

October 26, 2005

**MEMORANDUM**

**TO:** Montgomery County Planning Board

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**SUBJECT:** Recommendation on Zoning Text Amendment 05-15 and Amendment to FY's 2003-2012 Comprehensive Water Supply and Sewerage Systems Plan - Chapter 1: Objectives and Policies; Private Institutional Facilities (PIF) Policies (Section II.E.4).

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**Recommendation:** Recommend County Council 1) Adoption of ZTA 05-15 and 2) Adoption of Changes to the Comprehensive Water Supply and Sewerage Plan with comments

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- A. ZTA 05-15
- B. Water Supply and Sewer Policy changes
- C. Private Institutional Facility Working Group Report 7/05
- D. Planning Board ZTA recommendations and Transmittal 04/04
- E. Water Policy Staff recommendation 9/03

The proposals before the Planning Board are for changes to the Zoning Ordinance and the Water Supply and Sewerage Plan of the County. Staff has provided a detailed memo on both of these subjects with a detailed history of the Planning Board's past actions in these matters. That history is repeated in each of the two memos for the benefit of the public record on both actions. The zoning text amendment and sewer policy changes stem from the recommendations of the Private Institutional Facility Working Group Report. Those recommendations, in turn stem from the past advice of the Planning Board to the County Council. The attachments provide details of past actions.

## **POLICY OVERVIEW**

The actions recommended by the Private Institutional Facility Working Group Report will create a more restrictive regulatory environment than exists today. The Zoning Ordinance limits the amount of impervious surface in agricultural and large lot residential zones. The water and sewer policy change would remove the possibility of extending sewer for private institutional facility (PIF) uses in the RDT agricultural zone. Those who see benefits and opportunities in the existing regulations do not seek any change to those policies. In short, there is opposition to the adoption of the proposed changes from those who believe that the policy changes are too restrictive.

Conversely, while the changes provide an opportunity to preserve more of the existing open space, rural character and environmental quality of the County, they would still permit more development than the maximums permitted solely for residential development. The changes do not absolutely ensure that water quality will be no different than it is today. In short, there is also opposition to the adoption of the proposed policy changes from those who believe that the policy changes are not restrictive enough.

The farming community wants to have a regulatory environment in the agricultural zone that supports agriculture. They seek implementation of the policy in the approved and adopted Master Plan to not extend sewer, and they do not want the activities devoted to agriculture restricted by the zoning ordinance.

The staff has been concerned for some time about the unintended compatibility-related and environmental consequences associated with intensification of development in low density residential zones and the agricultural zones. These areas of the county were planned for an agricultural and rural character but are increasingly being used for more intensive uses. On the other hand, they were not planned to be absolutely static. They were planned to preserve open space and farmland but still retain some development opportunity. Consequently, the staff did not want to remove all opportunities for change. We did, however, want to temper major development that is out of proportion to its surroundings, inconsistent with its environmental setting, and inconsistent with the Master Plan.

The extension of community water and sewer into areas where such service was not envisioned by the Master Plan for Agricultural Preservation has enabled land uses permitted in the zone to become "super-sized" in comparison to surrounding uses. There are two separate legislative actions before you. Each addresses a different aspect of the problem. One conforms the community water and sewer extension policy to the guidance given in the Master Plan for Agricultural Preservation. The zoning text amendment limits the impervious surfaces that can be created by any non-agricultural use. The two ideas work in tandem.

The extension of water and sewer creates an ability to construct more intense uses that would otherwise be limited. Except in the case of very large sites with exceptional soil conditions, wells and on-site systems such as septic fields limit the amount of activity that can be accommodated. The existing policy has guided the County Council decisions on extending sewer on a case-by-case basis for private institutional uses. Unfortunately, this policy has altered the economics of the land where

this policy can be applied. Private institutional uses are the only uses that have the chance to get public sewer in the agricultural zones and thereby they can achieve the most intense activity on these sites. Zoning permits institutional uses in addition to residential uses. As such, private institutions can easily out bid farmers and large residences under the existing policy.

