

Impact of Local Regulatory Processes and Fees

On Ability to Deliver New Housing Units

Montgomery County MD

6/21/2012

Prepared for:

George Mason University

Center for Regional Analysis

Prepared by:

Agnès Artemel

Artemel & Associates Inc.

The Washington area needs to add up to 731,500 new housing units by 2030 to meet the needs of the region's net new workers. This study examines the extent to which local regulatory processes and fees can make new housing units more difficult to produce and more expensive once they are built.

This is the second of three reports examining the costs imposed on new residential development projects by local jurisdictions. Costs examined included all costs and fees related to obtaining approval of a new project, from initial concept through Certificate of Occupancy. To research costs, it was necessary to gain a full understanding of the development review process in each jurisdiction. Only residential projects were considered. The research was conducted largely through the use of documentation on processes and fees posted online by each jurisdiction, followed by reading staff reports on specific actual projects that are currently in or have recently completed development review, and then checked with one of more staff members to clarify specific details.

The first phase of the analysis of fees imposed on new development was a broad survey of development review processes and fees in 15 Washington metropolitan area jurisdictions, five in Maryland and ten in Virginia. The Executive Summary of this initial report is reproduced here.

The second phase was a focus on Montgomery County, Maryland, a large and growing county with a variety of housing types, a complex development review process, and strong planning and analytical capabilities coupled with explicit policy direction in the management of growth.

The third phase examines Fairfax County, Virginia, also a large and growing county.

Table of Contents

Executive Summary of Washington Metropolitan Area Report	4
Executive Summary, Montgomery County	9
Introduction	13
Findings	13
Complexity	16
Fees	16
Time Frames	18
Recent Efforts to Streamline	19
Case Study Results	21

Appendices

Appendix A: The Development Review Process in Montgomery County	24
Appendix B: Costs and Fees Added During Development Review and Approval	34
Appendix C: Case Studies	37

Part 1:
Executive Summary
Of the Washington Metropolitan Area Jurisdictions Report

Executive Summary: Washington Area Jurisdictions

Local government regulations and fees imposed during the development approvals process add to the cost of a delivered new housing unit.

Local Government regulatory processes add to housing costs in three ways:

- Direct fees imposed during the approvals process
- Sometimes lengthy timeframes for approval (six to eighteen months for projects requiring a public hearing, plus land development plan review, plus building development plan review)
- Difficulty of navigating the development approvals process (multiple submissions, numerous public outreach sessions)

Generally, projects that encounter the highest levels of costs, time, and difficulty are either:

- Multi-family projects in previously developed urban areas, particularly those that are mixed use or transit-oriented developments
- Single-family or townhouse projects in “greenfields” areas that are underserved by infrastructure.

Costs Imposed by Jurisdictions include¹:

- Application and review fees
- Need for specialized studies (traffic impact, transportation management, archaeology, noise, tree preservation, urban design)
- Explicit proffers, impact fees, and excise taxes
- Negotiated conditions
- Water and sewer availability and connection charges
- Special topics (Chesapeake Bay Act, Affordable Housing)

The amount of these fees and costs varies by a multitude of factors:

- The jurisdiction, zone, and neighborhood the property is in.
- Is the development by-right or subject to a public hearing process?
- Can it be handled as a subdivision or is it complex enough to require a development site plan or development special use permit?
- Is the necessary public infrastructure already in place, or will the project cause capacity to be exceeded?
- Does the project generally comply with the Comprehensive Plan and Zoning, or is a density increase being requested?
- How many layers of permits are needed?
- Is the project within a specific sector plan or neighborhood plan with additional requirements imposed on development? Is it in a special zone that requires additional review and processing, such as a mixed-use zone, adjacent to a transit facility, within a Resource Management Area?

Application and Review Fees

- Phase I –Application through Public Hearing

¹ Terminology differs between jurisdictions. In this summary, terms that are commonly used by several jurisdictions are employed. They may not exactly match the terms used in a specific jurisdiction.

- Comprehensive Plan Amendment, Rezoning, Preliminary Subdivision, Development Site Plan, Special Exception; plus specialized permits such as Board of Architectural Review, Transportation Management Plan, Variances.
- For a prototypical 58-unit townhouse project requiring multiple application fees and subject to public hearing, application fees range from \$21,000 to \$56,000 in the Virginia Counties/Cities studied, and \$3,500 to \$9,100 in the Maryland Counties.
- Phase II – Land Development
 - Final Site Plan, Final Subdivision, Grading, Erosion and Sediment Control, Inspections, Bond Fees
 - These fees depend on the size of the property, whether it is in a critical resource area, and the type and extent of infrastructure improvements being made – they are highly project- and location-specific.
- Phase III – Building Permit
 - Overall building permit application; Mechanical, Electrical, and Plumbing; inspections; Certificate of Occupancy
 - These fees are tied to the square footage of building, the construction type, and the number of elements related to each trade (for example, number of plumbing fixtures, linear feet of pipe)

Specialized Studies

These studies are prepared in support of an application to document particular aspects of the project. Transportation-related studies are the most frequently observed. They are usually undertaken by a consultant on the developer’s project team; some jurisdictions charge a separate fee to review them.

- Transportation Impact Analysis -- \$25,000-\$100,000
- Archaeology or Historic Resource Analysis -- \$15,000-\$50,000
- Noise Analysis -- \$15,000-\$20,000
- Urban Forestry/Tree Management – \$10,000-\$25,000
- Landscape and Urban Design -- \$50,000+

In addition, the developer may commission other studies to demonstrate the positive benefits of the proposed project:

- Economic Impact Analysis -- \$15,000-\$20,000
- Fiscal Impact Study -- \$10,000-\$20,000

Explicit Proffers, Impact Fees, and Excise Taxes

These costs are intended to mitigate the impact of development, and as such are tied to a community’s need for new roads, schools, police/fire/rescue services, libraries and community facilities, and the like.

