



June 10, 2004

Memorandum

To: Montgomery County Planning Board

From: Karl Moritz, Research & Technology Center, 301-495-1312 *KWM*

Re: FY2005 Growth Policy: Acceptance of School Test Results and Review of the Changes to the Growth Policy

The Montgomery County Council adopted the 2003-2005 Annual Growth Policy *Policy Element* in October 2003. This growth policy goes into effect July 1, 2004. Unlike previous AGPs, the new growth policy is not revisited by the County Council on an annual basis. The "ceiling element" process has been eliminated, so there is no longer a new set of transportation staging ceilings for the Planning Board to review and the Council to adopt for use in the next fiscal year.

However, there continues to be an annual component of the new growth policy: a review of the results of the school test. The school test determines if residential subdivisions in any school clusters should be subject to either a school facilities payment or a moratorium.

During this worksession with the Planning Board, staff will review the changes in the growth policy that will go into effect on July 1. Staff will also review with the Planning Board the results of the school test based on the FY2005-2010 Capital Improvements Program recently adopted by the County Council.

Acceptance of School Test Results

As in the past, the School Test analysis is prepared by Montgomery County Public Schools staff using the methodology adopted by the County Council. Park and Planning staff have reviewed the results of the MCPS analysis and we endorse the findings that there are no clusters where subdivisions should be subject to either the school facilities payment or to a moratorium.

The Planning Board has the official role of finding that school facilities are adequate for FY2005. However, the Planning Board must use the methodology adopted by the County Council to make that finding. Park and Planning staff recommend that

Planning Board accept the results of the school test as calculated by Montgomery County Public Schools staff, for FY2005. These findings are attached at circle 1.

Once accepted by the Planning Board, this table (along with the resolution adopted by the Council in October 2004) will constitute the growth policy for FY 2005.

Staff will review the new school test with the Planning Board at the worksession, and the test is also reviewed in the attached documents.

Review of Changes to the Growth Policy

Staff will provide a short presentation on the changes to the growth policy that will go into effect on July 1, as well as other growth policy-related issues and events. These include the impact tax changes that went into effect on March 1, and the "issues to be addressed" over the next year and in the next Policy Element.

Attachments

Attached to this memo are the following materials:

- A table showing the results of the MCPS staff analysis of the school test for FY2005,
- A summary of changes to the growth policy and impact taxes, and
- A copy of the AGP resolution adopted by the County Council in October.

Annual Growth Policy - Schools Test for FY 2005

Reflects County Council Adopted FY 2005 - 2010 Capital Improvements Program (CIP) and MCPS Enrollment Forecast

Elementary School Enrollment and Capacity

Cluster Area	Projected Sept. 2009 Enrollment	100% MCPS* Capacity With Adopted FY05-10 CIP	Capacity Remaining @ 100% MCPS capacity
B- CC	3,035	2,990	-45
Blair	4,008	4,188	180
Blake	2,418	2,406	-12
Churchill	2,546	2,544	-2
Damascus	3,911	4,345	434
Einstein	2,507	2,654	147
Gaithersburg	4,001	4,035	34
Walter Johnson	2,950	2,740	-210
Kennedy	2,385	2,283	-102
Magruder	2,973	3,010	37
R. Montgomery	2,310	2,330	20
Northwest	3,755	3,962	207
Northwood	2,635	2,861	226
Paint Branch	2,410	2,422	12
Poolesville	704	805	101
Quince Orchard	2,840	2,886	46
Rockville	2,412	2,455	43
Seneca Valley	3,082	2,972	-110
Sherwood	2,593	2,656	63
Springbrook	2,725	3,085	360
Watkins Mill	3,314	3,197	-117
Wheaton	2,531	2,457	-74
Whitman	2,196	2,179	-17
Wootton	3,198	3,113	-85

