

Danielle Lueking

Subject: Discuss 2023 Leg Initiatives From Board
Location: Microsoft Teams Meeting

Start: Wed 7/20/2022 3:00 PM
End: Wed 7/20/2022 4:00 PM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Danielle Lueking
Required Attendees Daniel Lubeley; Timothy D. Rogers

During a Board report last evening to collect topics the Board is interested in advancing as legislative initiatives for the 2023 session, the following were related to Capital/School Planning that I would like to meet with you both about to discuss further:

- Remove legislative requirements for local funding matches for capital projects to help school systems better utilize available State funds, specifically in the areas of healthy school facility projects.
- Research legislative authority for local APFO development wait times changes, including other jurisdictions that put restraints on developments moving forward unless adequate capacity or mitigation is provided.
- Match county planning regions to school planning zones for purposes of monitoring development and capacity more easily.

Let me know if this time doesn't work – thanks!

Microsoft Teams meeting

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[Redacted]



From: [Daniel Lubeley](#)
To: [Danielle Lueking](#)
Cc: [Timothy D. Rogers](#)
Subject: Montgomery County mitigation strategies
Date: Thursday, July 21, 2022 3:23:26 PM

Afternoon,

I spoke with Chief Santori at Montgomery County Planning and Zoning. In essence they changed their APFO legislation to be a "simple" fee structure. The developers do not need to wait any longer, like with our APFO tests, but if they are developing in an area that is closed, they have to pay a fee. The fee is mandatory and is based on a tier system that sets a fee dependent on the number of students the development will provide (don't know the particulars like the number of years accounted for) and the capacity utilization at the closed school(s).

Please note the difference that this is a mandatory fee and there is no wait time. What we have been talking about in Howard County is keeping a wait time but giving the developer options for mitigation if they don't want to wait.

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*Learner*Achiever*Developer*Relator*Responsibility*

Community members are encouraged to participate in all Council public hearings and there are multiple ways to provide testimony. The Council is recommending that residents, who choose to attend in-person Council meetings, get fully vaccinated to protect themselves and others against Covid-19. If this is not possible, virtual participation is encouraged.

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Council unanimously approves 2020-2024 Growth and Infrastructure Policy and related legislation

For Immediate Release: Monday, November 16, 2020

Updated policy ends housing moratorium and focuses on smart growth principles

ROCKVILLE, Md., Nov. 16, 2020—Today the Montgomery County Council unanimously approved the 2020-2024 Growth and Infrastructure Policy, which is one of the many ways that policymakers maintain and enhance Montgomery County's outstanding quality of life. The policy, which was formerly known as the Subdivision Staging Policy is based on having sufficient infrastructure to support new development. It includes criteria and guidance for the administration of Montgomery County's Adequate Public Facility Ordinance (APFO), which matches the timing of private development with the availability of public infrastructure.



"After many committee and Council meetings, I am so very pleased with the work product that we have agreed upon today," said Council President Sidney Katz. "This Council left no stone unturned in its search for the best path forward for the future of our County. The Growth and Infrastructure Policy is the culmination of a vast amount of work by the Council, the Montgomery County Planning Board, many other agencies and interested groups. It presents a framework that will guide us forward and allow growth in our County to proceed within the proper parameters."

Every four years, recommendations for policy updates reflecting current growth patterns start with the Montgomery Planning Department, before being reviewed and approved by the Montgomery County Planning Board and the Council. This year's update provided an enhanced focus on schools in relation to growth and development in Montgomery County. The transportation side of the policy evaluated transportation policy areas, modes of travel, areawide development impacts and modeling data with a new focus on Vision Zero safety standards.

"This update to the County's Growth and Infrastructure Policy makes the most substantial changes to our development policy in decades, including removing the cloud of a housing moratorium from the County's investment climate. The changes provide certainty and remove barriers to investment, so that we get the housing supply and improved quality of life that redevelopment brings," said Councilmember Hans Riemer, who is chair of the Planning, Housing and Economic Development Committee.