- Five of the Virginia jurisdictions have specific impact evaluation methodologies and guidelines for developer proffers (*shown per unit*).
 - Fauquier: SFD: \$28,631; TH: \$27,804; MF: \$20,365; transportation additional, depending on impact
 - Loudoun: SFD: \$45,923 - \$59,470; TH: \$30,716 - \$40,385; \$17,837 - \$23,758 (rate varies by region of the county).

- Prince William: SFD: \$37,719; TH: \$31,927; MF: \$19,526
- Spotsylvania: SFD: 33,285; TH: \$24,088; MF: \$11,539
- Stafford: SFD: \$43,015; TH: \$36,977; MF: \$23,774
- All five Maryland jurisdictions have excise taxes (*shown per unit*).
 - Calvert: SFD: \$12,950; TH: \$10,325; MF: \$7,750
 - Charles: SFD: \$12,097; TH: \$11,473; MF: \$8,730
 - Frederick: SFD: \$15,185; TH: \$13,089; MF: \$2,845 plus a tax of 10 to 25 cents per gross square foot of building.
 - Montgomery: SFD: \$33,331; TH: \$25,840; MF not in a high-rise: \$17,692; MF in a high-rise: \$9,608 (lower at Metro stations, higher in Clarksburg)
 - Prince George's: Outside the Beltway: \$14,227; Inside the Beltway: \$8,299 for schools; Outside the developed tier: \$6,718; Inside the developed tier: \$2,240 for public safety.

Negotiated Conditions

Most jurisdictions have Standard Site Plan Conditions and some have Design Guidelines that set forth what is expected of a quality development. These conditions form a base line for the submission of a site plan for new development. In addition, there are frequently negotiated conditions that are site-specific and address particular aspects of the land being developed or the location or the type of project proposed. In the five Virginia jurisdictions without specific proffer guidelines, negotiated conditions cover the gamut of expectations of “community benefits” that are requested of the applicant. These five jurisdictions are the more urban ones and have lesser capital needs than the suburban or rural jurisdictions; consequently the negotiated contributions focus more on design and amenities than on actual public facilities.

- Virginia jurisdictions with proffers that are not impact-formula based
 - Alexandria: negotiated fees are tied to the estimated total community benefits needed in a specific small area plan, and currently range from \$9 per square foot to more than \$28 per square foot. These fees are included in the implementation sections of plans such as Eisenhower East, Braddock Road, Landmark Van Dorn, North Potomac Yard, and soon, Beauregard.
 - Arlington: fees are based on capital needs identified in a sector plan, e.g. Crystal City.
 - Fairfax City: recent negotiated conditions have been tied to landscaping, sidewalk width and design, lighting in the historic district, and provision of hiking/biking trails.
 - Fairfax County: negotiated conditions cover a broad range of topics but appear to be less costly than in more urban jurisdictions. The new Tysons Corner plan will probably break new ground on negotiated conditions, probably similar to those in sector or neighborhood plans.
 - Falls Church: there have been few development applications in the past three years, and no consistent data are available to establish a baseline of typical costs.
- Virginia impact proffer jurisdictions
 - Capital needs are covered through the formal proffer system
 - Additional negotiated conditions may deal with design, landscaping, lighting, or provision of amenities, rather than items resulting from “impacts”.
- Maryland jurisdictions
 - Negotiated conditions deal with items beyond schools and transportation – the two primary capital needs covered by the Maryland impact fees and excise taxes.

Utility Fees

These are fees to connect a new housing unit to the public water and sewer system. In the case where public water and sewer is not available to a development, the developer must build the needed facilities as part of the land development.

- Water: Fees for water hookup vary widely, and range from \$2,000 to \$9,750 per unit in the jurisdictions studied. Frequently, a separate “meter fee” is charged, with the fee depending on the size of the meter; for a single family or townhouse unit, the smallest meter is assumed and results in a fee of \$175 to \$275 per unit. Fees are sometimes split into an “availability fee” and a “connection fee” but both are needed.
- Sewer: Sewer tap fees for the jurisdictions in this study range from \$3,000 to \$21,000 per unit.

Special Topics

- Chesapeake Bay Act (Virginia) – Virginia imposes special requirements on 8 of the 10 jurisdictions in this study by defining Resource Protection Areas and Resource Management Areas; a proposed project will incur fairly heavy costs in complying with the Act’s limitations on sediment emanating from construction activity and impervious surfaces.
- Affordable Housing: almost all Washington area jurisdictions have expressed concern about their ability to provide housing affordable to the area workforce. In the past, inclusionary zoning was the preferred method of obtaining affordable housing. The field is now evolving to trading density bonuses for affordable housing. The affordable housing developer contribution may be in actual onsite units, off-site units in certain instances, a donation of land for housing to be built by others, or cash into a housing trust fund.
 - Alexandria and Arlington have specific guidelines for affordable housing contributions. In Arlington, the published rates begin at \$1.73 for projects under 1.0 FAR to \$4.62 between 1.0 and 3.0 FAR. Alexandria requests \$1.50 per gross square foot for rental projects and \$2.00 for sales projects; additional square footage achieved through a density bonus is charged \$4.00 per gross square foot.
 - Fairfax City, Spotsylvania County and Stafford County have not published an affordable housing policy.
 - The remaining Virginia jurisdictions provide sliding scale density bonus when affordable housing units are included.
 - Maryland jurisdictions tend to rely on inclusionary zoning or incentives. Density bonuses may be available when more than a minimum number of MPDUs are provided.