AGP Test

105% AGP** Capacity With Adopted FY05-10 CIP	AGP Test: Students Above or Below 105 % AGP Cap.	AGP Test Result - Capacity is:
3,293	258	Adequate
4,644	636	Adequate
2,618	200	Adequate
2,833	287	Adequate
4,690	779	Adequate
2,914	407	Adequate
4,473	472	Adequate
3,063	113	Adequate
2,497	112	Adequate
3,337	364	Adequate
2,490	180	Adequate
4,166	411	Adequate
2,996	361	Adequate
2,700	290	Adequate
857	153	Adequate
3,214	374	Adequate
3,073	661	Adequate
3,330	248	Adequate
2,804	211	Adequate
3,350	625	Adequate
3,414	100	Adequate
2,973	442	Adequate
2,413	217	Adequate
3,457	259	Adequate

Middle School Enrollment and Capacity

Cluster Area	Projected Sept. 2009 Enrollment	100% MCPS* Capacity With Adopted FY05-10 CIP	Capacity Remaining @ 100% MCPS capacity
B- CC *	986	1,049	63
Blair	2,122	2,427	305
Blake	1,206	1,375	169
Churchill	1,437	1,437	0
Damascus	1,729	1,684	-45
Einstein	1,116	1,522	406
Gaithersburg	1,687	1,874	187
Walter Johnson	1,626	1,805	179
Kennedy	1,127	1,398	271
Magruder	1,436	1,714	278
R. Montgomery *	980	1,044	64
Northwest	1,861	1,865	4
Northwood	1,087	1,477	390
Paint Branch	1,241	1,338	97
Poolesville *	331	500	169
Quince Orchard	1,435	1,794	359
Rockville*	1,037	1,030	-7
Seneca Valley	1,547	1,375	-172
Sherwood	1,274	1,577	303
Springbrook	1,142	1,248	106
Watkins Mill	1,617	1,739	122
Wheaton	972	1,466	494
Whitman *	1,225	1,300	75
Wootton	1,547	1,608	61

AGP Test

105% AGP** Capacity With Adopted FY05-10 CIP	AGP Test: Students Above or Below 105 % AGP Cap.	AGP Test Result - Capacity is:
1,181	195	Adequate
2,646	524	Adequate
1,559	353	Adequate
1,654	217	Adequate
1,890	161	Adequate
1,820	704	Adequate
2,292	605	Adequate
2,245	619	Adequate
1,583	456	Adequate
1,890	454	Adequate
1,229	249	Adequate
2,079	218	Adequate
1,772	685	Adequate
1,489	248	Adequate
544	213	Adequate
2,009	574	Adequate
1,205	168	Adequate
1,607	60	Adequate
1,701	427	Adequate
1,465	323	Adequate
2,174	557	Adequate
1,701	729	Adequate
1,394	169	Adequate
1,772	225	Adequate

High School Enrollment and Capacity

Cluster Area	Projected Sept. 2009 Enrollment	100% MCPS* Capacity With Adopted FY05-10 CIP	Capacity Remaining @ 100% MCPS capacity
B- CC	1,634	1,652	18
Blair	2,701	2,830	129
Blake	1,724	1,710	-14
Churchill	2,136	2,017	-119
Damascus	2,117	2,646	529
Einstein	1,552	1,488	-64
Gaithersburg	2,083	2,126	43
Walter Johnson	2,195	2,189	-6
Kennedy	1,604	1,728	124
Magruder	2,050	2,030	-20
R. Montgomery	1,849	1,980	131
Northwest	2,208	2,016	-192
Northwood	1,482	1,566	84
Paint Branch	1,732	1,593	-139
Poolesville	759	868	109
Quince Orchard	1,997	1,786	-211
Rockville	1,318	1,484	166
Seneca Valley	1,835	1,815	-20
Sherwood	2,033	1,982	-51
Springbrook	2,030	2,145	115
Watkins Mill	2,022	2,169	147
Wheaton	1,273	1,517	244
Whitman	2,039	1,913	-126
Wootton	2,339	2,081	-258