"I am proud of the changes that the Council has made to our Growth and Infrastructure Policy because they represent some of the most significant steps in helping the County align its initiatives with the County's Economic Development Platform, which we adopted under my presidency," said Councilmember Nancy Navarro, who is chair of the Government Operations and Fiscal Policy Committee. "Elimination of the housing moratorium, refining our student generation calculation methodology, reducing the costs associated with development, and focusing our exemptions and discounts in the areas of our County where development and amenities are sorely needed, are bold steps in the right direction that will help create an ecosystem where vibrant economic centers will generate much needed revenue to address our growing needs. We must shift the narrative about Montgomery County's approach to economic development, and I believe the implementation of these smart growth policies will give us the tools to make that happen."

"There is no question that we need to raise sufficient resources for our transportation infrastructure and our schools, particularly to address overcrowding," said Council Vice President Tom Hucker. "The new Growth and Infrastructure Policy is not perfect, but it reflects a data-driven approach that encourages job growth and moves the County in the right direction. I am committed to continuing this work in order to ensure that we create new jobs and provide our schools and transportation network with the resources that they need."

The Council voted to change the name of the Subdivision Staging Policy to the Growth and Infrastructure Policy to help encourage more public interest with future policy development and implementation. The effective date of the updated policy is Jan. 1, 2021.



"We have crafted a Growth and Infrastructure Policy that is more aligned with our smart growth priorities and will make Montgomery County more affordable for new residents, more attractive to new businesses and more competitive in the region," Councilmember Andrew Friedson said. "I'm particularly proud that the Council supported our proposal to end the failed housing moratorium policy countywide. The moratorium deprived the County of needed resources to invest in schools, pitted existing residents against new residents and exacerbated our longstanding housing crisis."

"I am pleased the Council was able to make much needed changes to the Growth and Infrastructure Policy, including eliminating the development moratorium, adopting my proposal to incentivize more affordable family housing, adding Vision Zero policies that will make our roads safer and finally considering increasing Utilization Premium Payments to address school capacity," said Councilmember Will Jawando. "While I supported passage today, I believe much work remains to ensure that our policies are more equitable and prioritize the use of taxpayer dollars for the largest public benefit."

Some of the key changes related to schools, transportation and taxes are provided below. In the area of schools, the Council voted to approve the following:

County neighborhoods are classified into School Impact Areas, termed Infill or Turnover Areas, based on the area's recent and anticipated growth. The goal of this change is to provide a more context-sensitive measure for the calculation of school impact taxes and development evaluation.

The Planning Board is required to adopt, by Jan. 1, 2021, a set of Annual School Test Guidelines, which outline the methodologies used to conduct the Annual School Test and to evaluate the enrollment impacts of development applications to provide a more transparent process for the evaluation and adoption of the Annual School Test.

The development moratorium is eliminated Countywide. The moratorium has been replaced with a three-tiered Utilization Premium Payment, where the payment required increases with increased levels of overutilization. The aim of this change is to eliminate the uncertainty and inefficiency associated with residential development moratoria and to further support the County's housing goals, while still addressing the fiscal needs of school facility conditions.

In the area of transportation, the Council voted to approve the following:

Motor vehicle mitigation strategies designed to improve travel safety are now prioritized. A Vision Zero Impact Statement for certain transportation studies is required depending on a project's size.

The transportation study requirement for motor vehicle adequacy in Red Policy Areas (Metrorail Station Policy Areas and Purple Line Station Areas) is eliminated. There are no traffic congestion standards or traffic analysis test in the vicinity of these areas.

For the next four years, bioscience facilities are exempt from all Local Area Transportation Review (LATR) tests to provide faster approval of facilities that support COVID-19 research and provide significant employment opportunities in the County.

The requirements have been updated for more robust, developer funded bikeways, sidewalks and bus shelters.



“The changes made in the Growth and Infrastructure Policy will pave the way for more fair and equitable growth across Montgomery County,” said Councilmember Evan Glass. “This policy will align our priority areas with the accompanying investments in public facilities necessary for our growing community, while also reflecting our values of inclusivity and diversity. Montgomery County is a wonderful place to live and will continue being so for generations to come. I appreciate all the hard work of my colleagues and the Planning Department to develop this policy.”