The Bottom Line

- Locally imposed costs on development tend to be lower in Maryland than in Virginia.
- Among Virginia jurisdictions, Fauquier, Loudoun, Prince William, and Stafford Counties tend to be highest, primarily due to the capital needs that result from the development of former farms into subdivisions.
- Virginia urban jurisdictions tend to use negotiated conditions rather than proffers; these vary greatly, but are likely to be highest in areas subject to a fairly recent small area plan or sector plan, or where a rezoning is required.
- Local jurisdictions fees can easily add \$40,000 to \$60,000 to the delivered cost of a townhouse unit.

Part 2:
Montgomery County, Maryland

Complexity, Fees, and Lengthy Timeframes Can Hamper the Provision of New Housing Units in Montgomery County, Maryland

Executive Summary

The Washington Metropolitan Region is forecast to need up to 731,000 new housing units by 2030 just to meet the needs of workers moving to the area to fill jobs created here. Of these, 61% are multi-family units.

To what extent are local jurisdictions in a position to approve the development and construction of these new housing units? Many factors enter into the supply of housing unit, and into the questions of type and affordability of these units.

An important set of factors relates to the way that local jurisdictions approve new housing developments. Approval of new housing projects has become cumbersome, expensive, and risky. Local jurisdictions are trying to achieve diverse public policy objectives through the development review process. These objectives center on the provision of adequate public facilities, namely, schools, roads, emergency services, parks and recreation, and affordable housing. As budget pressures on local governments intensify, new development projects are increasingly being made to pay for facilities that may previously have been the responsibility of the state or local government. At the same time, local governing bodies are listening to their residents who attribute increased traffic and noise to growth and development, and trying to make sure that potential impacts are limited or mitigated.

Over time, regulations have become more complex, the fees charged to review applications have increased, and an ever-growing set of “impact fees” are applied to new projects. As public opposition to new projects increases, the timeframes for approval have become lengthier. As a result, new development projects face an increasingly daunting trio of hurdles before gaining the necessary permits to build new housing:

- Complex application and review processes
- A growing number of fees, both for application review and tied to the provision of various facilities for public use
- Lengthy timeframes for review and approval.

The combination of these factors can add \$30-50,000 to the cost of new single-family or townhouse units, and \$10-20,000 to the cost of multi-family units. These costs are eventually passed on to the purchaser of the units as part of the sales price, or to the renter, allocated to the stream of monthly rents. Even if an adequate number of units can be built, their affordability as un-subsidized units is in doubt.

This study has analyzed Montgomery County, Maryland’s development review processes and fee structure. In conducting the analysis, we have reviewed the County’s Zoning Ordinance and specific regulations that are referenced in development review; we have read numerous detailed staff reports on specific development projects in the Preliminary Plan, Project Plan, and Site Plan review stages, as well as reports of the Hearing Examiner for Local Map Amendment cases; we have also reviewed the matching Planning Board Resolutions. We have also discussed our preliminary findings with and asked questions of County staff. The current analysis does not include fees charged as part of obtaining building permits or fees by outside agencies such as private utilities or the Washington Suburban Sanitary Commission.

Montgomery County’s process is complex, costly, and time-consuming, as it is in other Washington area jurisdictions. However, the County scores high marks in several areas:

- The public policy objectives are generally clear, and the regulations seem to be clearly in support of adopted public policies
- The County conducts exhaustive analyses in the course of preparation of its two to four year Growth Policy documents; the analyses document the effectiveness of previously used regulatory mechanisms and suggest changes that will improve that effectiveness
- Growth pressures on schools and transportation are clearly identified, as are the County's intended remedies
- Much information is readily available on websites maintained by County planners
- The County is embarking on a simplification process, both for its zoning categories and for the development review process itself

Specific instances of complexity, cost, and lengthy timeframes are discussed in detail in the main body of this report and in the appendices that follow. The key conclusions are:

Complexity

The review process includes multiple rounds of evaluation as a project works its way through related processes. The frequently include at least three types of application (Project Plan, Preliminary Plan, Site Plan) for each project, followed by Planning Board Resolutions at each stage that state the same findings and lists of conditions. In addition, there is a separate process relating to a Natural Resource Inventory and Forest Conservation Plan that applies to each project. Traffic studies must be completed for most projects.

Numerous review agencies are included in the Development Review Committee, some of which are part of the County Government, while others are state and utilities. Agency comments are not always timely or in agreement with each other.

The specific conditions vary not only by zone but by Master Plan or Sector Plan area the project is located in. The fees can vary by whether the project is located in an area where schools are over capacity or where transportation mitigation is required.

An appeals process is available to citizens even after Planning Board approval.

Although policies and review steps are clearly laid out, it is still difficult for an applicant to get an accurate assessment of likely costs and timeframes; the staff and Planning Board still have discretion in recommending and adopting a schedule of fees and conditions.

Fees and Costs

Application fees are based on acreage, number of units, or square footage. While not excessive individually, these fees are superimposed on each other to follow the numerous discrete applications required before applying for building permits.

Fees are adjusted frequently, most on an annual basis to at least account for inflation.

The County applies School and Transportation Impact Taxes authorized by the State to each project. These vary by location and type of unit. For schools, impact taxes range from a low of \$4,815 per multi-family unit in a high-rise to a high of \$23,868 for a single family detached house. For transportation, impact taxes for a multi-family unit range from \$2,824 to \$8,472, while for a single-family unit the range is \$6,213 to \$18,638. The high end in both cases is in Clarksburg, which is singled out to be a high impact tax development area.

A School Payment applies in areas where a particular elementary, middle, or high school cluster is operating at more than 105% of capacity. The specific clusters identified as over capacity change each year when the County completes its "School Test". The fee is assessed by type of school and type of unit, and ranges from a low of \$819.59 in the multi-family/elementary school category to a high of \$6,244.48 in the single family detached/elementary category (rates adjusted for student generation rates in each housing unit type).

