner for special exception and zoning cases.

The Guidelines may also apply to building permit review for cases requiring an APF finding without subdivision, though in limited cases (less than 12 months vacancy, no increase in square footage, fewer than 30 peak hour trips) the APF test may be approved administratively by staff.

The Guidelines also apply to Provisional Adequate Public Facilities (PAPF) applications associated with Development Districts as described in Appendix G. The Planning Board may consider the use of the PAPF process for an individual property, in the absence of a Development District, in the event that it would accelerate public infrastructure through private investment.

Exhibit 2

Appendix G. Provisional Adequate Public Facilities Finding

Section TP4 of the Subdivision Staging Policy provides guidance on Provisional Adequate Public Facilities (PAPF) applications for Development District Participation, as specified in Chapter 14 of the Montgomery County Code. Section TP4 is designed to facilitate:

- Acceptance of transportation APF mitigation through public / private partnerships, and
- Identification and conditioning of APF mitigation requirements in advance of the submission of a preliminary plan that would trigger APF requirements under Section 50-35(k).

The PAPF process described in Section TP4 includes details on the administration of the application for development districts. For development districts, the APF of those developments included in the development district is satisfied once all required infrastructure improvements have been fully financed.

The Planning Board may choose to accept a PAPF application without a development district, in the event that an applicant proposes *accelerated public infrastructure through private investment*. The *accelerated public infrastructure investment* may be for any or all of the types of facilities identified Section TP4.

The Planning Board review of a PAPF for an *accelerated public infrastructure through private investment* must make the additional findings:

- The APF validity period begins at the time that the Planning Board approves the PAPF.
- The duration of the APF validity period should consider the proposed project schedule, and may be at or near the maximum length allowed by County law, reflecting the fact that the APF validity period may begin substantially in advance of subdivision approval.
- The process (financing or construction) and timing of all infrastructure delivery
- That the value of the public infrastructure, based on the difference between the construction cost required for access improvements under subdivision regulations and the extent of financing improvements through the PAPF process, provides a timely private investment in public infrastructure.
- The Applicant has no expectation of reimbursement for its private investment.

Century Boulevard -- No. 501115

Category
Subcategory
Administering Agency
Planning Area

Transportation
Roads
Transportation
Germantown

Date Last Modified
Required Adequate Public Facility
Relocation Impact
Status

January 07, 2011
No
None:
Final Design Stage

EXPENDITURE SCHEDULE (\$000)

Cost Element	Total	Thru FY10	Rem. FY10	Total 6 Years	FY11	FY12	FY13	FY14	FY15	FY16	Beyond 6 Years
Planning, Design, and Supervision	1,013	0	0	1,013	181	100	569	163	0	0	0
Land	837	0	0	837	837	0	0	0	0	0	0
Site Improvements and Utilities	530	0	0	530	40	0	490	0	0	0	0
Construction	10,932	0	0	10,932	0	1,979	5,966	2,987	0	0	0
Other	0	0	0	0	0	0	0	0	0	0	0
Total	13,312	0	0	13,312	1,058	2,079	7,025	3,150	0	0	0

FUNDING SCHEDULE (\$000)

Contributions	4,000	0	0	4,000	0	0	4,000	0	0	0	0
G.O. Bonds	9,312	0	0	9,312	1,058	2,079	3,025	3,150	0	0	0
Total	13,312	0	0	13,312	1,058	2,079	7,025	3,150	0	0	0

OPERATING BUDGET IMPACT (\$000)

Maintenance				42	0	0	0	14	14	14
Energy				42	0	0	0	14	14	14
Net Impact				84	0	0	0	28	28	28

DESCRIPTION

This project provides for the design, utilities and construction of a new four lane divided, closed section roadway from its current terminus south of Oxbridge Tract to its intersection with future Dorsey Mill Road a distance of approximately 2,565 feet. The project has been coordinated to accommodate the Corridor Cities Transitway within its right-of-way. The new road will be constructed below Father Hurley Boulevard at the existing bridge crossing. This project will also provide construction of a new arch culvert at the existing stream crossing with 5-foot concrete sidewalk along the east side and 8-foot bike way along west side of the road.

ESTIMATED SCHEDULE

The design phase is to be completed in the Spring of 2011 (FY11). Right-of-way is expected by the Spring of 2011(FY11). Construction to start in the Fall of 2011(FY12) and is expected to be completed within 24 months.