The private institutions that seek to move to the agricultural reserve will tell you that they serve growing needs on that County and there is nowhere else for them to go. It cannot be denied that private institutions are a vital part of the community life. In some instances, they provide a wide variety of social services. These services, such as schools, day care and recreation, would not be available (or would become an increased demand on County government) if private institutions could not provide them. The expanding need for land and desire to serve on the part of PIF applicants, have not been matched by their ability to find land at a price that they can afford within the area planned for community sewer service.

The proposed changes will remove a specific advantage that private institutional facilities have in water and sewer policy, but they will still have advantages in the zoning ordinance. They can still build wherever they own land, but in the absence of sewer, they will not be able to build nearly as much.

The proposed changes to the water and sewer policy in the agricultural zones brings that policy into conformance with the adopted Agricultural Master Plan. All water and Sewer Plan amendments (both policy changes and category map changes) must ultimately be approved by the Maryland Department of the Environment. State law requires the local planning agency to make a finding that water and sewer plan changes are consistent with the adopted comprehensive plan. The existing conflict of policy between the Agricultural Preservation Plan and the Water and Sewer Plan has been identified by the state of Maryland as an issue for the County to address. The proposed changes would substantially correct the conflict between Master Plan and the Water and Sewer Policy. Water quality in the Agricultural Reserve and nearby areas is generally good, and in some cases excellent. The changes would help to protect that water quality and also reduce the risk of future state stream listings for non-attainment of water quality standards (and associated potential Total Maximum Daily Load (TMDL) requirements) as well as violations of state water non-degradation regulations.

Many, but not all developments, would be controlled by the lack of community sewer. The text of the current zoning ordinance is not adequate at protecting the environment or the rural character of these areas. As noted, in some cases private systems may permit substantial development. To correct this concern, in April of 2004 the Planning Board recommended the adoption of a zoning text amendment, identical to the one introduced by the County Council.

In the RDT zones, the staff recommends a limit of 15% total impervious surface for lots that expand or build new development. This compares to the 8% impervious surface limit proposed for subdivisions in the Upper Rock Creek special protection area. If we want to ensure water quality, we would recommend the lower number. If development occurs on every lot and is built to the maximum of impervious surface, water quality would be challenged. Although that is a possibility, it is highly unlikely. The expected impervious surface for residential lots is 4% of the lot. Only institutional uses would regularly approach the 15% limit. It would not be expected that institutional

uses would bring the total impervious surface within any given watershed to above 8%. It is, however, a possibility. All agricultural uses are exempted from this cap.

The staff participated on the Private Institutional Facility Working Group. After significant conversations the Committee concluded that the zoning proposal made by the Planning Board was sound and that their policy direction should be enhanced by changes to the water and sewer plan. It should not surprise you that the staff agrees with the Committee recommendations.

## **HISTORY**

The Water and Sewerage Plan defines PIF as buildings constructed for an organization that qualifies as federal tax exempt under the provisions of section 501 of Title 26 of the United States Code. Since the early 1990's, the Water Supply and Sewerage Plan has had special rules for sewer extensions to PIF's.

In September 2001, the Montgomery County Council, in Council Resolution 14 - 1000, deferred action on a pending water and sewer category change request (WSSCR 01A-GWC-02) pending the Council's reconsideration of the Private Institutional Facilities (PIF) policy in the Ten-Year Comprehensive Water Supply and Sewerage Systems Plan and the resolution of other application details. In February 2002, the County Council requested in Council Resolution 14 -1153, that a review of the county's PIF policy be conducted by appropriate agencies (MCDEP, M-NCPPC, WSSC, etc.). In this resolution, the County Council stated its desire to take action on the PIF policy, in part, on how it relates to another pending water and sewer category change request (WSSCR 01A-GWC-03), which was submitted to the Council prior to the Council's August 2001 recess.

However, in recent years, increases in activity levels, particularly at places of worship and religious schools, have begun to generate major traffic congestion, parking overflow, community incompatibility due to the scale of numerous PIFs, significantly increased imperviousness levels for PIF's (compared with development for the underlying base zoning) and associated negative water quality impacts, and other related problems that dramatically alter neighborhoods and surrounding natural resources. The cumulative size and land use intensity of some of these representative facilities in residential areas are vastly out of scale with surrounding single-family residential uses.