As a result of Policy Area Mobility Review, a trip mitigation payment may be required in certain transportation policy areas; the specific areas requiring trip mitigation and the percentage of forecast trips to be mitigated change each year. The mitigation fee for each trip needing mitigation is currently \$11,700.

Each residential project over 20 units is required to provide 12.5 percent of total units as Moderately Priced Dwelling Units. These units are by definition priced below market rate and impact the project's profitability and return on investment.

Projects with more than 25 units are subject to recreation standards specifying that tot lots, fitness centers, community gathering places, and the like must be provided on site.

Projects are required to provide a certain amount of tree cover on site or by paying for off-site tree cover, pursuant to their Natural Resource Inventory/Forest Conservation Plan.

Depending on location, the project may have to provide improved pedestrian accessibility, bicycle trails, or bicycle storage racks and lockers.

Montgomery County is somewhat less demanding than other area jurisdictions on matters relating to project architecture, site landscaping elements, and width and design of sidewalks (although designated CBD areas have more specific streetscape standards).

In Metro Station areas, in accordance with the Growth Policy of incentivizing growth to areas served by transit, projects benefit from credits applied to calculated trips to be mitigated, and in CBD areas, may benefit from the absence of parking requirements.

It is difficult to summarize all fees and costs into a per-unit cost, as so many factors influence the specific fees and amounts applied to each proposed development project. The table on the next page is one attempt to summarize most common fees into one table, based on the estimated costs derived from the six case studies undertaken as part of this research. Application costs and impact taxes can be fairly easily estimated from staff reports; other fees are estimated based on experience with similar fees and projects in the Washington area and conversations with legal, architectural, and engineering professionals. The total of costs and fees that may be applied to new market rate housing units can range from \$61,800 to \$93,600 per unit, at least for the projects that were studied.

Timeframes

Given all the types of applications that must be completed, each of which involves staff and agency review, detailed written reports, public hearings by the Planning Board, and adoption by the Planning Board of a detailed Resolution setting forth the key points of the approval, the time from initial concept to being able to start the building permit application process could be two- to three years. Often due to changing circumstances, the applicant must file for an amendment; in cases where the site plan does not conform exactly to the binding elements approved as part of the rezoning application, some of the earlier approvals must be revisited – all adding further months or years to the approval process.

In cases where a rezoning (Local Map Amendment) is required, the full complement of development reviews (rezoning, project plan, preliminary plan, site plan) could take several years, with no certainty of approval, or if approved, how many housing units will be allowed and under what conditions.

If the project encounters public opposition, the timeframes could be stretched out further, and there is the prospect of an appeals process even after the final approval is received.

Summary of Fees and Costs Commonly Applied During Development Application and Approval Montgomery County MD

Based on Six Case Study Projects

Exhibit 1

Fee	What It Is	Where It Applies	Range of Cost per Market Rate Unit *
Development Review Application Fees	Fees for staff review of applications, including Forest Conservation Plan, Preliminary Plan, Project Plan, Site Plan, Sketch Plan, Local Map Amendment, Record Plat	As a proposed development project works its way through multi-level review steps	Single-Family/Townhouse: \$1,059-\$1,512; Multi Family \$510-\$642
Impact Taxes (Base)	School and Transportation Impact Taxes authorized by state	All projects on a per unit basis, with amount depending on type of unit and location	SF/TH \$29,077-\$32,457; MF \$8,767 - \$8,981
Impact Taxes (Growth Policy)	Payments directly related to marginal cost of school and transportation capacity	When a school cluster is at more than 105% capacity or when trips must be mitigated	Single-family \$0-\$,1462; Multi-family \$0-2,880
MPDU (Moderately Priced Dwelling Units)	Units provided at reduced sales price or rental rate for people at or below 65 to 70% area median income	12.5% of each new residential project must be MPDUs; from 12.5% to 15% of total units, a density bonus may be granted up to 22%	Foregone income from developing new units; \$20,923 (MF) -\$37,313 (SF)
Legal/Arch/Engrg Additional Fees	Costs for the developer's legal and A&E team for delays or extra review steps beyond normal time frames	When a project faces public opposition, during a Local Map Amendment (Rezoning) or when amendments are needed after the start of project review	\$258-\$1,333
Studies	Traffic, noise, natural resource inventories are required as part of review process. Sometimes historic preservation studies, landscape, streetscape studies	To most projects in development review	\$746-\$2,985
Conditions -- Extra cost	Cost of meeting streetscape standards, CBD standards, forest cover, noise, bicycle/pedestrian needs, recreation	Usually identified during review cycles; generally known prior to application, but not always; amount depends on location and specific sector plan	\$746-\$2,985
Building Permit Application	Fee paid to Department of Permitting Services to obtain actual building permits	All projects	\$1,090 SF; \$2,350 TH; \$1,640 MF
Water and Sewer	Availability and connection charges for water and sewer	All new projects	Connection fees: \$18,000; system availability charges: \$2,036 (MF) -\$5,090 (SF)
Outside Agency Review	Fees charges by State Highway Administration, utilities, and others	to all new projects as needed depending on character of project	\$250-\$500
RANGE of COSTS			<u>\$62,773-\$93,629</u>

Note: all costs calculated from six case study projects. Costs may vary when other projects are considered. Costs are calculated based on number of market rate units in the project (excluding MPDUs)

Impact of Local Regulatory Processes and Fees on Ability to Deliver New Housing Units

Introduction

The Washington Metropolitan area needs to add up to 731,500 housing units by 2030 just to meet the demand created by people moving to this area to fill the anticipated 1.05 million net new jobs (George Mason University housing conference, Fall 2011). Of these, between 69,500 and 108,500 housing units are forecast to be needed in Montgomery County, Maryland.

Will the needed housing units be able to be produced? Many factors enter this question – including whether local regulatory processes and fees affect the ability of developers and builders to produce the number and type of housing units to meet the region’s forecast needs.