JUSTIFICATION

This project will provide a vital link in the Germantown area. The new roadway segment provides the necessary link to the future Dorsey Mill Road overpass over I-270, thus providing a connection to Clarksburg without using I-270. This link would create a connection between economic centers on the east and west side of I-270. The linkage to Dorsey Mill Road also establishes a roadway alternative to congested north-south roadways such as I-270 and MD355. In addition, The Corridor City Transitway (CCT) will operate within the right-of-way of Century Boulevard.

OTHER

This project was initially funded under County's Subdivision Road Participation Program and now is a stand alone project for FY11 fiscal year.

Special Capital Projects Legislation will be proposed by the County Executive.

FISCAL NOTE

Shift expenditures from FY12 to FY14 to reflect current implementation schedule.

Terms and conditions regarding Contributions from the developer will be specified within the MOU between the County and the developer. Developer land fronting this project will be dedicated.

OTHER DISCLOSURES

- A pedestrian impact analysis has been completed for this project.

APPROPRIATION AND
EXPENDITURE DATA

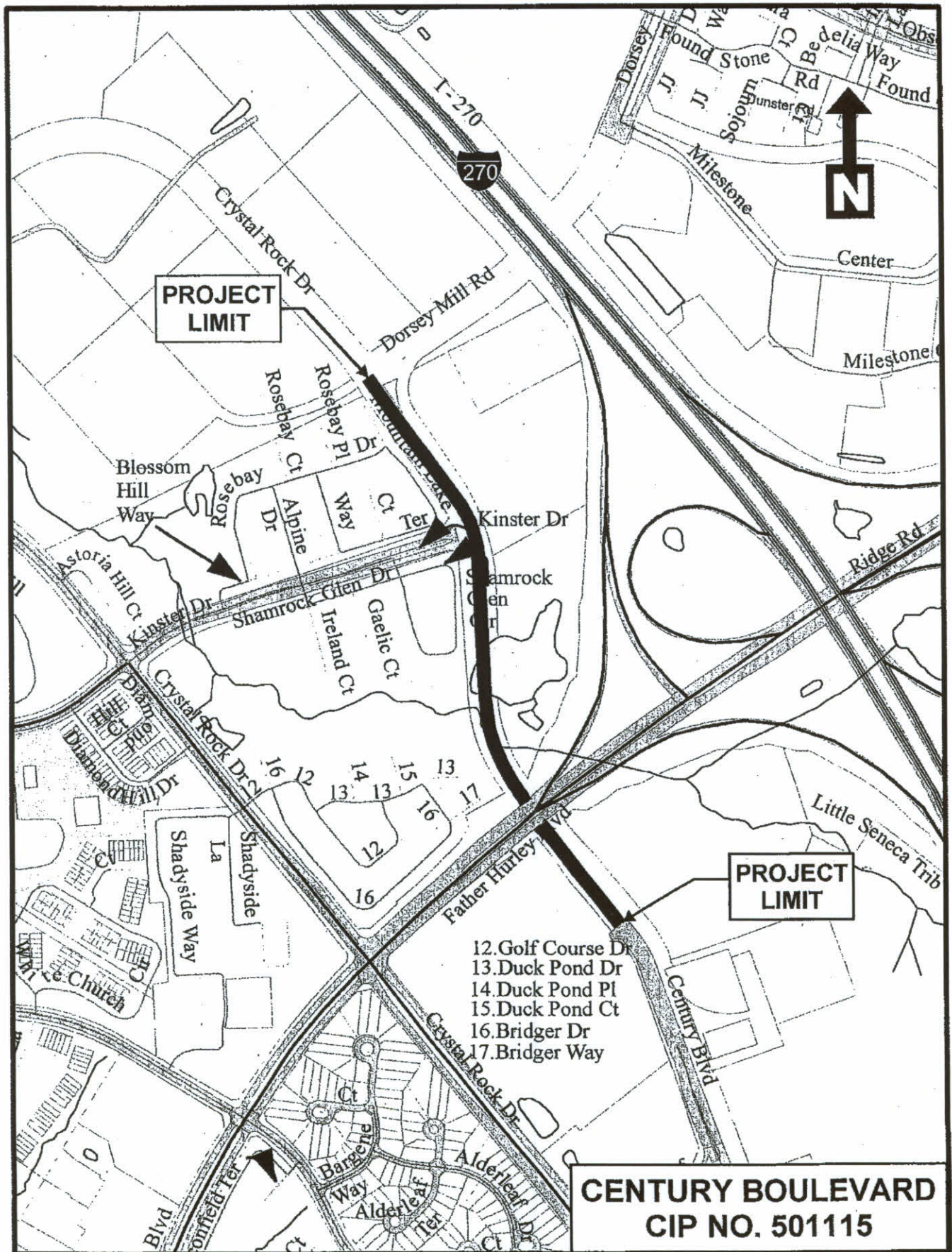
Date First Appropriation	FY11	(\$000)
First Cost Estimate		
Current Scope	FY11	13,312
Last FY's Cost Estimate		13,312
Appropriation Request	FY12	569
Supplemental Appropriation Request		0
Transfer		0
Cumulative Appropriation		12,743
Expenditures / Encumbrances		0
Unencumbered Balance		12,743
Partial Closeout Thru	FY09	0
New Partial Closeout	FY10	0
Total Partial Closeout		0