In an attempt to address these issues and concerns, on October 9, 2003, M-NCPPC staff made recommendations to the Planning Board to approve the Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2003-2012 with the following comments:

1. Request the County Council (CC) to defer all category change requests under the provision of Private Institutional Facility (PIF) Policy until a revised policy is adopted which addresses community and environmental impacts.
2. Expand the section on individual on-site system development. The plan should address some of the relevant issues such as enhanced septic system technologies, mandatory pumping of septic tanks, enhanced enforcement, and development of a management structure to ensure proper maintenance of septic systems.

3. Request inclusion of flow quantity in definition of "hookup" e.g., 300 gpd (gallons per day at that time).

The Planning Board voted to transmit the comments to the County Council and the County Executive. (For more details, see attachment E).

After considering the comments, the Council requested Commission staff to work out a way to handle all PIF-related concerns through modifications to the Zoning Code. In response, M-NCPPC staff proposed a zoning text amendment to limit impervious coverage in the RDT, Rural, Rural Cluster, RE-2 and RE-1 zones. This zoning text amendment was designed to allow impervious surfaces in the RDT zone up to 15 % of the lot area, and up to 20% of the lot area in the Rural, Rural Cluster, RE-2 and RE-1 zones. It also stipulated that the maximum building coverage allowed in the RE-2 zone be reduced from 25% to 15% of the lot area. The ZTA retained all permitted uses in these zones and did not change the uses that require special exceptions.

On April 15, 2004, the ZTA was presented to the Planning Board, and the Board voted to transmit the ZTA to the County Council. This ZTA was subsequently introduced but was not approved by the Council. (See attachment D.) After many months of deferring action on PIF applications, in the spring of 2005 the Council requested the formation of a PIF policy working group, to reassess the PIF policy and make recommendations for dealing with the unintended consequences that have arisen as a result of the PIF policy.

On June 27, 2005, the PIF working group report, *Addressing the Impacts of Private Institutional Facilities in the RDT, Rural, Rural Cluster, RE-2, and RE-1 Zones*, was presented to the County Council. The working group concluded that large private institutional facilities in the zones examined raise important environmental and compatibility concerns that need to be addressed. (For further details, see attachment C.) The Council requested the working group to address a number of additional questions before making final recommendations. An additional series of working group meetings resulted in a revised ZTA and a proposed amendment to the Comprehensive Water Supply and Sewerage Systems Plan. The proposed changes to the PIF policy are intended to help preserve the integrity of the land use plan for the County's agricultural reserve.

## ZONING TEXT AMENDMENT

STAFF RECOMMENDATION: Approval of ZTA 05-15

### Summary of changes

Establishes a definition for the term "impervious surface", revises building coverage standards as a percentage of net lot area for certain zones; establishes maximum impervious surface standards as a percentage of net lot area for certain zones for non-agricultural uses; requires the submission of a site layout design under certain circumstances; grandfathers certain lots from building coverage and impervious standards under certain circumstances; and amends provisions concerning building coverage and impervious surface standards. (See attachment A for the full text.)

### Definition of Impervious Surface

The current law does not have any impervious surface definition or limit in One-Family Residential Zones or in Rural Zones. The subject zoning text proposes to define Impervious Surface as:

*A hard surface area that prevents or substantially impedes natural infiltration of water into the underlying soil, resulting in an increased volume and velocity of surface water runoff. Impervious surface includes, but is not limited to buildings, patios, decks, sidewalks, driveways, compacted gravel, pavement, asphalt, concrete, roadways, parking areas, and hard-surfaced recreational areas.*

If the Planning Board believes that more detail would be helpful, staff is prepared to provide such detail.

### Limit of Impervious Surface

This ZTA will allow impervious surfaces in the RDT up to 15% of the lot area for non-agricultural uses and impervious surfaces up to 20% of the lot area in the Rural, Rural Cluster, RE-2 and RE-1 zones. Additionally, this ZTA will reduce the maximum building coverage allowed in the RE-2 zone to 15% of the lot area from 25%. These percentages do not reflect a change from the Planning Board Recommendation on Transmittal to County Council for Introduction of ZTA 04-27.