Local governments, faced with complex public policy issues, shrinking budgets, and need for public infrastructure such as roads, schools, emergency services, and even parks and recreation, have been using a variety of mechanisms to ensure that proposed development projects pay their own way (impact fees); they are also moving to an “enterprise system” of development review, where application and review fees more closely match the true personnel costs of the review process. Finally, there is an effort to negotiate additional community benefits in exchange for development rights. All these fees add to the cost of developing new housing units.

The development process itself impedes development of new housing units, through its complexity, extended timeframes, and uncertainty.

This study examines the development process and related fees in Montgomery County. It follows a more general overview of development processes and fees in jurisdictions in the Washington metropolitan area conducted in Fall 2011. Fairfax County, Virginia is also the subject of a detailed analysis, published separately.

Findings: Impediments to the Development of New Housing Units

A wide variety of items goes into a full approval process and the types of costs that must be accounted for. These include application and review fees, requirements for specific topic-area studies, impact taxes, requirements for community meetings, the fees of the applicant’s legal and consulting team, utility charges and fees, and requirements for Moderately-Priced Dwelling Units. Fees for building permits and water and sewer hookups were outside the scope of this analysis.

Many of the costs are heavily dependent on the specific location of the project. The County is covered by a series of Master Plans, and in some cases Sector Plans. Depending on when they were adopted, they are more or less specific as to particular requirements of new development projects, and more or less tolerant of zones that can be applied as floating zones or overlays to change the original designation of a parcel while remaining in keeping with the master plan. In CBD zones and around Metro Station Areas, requirements may be more specific and more expensive to meet than in other parts of the County, however, there is the potential for much higher densities to be achieved, compensating for the additional requirements. As part of the last two Growth Policy documents adopted by the County Council, development projects are required to pay a portion of the calculated marginal costs of school and transportation capacity. Transportation was originally only roads, but has now been broadened to include transit, so that proximity to a Metro station creates a Metro “credit” and a portion of transportation taxes

can be directed toward transit options. Each year, there is an analysis of which of 25 school regions, with elementary, middle, and high school clusters, might be at 105% or more of capacity. These areas create an additional school payment above the school impact fee. At 120% of capacity, a moratorium on development in that cluster is declared.

Citizen opposition can substantially lengthen approval times, and create additional costs through need for more extensive legal and consultant support, and often through losses in the number of units achieved on a site.

If the project is compatible with the Master Plan or Sector Plan but does not quite meet the underlying zone requirements, there will be a need for a rezoning, or Local Map Amendment. This process is arduous both in time and level of effort, and approval is by no means guaranteed.

The County is undertaking a shift in direction toward smart growth or infill development served by transit. It is also moving toward capping certain fees, simplifying the development review process, and taking measures to provide more certainty to applicants as to the eventual outcome in site yield. Methodologies, approaches, and philosophy are spelled out in public documents to a greater extent than in other metropolitan area jurisdictions.

In general, the County's regulations are well-crafted to support public policy: the County supports affordable housing, so 12.5% moderately-priced dwelling units are required of any residential project over 20 units, and bonus density of up to 22% is available for projects providing up to 15% MPDUs. A requirement to provide workforce housing became voluntary after it failed to produce the desired units. Development near Metro stations is desired, so developers get credits against trips to be mitigated, reducing the fees they must pay.

Predictability and transparency are key issues with developers. The County performs better than many other area jurisdictions in the area: policies are well-defined and well-known; fees are documented and findable; methodologies are documented at length and findable through a search of the M-NCPPC website.

MPDU requirements

Each new development project over 20 units must provide at least 12.5% of total units, rounded up, as moderately-priced dwelling units. These units by definition sell or rent below market rates, meaning that the developer's profitability is impacted by this requirement.

Cost of impact fees

Montgomery County has the highest published impact taxes in the Washington region.

There are now multiple layers of impact fees, some that apply to every housing unit, and other only based on school students or trips that exceed published capacity levels.

Time consuming and redundant processes

The 2, 3, or 4-part development review process is duplicative and overlapping; staff reports repeat many of the same narrative elements over and over. Some applications, however, require only a preliminary plan.

The three-layer review process is seen by staff as providing guidance to the developer before he has to invest considerable sums in detailed site plan engineering, whereas the developer sees the process as giving staff "several bites at the apple".

Multiple agencies are involved, at the County, regional, and State level, as well as public utilities. It appears it is difficult to coordinate the timely response by all agencies, even at the Development Review Committee

level; in the case of conflicting requirements by different reviewing agencies, it becomes difficult to determine which requirement will prevail.

Unpredictability as to cost and yield

Many fees and development review steps vary by where the project is (sector plan and zoning) rather than by what type of project it is, leading to high risk for the developer at the beginning of the study.

Methodologies by which school and transportation mitigation payments are set are updated frequently and annual changes in which school districts are over capacity and what percent of forecast trips must be mitigated could significantly change the fees that are due.

The full set of requirements is not fully known until the project reaches the Record Plat stage – at each review stage, additional items are added in.

Conditions may vary depending on the review team assigned to the project in cases where conditions go beyond published standards

The Maryland National Capital Building Industry Association indicates that staff responsiveness or ability/willingness to answer question may be an issue. The new Project DOX system may provide a solution to this issue.

Uncertainty on timeframe for approval

Particularly for a project requiring a zoning action such as a local map amendment, the approval time frames may be so long that market conditions have changed and the project has become unfeasible.

When certain elements of a site plan change during the review process, it may be necessary to amend the applicable development plan associated with the initial rezoning.

Time frames for review at each of stage have become shorter, but the Planning Board's own semi-annual report indicates that for FY2011 time frames averaged 124 days for project plans, 101 days for preliminary plans, and 51 days for site plans. Once the Planning Board has approved the project, a Resolution must be adopted, and this is taking longer than in the past, as it has to go through the County's Legal department. Finally, there is a Record Plat process that takes at least another 4 weeks before building permits can be applied for.