Councilmember Craig Rice said, “We’ve made some tough decisions to balance the need for revenue and the need for growth with this new Growth and Infrastructure Policy. One of my primary concerns was the treatment of the Upcounty, namely Clarksburg, and I am happy we have now eliminated the school moratorium as well as approved a fair school impact tax structure. Further, our Opportunity Zones, including Montgomery Village and East Germantown, will see relief from impact taxes to spur economic and workforce growth. I thank the many residents and organizations for their helpful engagement and thoughtful advocacy. I am confident we’ve found a path forward that meets the current and future needs of our growing County.”

“The growth policy that we adopted today is a bold plan that will jump start housing and economic development in our County, especially where it is needed and wanted by the community,” said Councilmember Gabe Albornoz.

Notable tax-related changes in the Growth and Infrastructure Policy include the following:

Standard school impact taxes are calculated at 100 percent of the cost of a student seat using School Impact Area student generation rates. Previously, school impact taxes were based on 120 percent of the cost of a student seat. This change more accurately reflects the true cost of school facilities.

A discount is provided on transportation impact taxes in desired growth and investment areas to further incentivize development in these areas.

Any development located in a Qualified Opportunity Zone certified by the U.S. Treasury Department is exempt from both school and transportation impact taxes to further incentivize growth and development in areas recognized as needing investment.

A 60 percent impact tax credit is allowed for the construction of three-bedroom units in Infill School Impact Areas to help encourage construction of more family-sized multifamily housing near transit.

The Council also enacted companion legislation to the Growth and Infrastructure Policy. Bill 37-20, Subdivision - Preliminary Plan - Adequate Public Facilities - Amendments, authorizes the Planning Board to make a new adequate public facilities determination for school adequacy for the remaining unbuilt units under the school test in effect at the time of board review when an applicant requests an extension of an adequate public facilities determination. The new determination would be done, if the unbuilt units generate more than 10 students at any school serving the development.

Bill 38-20, Taxation – Development Impact Taxes for Transportation and Public School Improvements – Amendments, amends the transportation and school impact tax district designations and the impact tax rates that apply in these districts. This legislation also modifies the applicability of development impact tax exemptions for certain uses and in certain locations and generally amend the law governing transportation and school development impact

taxes.

Moreover, the Council approved a resolution to amend the development impact tax rates for transportation and public school improvements. The Council voted to create two zones for the School Impact Tax. The Council added a use category to the transportation impact tax table for agricultural facilities with a rate of zero. The Council did not make any other rate changes to the transportation impact tax rate schedule.

Finally, the Council introduced a resolution to establish Utilization Premium Payment rates for public school improvements. The rates in the resolution reflect the recommendations of the Council as an outcome of its review of the Growth and Infrastructure Policy and Bill 38-20, Development Impact Taxes for Transportation and Public School Improvements. The Council recommendations reflect the creation of three utilization thresholds at which a Utilization Premium Payment (UPP) would apply.

In any school service area with a utilization rate of 105 percent up to a utilization rate of 120 percent, a UPP equal to 40 percent of the portion of the applicable impact tax for the inadequate school level would apply. In any school service area with a utilization rate of 120 percent up to a utilization rate of 135 percent, a UPP equal to 80 percent of the portion of the applicable impact tax for the inadequate school level would apply. In any school service area with a utilization rate of 135 percent or higher, a UPP equal to 120 percent of the portion of the applicable impact tax for the inadequate school level would apply.

All of the Council staff reports for the 2020-2024 Growth and Infrastructure Policy can be found [here](#). The staff reports on Bill 37-20 can be found [here](#) and Bill 38-20 can be found [here](#). The staff report on the resolution for the Development Impact Tax Rates for Transportation and Public School Improvements can be found [here](#). The Council meeting can be viewed on the Council's YouTube page [here](#).

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Danielle Lueking

Subject: APFO Wait Times Follow-Up

Location: Microsoft Teams Meeting

Start: Fri 8/19/2022 10:00 AM

End: Fri 8/19/2022 11:00 AM

Recurrence: (none)

Meeting Status: Meeting organizer

Organizer: Danielle Lueking

Required Attendees Daniel Lubeley; Timothy D. Rogers

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