### Grandfathering provision

#### Residential Zones

*Any lot with an impervious surface greater than 20% of the net lot area and lawfully existing before (ZTA Effective Date), is a conforming lot; however, the impervious surface area existing before (ZTA Effective Date) must not be increased.*

*If building coverage for a permitted use exceeds 8.5% in the RE-2 Zone and 11% in the RE-1 Zone, a site layout design must be submitted to the Department of Permitting Services. The site layout design must demonstrate compliance with the maximum impervious surface standard under 59-C-1.32. Any lot with a building*

*coverage greater than 15% of the net lot area and lawfully existing before (ZTA Effective Date), is a conforming lot; however, the building coverage existing before (ZTA Effective Date) must not be increased.*

The proposed text amendment provides grandfathering clause for existing structures located in the RE-2 and RE-1 Zones where the impervious surface area is greater than 20% of the net lot area. However, for those properties that exceed the maximum net lot area covered by impervious surface, the impervious surface cannot be increased. The working group supports this grandfathering clause.

### Agricultural Zones

*Any lot with an impervious surface area greater than 20% of the net lot area and lawfully existing before (ZTA Effective Date), is a conforming lot; however, the impervious surface area existing before (ZTA Effective Date) must not be increased. Impervious surface limits do not apply to agricultural uses as defined in 59.A.2.1.*

*Any lot with an impervious surface area greater than 15% of the net lot area and lawfully existing prior to the (effective date of the ZTA), is a conforming lot but must not increase in impervious surface. Impervious surface limits do not apply to agricultural uses as defined in 59-A.2.1.*

Single-family homes and a number of private institutional facilities are allowed unconditionally, in residential zones. The Zoning Ordinance, which was developed with the knowledge that a significant portion of rural zones and the agricultural zone would be outside of the sewer envelope, does little to control impervious surface coverage.

There are limits on building coverage in the Zoning Ordinance. These need to be examined in the RE-1, RE-2, Rural, Rural Cluster, and RDT zones in light of the County's heightened concern for water quality. The existing building coverage limit continuum between zones is contrary to the density of the zones themselves. The RE-2 zone, which allows half the residential density of RE-1 (two acres for each house compared to one acre for each house), has a maximum building coverage of 25% (that would be a structure with foundation enclosing almost 22,000 square feet) while the RE-1 zone would permit building coverage of 15 % (a foundation enclosing 6,500 square feet).

### **Context**

The zoning pattern in Montgomery County is the implementation of the General Plan for Montgomery County. The wedges and corridor plan sets apart the agricultural and residential wedges for low-density treatment. The agricultural wedge is described in the approved and adopted General Plan Update as "clean air shed" and "a mechanism to protect the quantity and quality of water resources." One of the challenges for the residential wedge is "protecting environmentally sensitive areas."

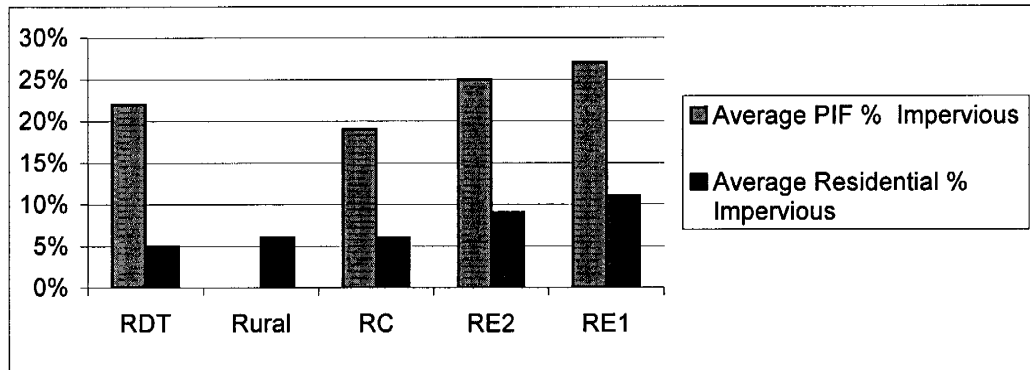
There are relatively few zones which have areas outside of the sewer envelope: Rural Density Transfer (RDT), Rural Cluster (RC), Rural, Residential Estate 2 Acre (RE-2), Residential Estate 1 Acre (RE-1). The zones with "Rural" in their name are found in the agricultural section of the Zoning Ordinance. The residential estate zones are found in the residential section of the Ordinance. The vast bulk of these zones are being used

for agricultural or residential uses. The most recent Council action on the Upper Rock Creek Master Plan, supports the concept that limiting impervious cover beyond the existing limitations in the RE-1 and RE-2 zones, from all land uses, is necessary to protect water quality.