On the other hand, recognizing that the approval process is long and market conditions may change during that time, the County grants a long period of validity (the amount of time has been reduced from an average of 12 years to only five, although complex plans can still be granted 12 year validity periods and the current economic conditions prompted the County Council to pass a law granting two 2-year extensions) to the Adequate Public Facilities Review. This is critical so that if for example a school district goes into moratorium halfway through project approvals, the developer is not suddenly deprived of the project, having spent considerable sums to get to the halfway point.

Fees for land development and building permits are high

According to the Maryland Building Industry Association, permit fees for roads and storm sewers may exceed the cost for plan preparation by engineers. The permit fee is set as a percentage of the cost of the improvement plus a 10% automation fee rather than being based on the staff time required for review.

Complexity

In describing why the County is attempting to streamline development review, the County staff has outlined some key reasons, (underscored) as follows:

Multiple steps result in redundant process

A project often has two rounds of review (preliminary plan and site plan), and may have as many as four (local map amendment, project plan, preliminary plan, site plan). These were designed to be consecutive, and each has application fees. Recently, developers have been allowed to apply for some of these reviews contemporaneously, so that two or even three are scheduled for the same Planning Board hearing (particularly in the case of amendments).

Intensive demand on staff and Planning Board

Staff reports contain the same information over and over, with slight changes to reflect the nature of the specific application. Staff reports are lengthy, generally very well-written and cover a series of points in exhaustive detail. They must reflect the comments of multiple agencies as well as the actions of the Planning Board at various steps in the process. The reports also recap what happened at previous stages of review. The Planning Board itself may review the same project a half dozen times as it winds its way through the various approval steps and the approval becomes formalized through Resolutions.

Sometimes unclear on how public can best participate and be effective

Given how many review steps are involved, it may be difficult for the general public to identify the most effective times to be involved in giving their opinions. If there is confusion, then that will consume additional staff and applicant time.

Multiple reviewers are involved; lead reviewer can change with each step

Given that a project may take several years to wind through the system, and with amendments, it may actually be six to ten years, it is likely that the staff reviewing the project will change; that may lead to diverging analyses.

Too many bites at the apple

At each review step, the staff has an opportunity to ask the developer for specific items that in staff's view would improve the project. It is like reopening negotiations after agreement has been reached. This may result in an ever more costly set of development conditions.

Multi-step process benefits developer

A multi-step process allows the developer to get input on feasibility before spending too much on engineering for a detailed site plan.

Process allows more opportunities to work together to get better design

As the developer meets with staff, they can work together to refine the design of the project. Staff would favor this approach, while a developer might decide he would prefer to have his architectural and engineering team design the project.

Fees Imposed in the Course of Development Review

Permit tracking data available on the MontgomeryPlanning.org website show quarterly totals of fees collected for various plan applications. The average collected by the County per quarter over five quarters in 2008, 2009, and 2010 was:

- | | | |
|---------------------|------------|-------------------|
| • Preliminary Plans | \$ 141,261 | (75 applications) |
| • Site Plans | \$188,872 | (96 applications) |

- Project Plans \$ 34,200 (8 applications)
- Pre-application Plans \$ 7,000 (11 applications)
- Record Plats \$ 66,109 (158 applications)
- Forest Conservation Plans \$ 23,648 (59 applications)

Application Fees

Application fees are detailed on the Fee Schedule and Worksheet published by the Development Review Division. This fee schedule is clear and understandable, and lists the main categories of review, amendment, and extension fees for these categories of applications, by building type and size where applicable:

- Pre-Application
- Natural Resource Inventory/Forest Stand Delineation
- Forest Conservation Plan
- Preliminary Plan of Subdivision
- Project Plan
- Site Plan
- Record Plat

Most include a baseline flat fee plus additional fee based either on acres, units, or square footage.

Impact Fees

There are four major categories of impact fees. The first two derive from the initial Adequate Public Facilities Ordinance and the State of Maryland’s Impact Tax process. The second two were initiated in the late 2000s through the County’s adopted Growth Policy (FY 2007-2009 and FY 2009-2011) which developed methodologies based on the incremental cost of providing public facilities such as schools and transportation improvements.

School Impact Taxes: A table of School Impact Taxes is published each year, and applies to each development project. The fees applying to residential development are included in Appendix B.

Transportation Impact Fees: A table of Transportation Impact Taxes is published each year and applies to each development project. The fees vary by location: Clarksburg, Metro Station Areas, and the rest of the County.

School Facilities Payments: These are payments that reflect the marginal cost of additional school capacity where schools are already at 105% of capacity. The list of clusters that are over 105% of capacity changes every year. This year 7 elementary schools, 4 middle schools, and 1 high school are deemed at 105% of capacity.

Transportation Policy Area Mitigation: The County analyzes traffic conditions in defined Transportation Policy Areas and recommends a certain percentage of the estimated new trips to be mitigated through a payment that will go to new roads or transit capacity. The percent mitigation varies from 10% to 50% and the locations subject to such payments vary each year. This percentages changes frequently, affecting the fees due from each project. This year’s required payment for each mitigated trip is \$11,300. In Metro Station areas, PAMR fees are reduced by credits for proximity to Metro. A recent staff report has found that applicants in the Bethesda and Silver Spring CBDs frequently are found to have zero (0) trips to mitigate due to credits for a CBD location. For other areas, PAMR fees can total in the several hundred thousand dollars.