COORDINATION

Maryland Transit Authority (Corridor Cities Transitway)
Developers
Maryland State Highway Administration
Maryland Department of the Environment
Maryland-National Capital Park and Planning Commission
Department of Permitting Services
Washington Suburban Sanitary Commission
Allegheny Power
Washington Gas Light Company
Verizon
Annual Bikeway Program

MAP

See Map on Next Page



Both the subdivision plan and all necessary mitigation measures must be consistent with an adopted master plan or other relevant land use policy statement. For the Planning Board to accept a roadway capacity improvement as a mitigation measure, the applicant must show that alternative non-auto mitigation measures are not feasible or desirable. In evaluating mitigation measures proposed by an applicant, the Board must place a high priority on design excellence to create a safe, comfortable, and attractive public realm for all users, with particular focus on high-quality pedestrian and transit access to schools, libraries, recreation centers, and other neighborhood facilities.

TP3.1 Special Mitigation Standards

An applicant for a preliminary plan of subdivision located entirely in a Metro Station Policy Area or the Germantown Town Center Policy Area, or entirely in Kensington, White Oak, Rock Spring Park, or the North Bethesda Road Code Urban Area (as shown in maps 34-37), may satisfy the applicant's trip mitigation requirements under **TP Policy Area Mobility Review** if the proposed development would meet all of the following conditions:

- At least 50 percent of the floor area must be used for residences.
- The development must use at least 75 percent of the achievable on-site density allowed under Chapter 59, subject to any lower limit imposed in a Master or Sector Plan and applied under Chapter 59.
- The development must achieve a minimum energy cost savings percentage, using applicable LEED standards, of 17.5% for new construction and 10.5% for renovation, or offset at least 2.5% of its annual building energy costs on site, using applicable LEED standards.

If these requirements are met, the applicant must pay 75% of the trip mitigation payment otherwise required under TP3 to the County Department of Transportation, which must use at least 2/3 of the funds received under this paragraph for any transit system which serves the policy area where the development is located and must use the remaining 1/3 of the funds for any transportation purpose, including any transit system which serves the policy area where the development is located. As used in this paragraph, "transit system" means the transit systems of the Washington Metropolitan Area Transit Authority, Ride On, and the Maryland Transit Administration, and includes any infrastructure project that supports or improves the quality of transit, such as a park and ride lot served by transit, a passenger information system, a queue jumper, or traffic signalization which improves transit efficiency.

TP4 Development District Participation

Under Chapter 14 of the County Code, the County Council may create development districts 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 5 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 Growth Policy. 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 6 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 Growth Policy, 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 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 to the County equal to 50% of the applicable transportation impact tax before it receives any building permit in the subdivision.

In administering Local Area Transportation Review, the Planning Board must not approve a subdivision if it finds that an unacceptable peak hour level of service will result after considering 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 the applicant agrees to mitigate either:

- a sufficient number of trips to bring the intersection or link to acceptable levels of congestion, or
- a number of trips equal to 150 percent of the CLV impact attributable to the development.

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 considering all approved development and programmed transportation projects.