There are no impervious surface limits (total lot coverage limits) in these existing zones for any uses. (There overlay zones that do limit impervious surface in some areas.) Private institutional facilities (PIF), in particular, represent a highly intensive land use, particularly in comparison to other uses in the zone. More than 78% of large lot zoning capacity has already been used. Limitation on these zones if adopted, would at most affect the remaining 22% of the development capacity of these zones. Where development relies upon septic systems, the actual number of dwelling units that can be accommodated is significantly less than the maximum density allowed. The provision of sewer enables development to reach maximum zoning capacity. The estimate of potential dwelling units takes these factors into account.

Zoning	Total Acres	Existing Dwelling Units	Average % Existing Impervious (Built lots)	Average Acres Per Dwelling Unit	Potential Additional Dwelling Units	Acres Of PIF's	Average PIF % Impervious
RDT	103,067	3,318	5%	20	1,605	138	22%
Rural	2,756	201	6%	5.3	132	0	N/A
RC	23,876	3,492	6%	6.25	941	333	19%
RE-2	32,938	6,600	9%	3.8	1,806	709	25%
RE-1	10,522	5,131	11%	1.7	1,004	123	27%

**Average Impervious Surface on Developed Lots for Residential and Private Institutional Facilities in the RDT, Rural, Rural Cluster, RE-1 and RE-2 Zones**



The Zoning Ordinance does not have any corresponding definition to private institutional facilities that exists in the Comprehensive Water and Sewerage System Plan. The Zoning Ordinance does, however, have specific permitted uses, which could fall within the Comprehensive Water and Sewerage System Plan's definition of "private institutional facilities."



The following uses now permitted unconditionally in the Zoning Ordinance in the wedge zones also fit with the private institutional facility definition:

- Fire Station (publicly supported),
- Opportunity housing projects (not permitted in RDT, RC or Rural),
- Library and museums (not permitted in Rural or RDT zones),
- Churches, convent, monastery and/or other places of worship.

Other charitable or philanthropic institutions are generally allowed through the special exception process. The private institutional uses that require special exceptions include:

- Housing for senior adults or persons with disabilities,
- Life care facility,
- Charitable or philanthropic institutions,
- Child day care center,
- Day care facility for more than 4 senior adults and persons with disabilities,
- Domiciliary care home for more than 16 residents,
- Educational Institutions, private
- Hospice care facilities,
- Hospitals,
- Nursing home,
- Private clubs and service organizations.

In the agricultural zones, charitable institution can only be allowed in existing buildings. When this memo refers to private institutional uses, it is referring to the list of uses above.

## **Scope**

The zones in question comprise over 24,133 parcels of land, that add up to 173,160 acres of land. There is no problem of excessive impervious surfaces on 99.5% of the developed parcels in these zones.

The severity of the impacts is related to the scale of the project relative to the size of the parcel and the concentration of impervious surface. It is not related to the use. A large-scale single house with long driveways can have more impervious surface than a small-scale institutional use. The proposed zoning amendment applies to all uses in these zones.

There are currently a total of 78 PIF's in the zones that are the subject of this text amendment . These 78 sites use just under 1,303 acres of land. The institutional facilities in these zones represent 0.74% of the total area of the zones in question. The greatest percentage of private institutional facilities occurs in the RE-2 zone (2.2%). Although it affects few property in the aggregate, when private institutional facilities cluster together (as required by the Comprehensive Water and Sewerage System Plan), there are significant impacts to water quality and the rural character of the area. Any limitation on impervious surface should include all uses in the zone except agricultural uses.