AGP Test

100% AGP** Capacity With Adopted FY05-10 CIP	AGP Test 1: Students Above or Below 100 % AGP Cap.	AGP Test 2: Space in Adjacent Cluster(s)?	AGP Test Result - Capacity is:
1,710	76		Adequate
2,993	292		Adequate
1,778	54		Adequate
2,115	-21	Richard Montgomery 244	Adequate
2,768	651		Adequate
1,733	181		Adequate
2,340	257		Adequate
2,363	168		Adequate
1,935	331		Adequate
2,115	65		Adequate
2,093	244		Adequate
2,070	-138	Seneca Valley 190	Adequate
1,688	206		Adequate
1,688	-44	Blake 54	Adequate
900	141		Adequate
1,980	-17	Gaithersburg 257	Adequate
1,688	370		Adequate
2,025	190		Adequate
2,093	60		Adequate
2,273	243		Adequate
2,363	341		Adequate
1,643	370		Adequate
2,025	-14	Walter Johnson 168	Adequate
2,183	-156	R. Montgomery 244	Adequate

The Annual Growth Policy schools test compares projected enrollment in 2009-10 to total capacity in 2009-10, including programmed additional capacity available by that year.

The AGP schools test uses 105% AGP Capacity for elementary and middle schools, and 100% AGP Capacity for high schools.

The AGP schools test is within cluster for elementary and middle schools, and at high school level capacity may be "borrowed" from adjacent clusters.

* MCPS program capacity based on rating of capacity for special programs as well as regular education program, (from the CIP.)

** AGP cluster capacity based on rating all K rooms at 22 (FDK will be in all schools by 2007), and all other elementary rooms for Grades 1-5 at 25:1. Secondary school capacity for Grades 6-12 rates all rooms at 22.5:1.

Enrollment projections by Montgomery County Public Schools, October 2003.

In cases where elementary or middle schools articulate to more than one high school, enrollments and capacities are allocated proportionately to clusters.

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**Summary of Actions Taken by the County Council
Related to the Annual Growth Policy (AGP) and Development Impact Taxes
(Updated June 7, 2004)**

I. Annual Growth Policy

1. The changes to the AGP noted in this section take effect July 1, 2004.
2. The Policy Area Transportation Review (PATR) Transportation Test is eliminated.
 - a. If a preliminary plan approved before July 1, 2004 is modified or withdrawn and replaced with a new application at the same location (or part of the same location) for approval or re-approval after July 1, 2004, the Planning Board must retain any transportation improvement required in the previously-approved plan.
 - b. Annual report on previous fiscal year's approval activity required. Report is from the Planning Board and is due September 15. Must be accompanied by a "prioritized list of road and intersection improvements based on current and projected congestion patterns and additional anticipated development." Must also address development trends that impact school enrollment.
3. The Local Area Transportation Review (LATR) Transportation Test is tightened.
 - a. Intersection congestion standards are tightened by 50 Critical Lane Volume (CLV) in all areas except Metro Station Policy Areas.
 - b. Projects that are fully funded in the first 4 years of the State or County capital improvements programs may be counted for capacity (instead of the first 5 years, as is the current practice).
 - c. Limited LATR applies to subdivisions generating 30-49 peak-hour vehicle trips. The Planning Board must either require the development to meet LATR requirements or, at the Board's discretion, allow the developer to pay a fee equal to 50% of the applicable impact tax.
 - d. The Planning Board has been given explicit authorization to require that larger subdivisions test more distant intersections.
 - e. The Planning Board has more latitude to reject proposed LATR improvements if the Board finds that the proposed improvements (such as additional turning lanes) are not desirable, will have a negative impact on pedestrians, etc. The Planning Board has explicit authorization to require trip mitigation instead of a physical improvement, even if the developer prefers to make a physical improvement.