Other Cost Items

MPDU requirement: Each residential project is required to provide 12.5% of total units on site as Moderately Priced Dwelling Units, subject to certain sales price and rental maximums. Since the developer makes no profit on these units, they affect the project's profitability and Return on Investment. With a greater percentage of MPDU's, a developer may qualify for additional density, up to 22% greater density for 15% MPDUs. For a period of about 5 years, the County also required the provision of Workforce Housing Units, to be priced somewhere between MPDU levels and market rate; County staff indicates that virtually no housing development proposals came in when workforce housing requirements applied; the program is now voluntary.

WSSC fees: The Washington Suburban Sanitary Commission sets rates to provide water and sewer service, and particularly for availability and connections for new residential units. They review site plans and quote fees separately from the County processes.

Lesser fees and requirements include forest conservation, recreation standards, and open space requirements. All projects must get a forest conservation review, designed to retain tree canopy in the county, and pay a fee if too many trees must be removed in the course of providing the new housing units. Recreation standards apply to projects over 25 units, which must then provide facilities for the residents including perhaps a pool, community recreation center or fitness room, picnic tables, and the like. Open space requirements dictate that a portion (20% or more depending on location) of the site be retained as public use open space, constraining development options on some difficult sites. In some cases the Board has started allowing payments into an Amenity fund in lieu of open space on site; these funds are to be used to fund a project that is of benefit to the entire community such as a new park.

Negotiated items that are included as conditions during the site plan review also add to costs, but to a lesser extent than in Virginia jurisdictions. These items include curb cuts, sidewalks and trails, bicycle racks to be provided on site, landscape elements, lighting, and signage. Recently a public art requirement has started appearing, particularly for larger projects in urban locations.

The County appears less stringent than other area jurisdictions on requiring very costly items such as underground parking, complete undergrounding of overhead utilities, and extensive detailing of architectural and site design.

Timeframes

The Spring 2012 semi-annual report to Council of the Planning Board discusses processing times for the most typical types of applications – Preliminary Plan, Project Plan, and Site Plan. The general trend is for a decrease in processing times in each type of application.

Number of Days in Review, by fiscal year

	FY08	FY09	FY10	FY11	FY12
Preliminary Plans	173	153	149	101	76
Site Plans	98	79	83	74	51
Project Plans	136	131	102	124	na

Originally, these times were sequential, that is, developers paid the application fees, went through the appropriate review process, had their public hearing, and received approval, then moved on to the next step – so that the overall time elapsed could be substantial. More recently, the Planning Board has begun encouraging developers to submit their plans for concurrent processing, so that two or three steps could be

undertaken on the same timeline (for example, Preliminary Plan and Site Plan handled together). This has started to reduce overall review and approval timeframes.

Timeframes for getting Record Plats to the Planning Board for approval have also decreased, from 9 weeks to 4 weeks. The Record Plat is the last step before applying for building permits.

Another time consuming element is obtaining the Resolution from the Planning Board. This is the legal document that lays out all the development conditions and approvals. This document has to go through a review at the Legal department and is often delayed there. Then the Resolution goes to the Planning Board for approval. The official date of the approval is the date the resolution is mailed. This in turn becomes the date when a 30-day appeal window opens, putting the developer at risk of further delays if an appeal is filed.

For many of the projects examined in the case studies for this report, amendments are submitted to account for changes in market conditions or changes in ownership. These amendments required going back through the reviews, report writing, and Planning Board hearings. In extreme cases, projects may take 6 to 8 years from concept to building permit application, partly due to the review process and partly due to changes made by the applicant.

Recent Efforts to Streamline and Simplify the Process

The staff is proposing combining several processes into one, namely pre-application; preliminary plan, site plan, and project plan. These are currently formulated as sequential processes with considerable overlap as portrayed in staff reports that repeat many of the same analytical elements. Apparently, applicants have tried to combine these processes already by submitting applications quasi-concurrently; the fees and analyses continue to be applied separately, but the timeframes compress.

Benefits of the consolidation of processes are seen to be:

- Staff and agencies are more effective by commenting once on the process rather than multiple times
- There would be less cost for the project (fewer fees, fewer rounds of plan preparation, less legal and consultant time)
- Less time spent in project review, with only one Development Review Committee meeting, one Planning Board meeting, etc.
- Opportunities for public participation could be laid out clearly
- One lead reviewer could be assigned to the project from start to finish

Potential disadvantages (as seen by the staff) include less fee revenue for the agencies, less thorough agency comments, less emphasis on design, and potentially more upfront cost to the developer who has to do more engineering early in the approval process.

A perceived difficulty of development review in general is that several agencies at different levels of authority, geography, and operation would be required to provide input at the same time: M-NCPPC, Department of Permitting Services, Fire and Rescue, the State Highway Administration and Montgomery County Department of Transportation; Department of Environmental Protection, the Washington Suburban Sanitary Commission (WSSC) and utilities such as PEPCO.

Montgomery County is in the midst of a series of efforts to streamline development review and to facilitate projects that meet smart growth goals. Due to these efforts projects of much higher densities appear to be approved more easily than in Virginia jurisdictions – particularly in downtown Bethesda, Silver Spring, and White Flint. In these areas, the costly battles were fought around the preparation of the master plan or sector plan, and subsequent development approvals are somewhat more easily gained.

Specific new initiatives that will be beneficial include:

- Comprehensive rewrite of the Zoning Code, reducing the number of discrete zones and simplifying language and definitions
- New Master Plans that incorporate smart growth policies, allow for bonus height and density for housing at appropriate locations
- Unified Plan Review – the consolidation of redundant review processes
- Project DOX – a new electronic project submittal system that will enable tracking of applications and let developers and County staff alike know where in the process a project is and whose action is needed next
- Revisions to the PAMR process, which has been deemed too expensive. For the next Growth Policy, to be adopted this summer, a new transportation impact evaluation tool, the Transportation Policy Area Review, is being developed that is intended to result in more equitable pricing of transportation improvements. The new Growth Policy is known as the Subdivision Staging Policy.
- A February 2012 resolution of the Planning Board caps project plan application fees at \$260,000, and allows staff to waive up to half the fees due for a preliminary plan or site plan processed with a project plan (half the fees of the second plan).