All land uses including, private institutional facilities are already subject to impervious limitations in the Upper Paint Branch Special Protection Area. That limitation is part of the restrictions in an overlay zone that covers the Upper Paint Branch Watershed. The proposed Special Protection Area in Upper Rock Creek will have an 8% impervious surface limit. The recommendations herein would not change the overlay zone controls. The approved and adopted Functional Master Plan for the Patuxent River Watershed includes limits on the impervious surface of new developments (those that are required to go through the subdivision process) to 10%. A portion of the Clarksburg SPA has an impervious limit established in the Clarksburg Master Plan. Staff does NOT recommend changing those limitations in any way.

#### Summary of Building and Impervious Limits

Zoning	Existing Building Coverage Max. (As a % of Lot)	Median Impervious For Existing PIFs	Recommended Total Impervious Surface	Recommended Building Coverage Requiring Site Layout Design
RDT	10%	14.1%	15%	3%
Rural	10%	None currently existing	20%	3%
RC	10%	19%	20%	7.5%
RE-2	25%	22.5%	20%	8.5 %
RE-1	15%	21.3%	20%	11%

The PIF Working Group report (attachment C) and the April 2004 from M-NCPPC staff (attachment D) discuss options other than this text amendment.

## Comprehensive Water Supply and Sewerage Plan Changes

**Recommendation:** Approve proposed changes with additional comments

On November 10, 2005 the Council T& E Committee will review the PIF policy and its proposed amendments prior to discussion of the specific water and sewer category change cases to which it will be applied. The changes exclude the RDT from the PIF policy and indicate a future study on multi-use system. (See attachment B for the text of the amendment as proposed by the PIF Working Group Report. See attachment E for prior M-NCPPC staff recommendations and context.)

The additional policy changes recommended by the PIF Working Group and M-NCPPC staff are as noted below. The only substantive change suggested from the PIF Committee recommendations that may be helpful is the bullet point deals with the need to be consistent with Master Plan recommendations.

Amendment Key: <u>underscored text</u> = proposed additions; [bracketed text] = proposed deletions;
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*Italic = Park and Planning Staff Recommended Changes*

### II. POLICIES FOR THE PROVISION OF WATER AND SEWERAGE SERVICE

**E. Special Policies for Water and Sewer Service** -- In addition to the preceding general service policies, the County Council has adopted specific policies for the provision of community water and/or sewer service [*which*] that create exceptions to the general service policies. The Council has also adopted service recommendations in local area master plans that create exceptions to the general service policies.

**4. Community Service for Private Institutional Facilities** -- This Plan defines private institutional facilities (PIFs) as buildings constructed for an organization [*which*] that qualifies for a federal tax exemption under the provisions of Section 501 of Title 26 of the United States Code (Internal Revenue Service). The provision of community water and/or sewer service to such facilities shall be addressed on a case-by-case basis by the following policies:

**a. Facilities Located Within the Community Service Envelopes** -- For private institutional facilities located within the [*acknowledged*] *approved* water and/or sewer envelopes, service area category changes may be approved by DEP through the administrative delegation process (Section V.F.1.a.: Consistent with Existing Plans). For a specific site, the [*acknowledged*] *approved* water and sewer service envelopes may differ due to the general water and sewer service policies (Section II.D.) included in this Plan.

**b. Facilities Located Outside the Community Service Envelopes** -- For existing or proposed PIF uses located outside the [*acknowledged*] *approved* water and/or sewer envelopes, the County Council shall consider requests for the provision of community service for PIF uses according to the following criteria:

**i. Sites Abutting Existing Water and/or Sewer Mains** -- For cases where existing or approved water or sewer mains abut or will abut a property, service area category

amendments may be approved for sites with an existing PIF use and for sites proposed for a new or relocating PIF use, excluding those zoned RDT (see subsection iii).

**ii. Sites Requiring New Water and/or Sewer Mains Extensions** -- For cases where the provision of community service for a PIF use requires new water and/or sewer mains, the following criteria shall apply:

- For existing PIF uses, service area category amendments may be approved for sites (excluding those zoned RDT, see subsection iii) only where required water and/or sewer main extensions do not threaten to open undeveloped land to development contrary to the intent of the relevant local area master plan.
- For new or relocating PIF uses, service area category amendments may be approved for sites (excluding those zoned RDT, see subsection iii) only where required water and/or sewer main extensions will abut [*only*] properties which are otherwise eligible for community service under the general policies of this plan.