- f. At the Planning Board's discretion, trip mitigation programs must be at least 12 years but no more than 15 years in duration.
 - g. Three more intersections are added to the list of intersections in the Potomac Policy Area that are subject to LATR.
4. The Alternative Review Procedures are modified.
- a. The Metro Station Areas procedure only applies to LATR now. The fee has changed (now based on impact tax). The Planning Board is no longer required to perform Comprehensive LATR in policy areas where the procedure is used.
 - b. The Special Ceiling Allocation for Affordable Housing is eliminated.
 - c. The Corporate Headquarters procedure was eliminated, except that Lockheed Martin remains eligible to use it for expansion of their headquarters, if needed.
 - d. The Strategic Economic Development Projects procedure is retained, but the fee is changed (now based on impact tax).
5. The Development Districts process is unchanged, except that PATR will no longer be a basis for requiring transportation improvements.
6. The School Test is tightened.
- a. The adequacy test (enrollment compared to capacity) is 100% at the high school level and 105% at the middle and elementary school levels. The test continues to look 5 years into the future.
 - b. There is no longer any "borrowing" at the elementary or middle school levels. At the high school level, capacity may be borrowed from one adjacent cluster if needed to meet the 100% standard.
 - c. If enrollment exceeds the standard, but is below 110%, the developer must make a "school facilities payment" to the County. The payment is \$12,500 per student, using the most recent student generation rates. Student generation varies by housing type.
 - d. If enrollment exceeds 110% of capacity at the elementary or middle school level, there is a moratorium on all new residential approvals except senior housing. The same is true at the high school level, except that the capacity borrowing provisions (see "b") apply.
 - e. The County Council adopted the FY 2005-2010 CIP in May. The result of this action is that, in FY 2005 no areas will go into moratorium, or be subject to the school facilities payment.

7. Certain issues are identified for further study.
 - a. The Planning Board was required to submit an AGP amendment to the County Council by February 1 on the topic of limiting "unmitigated" trips in Metro Station Policy Areas. This was done and awaits further action by the Council.
 - b. The Planning Board must review, and make recommendations to the County Council, on the time limits of a finding of adequate public facilities, including extension provisions. Staff plans to begin this study in July and bring recommendations to the Planning Board in September.
 - c. For the next AGP Policy Element, the Planning Board and relevant agencies must consider potential options for testing the adequacy of public safety facilities.
 - d. For the next AGP Policy Element, the Planning Board and relevant agencies must evaluate how Advance Transportation Management System improvements should be counted in LATR capacity calculations.
8. The Council amended the Growth Policy section of the County Code early in 2004.
 - a. The Ceiling Element of the AGP was eliminated.
 - b. The schedule for the biennial Policy Element was changed. In odd-numbered years starting in 2005, the schedule is as follows:

Staff Draft due by:	June 15
Planning Board recommendations due by:	August 1
Executive's recommendations due by:	September 15
Board of Education's recommendations due by:	October 1
WSSC's recommendations due by:	October 1
Council action due by:	November 15

II. Development Impact Taxes

1. The impact taxes went into effect for building permits applied for starting March 1, 2004.
2. The transportation impact tax structure is changed and its rates generally are raised.
 - a. There are three transportation impact tax areas: Metro Station Policy Areas, Clarksburg, and everywhere else (the 'General District').

- b. The new rates are shown in the attached table. Rates in Metro Station Policy Areas are half those in the General District. Rates in Clarksburg are 50% higher for residential development and 20% higher for commercial development than in the General District.
 - c. Affordable housing units are exempt from the tax. Formerly, all units in a development with a significant percentage of affordable units were exempt.
 - d. The rate for a productivity housing unit is half the otherwise applicable rate.
 - e. The tax does not apply in State-designated Enterprise Zones, of which there are currently two in Montgomery County: the Silver Spring and Wheaton Central Business Districts.
 - f. The new transportation impact tax is anticipated to raise about \$20 million annually. The revenue will be variable depending upon the residential and commercial construction activity, as well as the amount of impact tax credits drawn down in a given year.
 - g. The revenue collected in Clarksburg, Gaithersburg, and Rockville must be spent in the same area from which it is collected. Elsewhere, the revenue collected from a development should be spent on projects that serve the traffic generated by the development, if feasible.
 - h. There is a limited grandfather clause that is expected to allow four projects to pay the old rates: Fairfield development project in Germantown Town Center (residential portion), the Hecht's site in Friendship Heights, White Flint Place (non-residential portion), and the Air Rights Building project in Bethesda CBD.
3. The credit provisions have been tightened prospectively.
- a. A developer can receive a dollar-for-dollar credit against his impact tax for transportation capacity improvements. Until now, if a developer has spent more for a transportation improvement than the calculated impact tax, not only would there be no impact taxes paid, but the developer could apply the 'excess' credit against the impact tax on a future development for which the developer owns at least a 30% interest. New 'excess' credits will no longer be applicable, although existing excess credit may still be applied.
 - b. A developer can receive a credit against the applicable impact tax for capacity improvements to County roads, but not to State roads (unless, in Rockville or Gaithersburg, a Memorandum of Understanding between the City and County allows for a State road credit).

