



Subdivision Staging Policy Worksession #3: Transportation Policy Area Review



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Completed: 07/19/12

Description

The Subdivision Staging Policy (formerly the Growth Policy) seeks to ensure timely delivery of public facilities (schools, transportation, water, sewer, and other infrastructure) to serve existing and future development. The Growth Policy Law (Article 3. Sec. 33A-15) requires that a Planning Board Draft be prepared and sent to the County Council by August 1, 2012.

The Subdivision Staging Policy (SSP) is established to regulate the relative timing of development and facilities. Approved and adopted community master and sector plans regulate the amount, pattern, location, and type of development in the county. The SSP tools promote smarter growth and assure that sufficient funds are available to serve areas where growth is approved.

The Public Hearing Draft Subdivision Staging Policy Staff Draft report was published on June 15, 2012 and posted on the Planning Department Web page. A public hearing was held on June 28, 2012 to receive testimony on the proposed policy. Since the new material on the TPAR cost allocation and proposed payments was posted in the Staff Report for the July 19, 2012 worksession, the Planning Department and MCDOT staff met with stakeholders to review the proposal and answer questions on July 17, 2012 and heard testimony on July 19, 2012. This memo supplements the Staff Report for the July 19, 2012 worksession.

Summary

Staff Recommendation: Discuss the 2012-2016 Subdivision Staging Policy elements dealing with Transportation Policy Area Review and the draft County Council resolution. Develop Planning Board consensus on the staff recommendations. Staff will ask for a straw vote on the issues so that a revised report and resolution can be prepared. Final Planning Board action will be taken on July 26, 2012.

This memo supplements information contained in the July 19, 2012 Staff Report and highlights a few additional issues. The Planning Board has heard public testimony on the new cost allocation and material and received a letter from Perry Berman (attached). This memo responds to the letter from Mr. Berman, however, since this memo is written prior to hearing the testimony on July 19, 2012, it does not contain written responses to that testimony. Staff will respond at the worksession on July 23, 2012. The Board received a draft resolution in the July 19th staff report. That resolution is in the process of further revisions resulting from the discussions with the Planning Board and County staff. Staff will present a revised list of recommendations and a revised resolution on July 23, 2012. The final recommendations

and draft resolution will be brought back to the Board on July 26, 2012 for final action prior to transmitting the Planning Board Draft to the County Council and County Executive before August 1, 2012.

Remaining Issues

Impact Taxes

The July 19, 2012 staff report Attachment 1 on page 70, contained incorrect information indicating that the TPAR report is recommending eliminating the Transportation Impact Tax with a Minimum TPASR payment. Staff is not recommending eliminating the Transportation Impact Tax.

Existing Exemptions

Starting on page 20 of the draft resolution, there are a number of special situations that have been added as exemptions to the requirements over the years. Staff recommends removing these exemptions.

Two year review period for TPAR

Conditions for approved projects, estimated costs, the Bus Rapid Transit system, programming in the state and county budgets will change, as will adequacy based on growth projections and monitored congestion. In the past, the PAMR test was conducted annually and the PAMR percentages adjusted accordingly by the Planning Board. Staff recommends that if the TPAR methodology is adopted, it should be conducted every two years (the next time would be mid-year 2014) to adjust the payments and inform the Capital Improvement Program and Consolidated Transportation Program process. The results of the test would be reviewed and approved by the Planning Board.

Affordable Housing Allowance

Perry Berman of Berman Ventures has asked that the Planning Board consider a provision to promote affordable housing in the implementation of the Subdivision Staging Policy. His letter is attached and includes the following suggested language:

Any non-exempt for sale or rental dwelling units whose sale price is below \$350,000, at time of building occupancy permit, or 25% of current impact rates for houses over for dwellings selling for over \$350,000 but under \$400,000, or in sale price or \$XXXX/month in rental unit. All units seeking such exemption must be in development which meets the MPDU development standards. Residents of said units must provide an affidavit of residency or job location that states that the dwelling is occupied by a current Montgomery County resident or worker. Said exemptions should be only for a period of two years after the approval of a preliminary plan.

This issue has not yet been addressed by the Board or studied by the Planning staff as part of the 2012-2016 Subdivision Staging Policy. A similar provision was proposed in 2009 and removed by the County Council. The Staff recommends that MPDU's be exempted from the TPAR payment to help address this issue.

Monitoring program

The TPAR report includes and the Staff recommends that the Planning Board and the Montgomery County Department of Transportation develop and implement a Monitoring Program that would report on a periodic basis the implementation and adequacy of TPAR, and to suggest changes. The monitoring should include:

- (a) Development and Subdivision Permits Issued
- (b) Timely Implementation of Programmed Transportation Projects (Transit and Roads)
- (c) Reporting on collection of TPAR Payments by Policy Area
- (d) Adjustments, if any, to the cost of infrastructure construction and provision of transit service improvements.
- (e) Current Non-Auto Driver Mode Shares for Policy Areas where Council has approved specific goals.

Staff will discuss the optimal timing of this report with the Board on July 23, 2012.

Attachment

Letter received from Perry Berman, Berman Ventures

MD/EG/kr



July 11, 2012

Planning Board Chair Françoise Carrier
and Members of the Planning Board
8787 Georgia Ave.
Silver Spring, MD 20910

Re: July 12, 2012 Planning Board Worksession on Subdivision Staging Policy

Dear Chair Carrier and Members of the Montgomery Planning Board

The promotion of affordable housing must be an important component of the Subdivision Staging Policy. Unfortunately, this key policy issue is lost in the switch from a "Growth Policy" to the current Subdivision Staging Policy. There is no section of the current draft which addresses promoting affordable housing or the impact that the current fees have on the markets ability to create affordable housing.

Other land use categories have received special treatments in the old AGP such as:

- Corporate Headquarters,
- Metro station office and high end housing apartments,
- Senior housing,
- Estate homes in Potomac (do not have to pass APFO),
- A planned unit development in the Fairland-White Oak policy area that includes a golf course....
- Certain multi-phased projects, and
- De Minimis Developments

But a subdivision which is willing to create additional moderate income housing units receives no impact tax credit or APFO treatment. A 1,800 sq. ft. townhome in Damascus, Wheaton or White Oak pays the same Impact Fee as a 4,000 sq. ft. townhome in Bethesda or Potomac.

I represent properties in Damascus which have supported Bill 39- 11, Taxation Development Impact Tax – Exemptions. This bill, which is pending at the County Council,

would exempt the market-rate dwelling “rental” units in any development from impact fees. In order to get said exemption, a development project would have to consist of at least 25% affordable housing units which is double the current requirement.

Please add the following provision to the Subdivision Staging Policy to promote the building of more affordable housing throughout the county.

Any non-exempt for sale or rental dwelling units whose sale price is below \$350,000, at time of building occupancy permit, or 25% of current impact rates for houses over for dwells selling for over \$350,000 but under \$400,000, or in sale price or \$XXXX/month in rental unit. All units seeking such exemption must be in development which meets the MPDU development standards. Residents of said units must provide an affidavit of residency or job location that states that the dwelling is occupied by a current Montgomery County resident or worker. Said exemptions should be only for a period of two years after the approval of a preliminary plan.

The supply of affordable housing should not be forgotten as you work your way through subdivision staging draft.

Thank you

Perry Berman

Berman Ventures

CC: Mary Dolan