**iii. Sites Zoned Rural Density Transfer** – To help preserve the integrity of the land-use plan for the County's agricultural [p]reserve, neither community water nor sewer service shall be used to support existing or proposed PIF uses within the Rural Density Transfer (RDT) Zone. This prohibition shall apply to all PIF cases, regardless of whether public service requires either new main extensions or only service connections to an existing, abutting main. The only exception allowed to this prohibition is to allow for community service to relieve health problems caused by the failure of on-site systems, as documented by the Department of Permitting Services (DPS). In the case of a public health problem, DEP and DPS staff will need to concur that the provision of community service is a more reasonable alternative to a replacement of the failed on-site system, either by standard or alternative/innovative technologies. WSSC and DEP staff will need to concur that the provision of community service is technically feasible.

**c. Main Extensions for PIF Uses** -- Main extensions outside the [*acknowledged*] *approved* community service envelopes, where required, shall be designated "Limited Access" consistent with the Limited Access Water and Sewer Mains policy (see Section III.A.2). Where community sewer service for a PIF use will be provided by low-pressure mains, those mains shall be dedicated only to that PIF use and generally not eligible for additional service connections. The County and WSSC may make limited exceptions to this requirement to allow for the relief of failed septic systems, where such service is technically feasible.

PIF uses may receive service from limited access water or sewer mains where the Council has specifically approved access to those mains. The provision of community service under this policy shall not be used as justification for the connection of intervening or nearby lots or parcels if they would not otherwise be entitled to connect to community systems.

Under its Systems Extension Permit (SEP) process, WSSC now requires that all commercial and institutional service applicants construct and pay for the community systems main extensions needed to serve their projects. In cases where more than one PIF use proposes to locate on a site requiring a pump and low-pressure main extension, WSSC requires that each institutional facility have a separate pump and pressure main system. The County and WSSC shall not support the provision of community sewer service for a PIF use where that service will

require a WSSC-owned and operated wastewater pumping station which does not also support community sewer service for other non-PIF uses consistent with the service policies of this Plan.

**d. PIF Uses in Existing Residential Structures** -- The Council may deny service area category amendments for PIF uses located outside the *[acknowledged] approved* water and/or sewer envelopes where main extensions are required for private institutional facilities seeking community service for existing residential structures. This could result in the extension of community water and/or sewer service for structures which would not otherwise be eligible for such service, and which could return to residential use.

**e. PIF Policy Directions** -- The Council originally adopted a Water and Sewer Plan service policy addressing PIF uses with three primary goals in mind:

- To continue to support, where the provision of community service is reasonable, the county's private institutional facilities, which the Council recognized as having an important role in their communities and for their residents;
- To provide more objective and consistent criteria in evaluating PIF cases; and
- To limit the potential impact of water and sewer main extensions outside the community service envelopes to support PIF uses.

The PIF policy has accomplished the preceding goals, at least to some extent. However, it has also created unintended concerns, involving complex relationships between differing public policies and affecting private institutions needing space to locate and grow within an often fiercely competitive *[R]real [E]state* market. This makes less costly land, usually located outside *[of]* the community water and sewer service envelopes and zoned for lower-density development, more attractive to institutional uses. Among the concerns which have come to the attention of both the County Council and County agency staff are the following:

- The policy has resulted in the clustering of PIF uses at the edge and outside *[of]* the *[acknowledged] approved* community water and/or sewer service envelopes.
- The policy has facilitated the siting of PIF uses on properties where the institutional use and its ancillary needs, especially parking, can create imperviousness far in excess of that normally resulting from residential uses, leaving little open space and creating water quality problems.
- The policy has facilitated the siting of PIF uses within the county's RDT-zoned agricultural *[p]reserve* areas.
- The policy has promoted speculative interest in sites because of their potential ability to satisfy the PIF policy requirements, not because a specific private institution has a need for that site.
- The policy does not provide guidance concerning institutional subdivisions, where two or more PIF uses subdivide and locate on an existing property approved for community service.
- The policy cannot address issues beyond the scope of the Water and Sewer Plan, such as community compatibility, traffic congestion, and alternate facility uses.