- c. Credits issued after March 1, 2004 expire after 6 years from the date of their issuance.
4. A new school impact tax on residential development is enacted.
- a. The base rates for single-family housing are \$8,000 for a detached unit and \$6,000 for an attached unit. For single-family units there is a surcharge of \$1 per square foot for each square foot of gross floor area above 4,500 square feet to a maximum of 8,500 square feet (gross floor area calculation includes basement). Therefore, the top rate for a single-family-detached unit is \$12,000 and the top rate for a single-family attached unit is \$10,000.
 - b. The rates for multi-family units are \$4,000 for a garden apartment (except 1-bedroom garden apartments) and \$1,600 for high-rise and 1-bedroom garden apartments.
 - c. The rate for senior housing units is zero.
 - d. Affordable housing units are exempt from the tax.
 - e. The rate for a productivity housing unit is half the otherwise applicable rate.
 - f. The school impact tax does not apply in State-designated Enterprise Zones, of which there are currently two in Montgomery County: the Silver Spring and Wheaton Central Business Districts.
 - g. The school impact tax is anticipated to raise about \$25 million annually. The revenue will be variable depending upon residential construction activity.
 - h. There is a limited grandfather clause. This clause is expected to allow three projects to be exempt: Fairfield development project in Germantown Town Center (residential portion), the Hecht's site in Friendship Heights, and the Air Rights Building project in the Bethesda Central Business District.
 - i. Revenue from the school impact tax must be used only for public school projects that add capacity: new schools, additional permanent classrooms, and the portion of modernizations that add permanent classrooms.

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Local Area Transportation Review

Congestion Standards by Policy Area

adopted by the Montgomery County Council October 28, 2003

Critical Lane Volume Standard	Policy Area
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.

Impact Tax Rates Approved by the Montgomery County Council

Date of Action: October 28, 2003

Land Use	Transportation Impact Tax Rates			School Impact Tax Rates
	Clarksburg	Metro Station Areas	General (rest of County)	
Single-family detached	\$8,250	\$2,750	\$5,500	\$8,000
Single-family attached	\$6,750	\$2,250	\$4,500	\$6,000
Multi-family garden	\$5,250	\$1,750	\$3,500	\$4,000
Multi-family high-rise (see note 1)	\$3,750	\$1,250	\$2,500	\$1,600
Multi-family senior	\$1,500	\$500	\$1,000	\$0
Office	\$6.00	\$2.50	\$5.00	
Retail	\$5.40	\$2.25	\$4.50	
Industrial	\$3.00	\$1.25	\$2.50	
Bioscience	\$0.00	\$0.00	\$0.00	
Hospital	\$0.00	\$0.00	\$0.00	
Private school	\$0.50	\$0.20	\$0.40	
Place of worship	\$0.35	\$0.15	\$0.30	
Other non-residential	\$3.00	\$1.25	\$2.50	

Note 1: Includes units in buildings taller than 4 stories and any 1-bedroom garden apartment

Note 2: The school impact tax on single family units is increased by \$1 for each square foot of gross floor area that exceeds 4500 square feet up to 8500 square feet.

Note 3: Moderately-priced dwelling units are exempt from impact taxes.

Note 4: Productivity housing units pay the tax at 50% of the applicable rate.

Note 5: Impact taxes are not paid by development in enterprise zones (Silver Spring and Wheaton CBD policy areas)

Note 6: These impact tax rates go into effect March 1, 2004.