- • *The policy should acknowledge that the water and sewer plan is an implementing document driven by approved and adopted master plans except for situations pursuant to public health.*

[DEP, other County agency, and County Council staff representatives have begun a review of the PIF policy, with particular attention to the preceding issues. The PIF policy adopted in this Water and Sewer Plan contains changes from the original PIF policy which address some of these concerns. Among these are restrictions preventing public support for community service to PIF uses where WSSC pumping facilities would be required, and policies requiring private institutions to act as the applicants for PIF-based service area change requests (see subsection c., above.) However, further interagency work on the impact of PIF uses is needed not only in the context of the Water and Sewer Plan, but also in other County plans and policies.]

An interagency PIF policy working group has reviewed the PIF policy and other County regulations and ordinances, with particular attention to the preceding issues. The PIF policy as amended in this Water and Sewer Plan contains changes from the original PIF policy which address some of these concerns. Among these are a policy preventing publicly-funded support for community service to PIF uses where WSSC pumping facilities would be required, and a prohibition against providing community service to PIF uses in the Rural Density Transfer (RDT) Zone. In addition, the working group has recommended to the County Council impervious area limits for most land uses in lower-density rural and rural estate zones to help limit the environmental impacts often associated with institutional development within these zones.

The preceding policies focus on community water and sewer service for institutional uses. The working group also recognized that a prohibition on community service in the RDT Zone could result in an increase in PIF project proposals using multi-use on-site systems. The County needs to [I]ensure that these on-site systems can provide long-term, sustainable service for their users in order to avoid the need to provide community service to relieve on-site system failures (see Section III.B.2.).

**Water and Sewer Plan Recommendation**

[The County cannot address all of the issues affecting private institutional uses only within the context of the Water and Sewer Plan. Addressing these issues will involve considering changes to other aspects of the County's land use planning, zoning and water quality protection processes. The County will likely need to address these institutional uses in the context of its master plans, zoning and subdivision ordinances, and water quality regulations. M-NCPPC staff and the Planning Board are urged to pursue options for establishing imperviousness limits for institutional facilities locating in rural and rural estate zones.]

The County needs to recognize that the recommendations from the PIF Working Group represent the first efforts in addressing the community and environmental effects of large commercial and institutional land uses, especially those [which] that locate within the rural part of the county. At the least, the working group will need to follow up periodically to consider 1) the effectiveness of these recommendations, 2) public and development industry concerns with regard to the County's policies, and 3) the need for additional or alternative actions.

## **Additional Staff Comments**

Staff shares the concerns expressed in the policy draft regarding multi-use system usage in the RDT and other low density zones where ground percolation precludes use of adsorption systems for septic fields. This is an issue that should be the next step in a comprehensive review of individual system areas that must include the agencies having permitting responsibilities.

All multi-use systems in Montgomery County are approved as formal map and text amendments to the Water and Sewer Plan. The county has adopted a minimum peak flow of 1500 gallons per day (gpd), which is less than the state's 5000 gpd, as the definition for a multi-use sewerage system. Multi-use systems are generally provided for commercial, public or private institutional uses in areas not intended to receive community service. Their use requires concurrence of the DPS with county DEP. Systems with flows below 1500 gpd are considered as individual systems as opposed to multi-use.

Every type of development generates a unique sewage flow regime. For example, WSSC staff use 4.0 gallons per day per church seat for sewage generation for planning purposes. A church of 375 persons would trigger use of a multi-use system in Montgomery County. (If it had facilities in addition to an assembly hall, fewer seats would trigger a review as a multi-use system).

A 1250 seat assembly hall would trigger state mandated approval of a multi-use system. The public has suggested that the state limit be used as an upper boundary for multi-use systems in the RDT zone. The proposal would effectively create an upper limit to development on multi-use systems. The companion zoning text amendment would not create an upper limit on development.

If the Planning Board desires to go further than the recommendations of the PIF Working Group, staff will be prepared to have that discussion.