Additional features of the development review process and regulations that provide some relief from what might otherwise be a severe constraint on development include:

- Alternative methods of development review: Standard method development requires less review; Transfer of Development Rights lets developers add density to certain sites as specified in a Master Plan.
- The optional methods are less prescriptive and leave many of the details to be negotiated at site plan review. The intent is to allow some tradeoffs, allowing extra density or height in exchange for public benefits
- Use of floating zones: these overlay over traditional Euclidian zones and allow more flexible forms of development in areas where this is specifically desired, particularly in downtown or urban areas
- CR zones: these zones specify the FAR, percent commercial, percent residential, and height; they are intended to give incentives to mixed use development, which is often difficult to achieve in other jurisdictions and often requires a costly and time consuming rezoning. Density and height may be granted in exchange for public benefits.
- The White Flint area is pioneering new approaches to regulation and development review. A tax district may substitute for transportation mitigation fees, and public benefits are counted under a point system. These approaches are still too new to determine their effectiveness in reaching County goals.

Building Permits

Land development and building development applications are handled by the County's Department of Permitting Services. The department reviews applications and collects development impact taxes at issuance of the building permit.

Applications for single-family houses and townhouses include a Residential Building application, Right of Way application, Sediment Control Application, Site Plan, submission of detailed construction drawings, and Roadside Tree Affidavit. An automation enhancement fee of 10% applies to the total of application fees. Applicable regulations include Chapter 8 (Buildings) of the Montgomery County Code the IRC building code, and Residential Energy Code. New construction is inspected periodically, and the process is complete at issuance of a Certificate of Occupancy.

A similar process applies for units in a high-rise building. Additional requirements apply for energy efficiency as described in the County's Green Buildings Law.

Case Study Results

Three projects that include townhouses and in some cases single-family units, and two projects that were high-rise multi-family units were examined in detail through review of staff reports. Where available, application fees and impact fees were totaled, and other elements of the regulatory approvals were noted in text form. The sum of available costs was divided by number of units to yield an estimate of per unit regulatory costs. For townhouse and single-family units, a minimum of \$30,000 is applied in the course of layers of fees, prior to building permits and WSSC fees (these could add another \$10-\$15,000 to the per unit costs). For multi-family units, the costs are difficult to estimate as most projects available for analysis include large commercial components or are atypical (e.g. in the White Flint Sector Plan area). Nevertheless, multi-family units are estimated to carry a regulatory burden of at least \$10,000 if they are in a Metro Station area (plus building permit and WSSC fees) and considerably more if they are in parts of the County requiring transportation mitigation.

Exhibit 2 on the next page provides a summary of the findings related to costs for six projects.

Cost Elements in a Residential Development Project Application

Montgomery County MD

Case Study Projects						
Required	Required	Required	Required	Required	Required	Required
5 SF, 11TH on 12.77 acre, TDR option	35F, 23 TH on 2.5 acres	76 TH + 1 SF on 5.25 acres	455 MF, three buidings, density transfer, 2.59 acres	241MF + retail on 2.62 acres	200 MF, 7700 sf retail on 1.12 acres	

Cost Element

Fees to County

1. Application/Review

Rezoning	N	Y	6125	Y	7362.5	N	N	N				
Forest Conservation	Y	5620	Y	1705	Y	2503	Y	1731	Y	1740	N	exempt due to small lot
Sketch Plan	N	N	N	N	N	N	N	N	N	N	N	
Project Plan	N	Y	6450	Y	10200	Y	38625	Y	22575	Y	19500	
Preliminary Plan	Y	8340	Y	11990	Y	30605	Y	74500	Y	53100	Y	49000
Site Plan	Y	8140	Y	9790	Y	18205	Y	80575	Y	45265	Y	38500
Record Plat	Y	2100	Y	2100	Y	2100	Y	2100	Y	2100	Y	2100

2. Impact

School Impact	Y	317010	Y	484914	Y	1389588	Y	2190825	Y	1160415	Y	963000
Transportation Impact	Y	173951	Y	271093	Y	785041	Y	1284920	Y	680584	Y	564800
School Facilities	N	0	N	0	Y	49409	N	0	N	0	Y	467670
LATR/PAMR	Y	23400	N	0	Y	45200	Y	146900	N	0	Y	22000

Studies

Traffic	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Noise	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Stormwater Mgmt	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Tree Preservation	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Landscape	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Other		Y	Historic Preserv.	Y	Historic Preserv.							

Conditions

Architectural	minor	minor	Y	front designs	N	N	minor	Y	average				
Recreation	N	Y	sitting areas	Y	pool, fitness	Y	fitness, tot lots	Y	pool, fitness				
Minimum Open Space	Y	35% green space	Y	50% reqd	Y	20% reqd	Y	20% reqd	Y	20% min			
Stormwater Mgmt	Y	Environmental Site Des	Y	Envmtl Site Design	Y	Environmental Site Desig	Y	filters, green roof	Y	filters, green roof			
Tree Preservation/Forestation	Y	conserv easeent	Y	conserv easement	Y	conserv easement	Y	pay equivalent to trees fo	Y	off-site planting	N	exempt	
Noise Berm	Y	berm & noise fence	N	N	N	N	N	N	N	N	N	N	
Right of Way Dedication	Y	0.23 acre	Y	0.18 acres	N	N	Y	0.027 acres	Y	27,477 sf	Y	Y	
Construction of Turn Lanes	N	Y	crosswalk, median	N	N	N	N	N	N	N	N	N	
Pedestrian Circulation/Sidewalks	Y	Y	Y	Y	Y	Y	Bethesda CBD Std.	Y	Y	Bethesda Streetscape	Y	Y	
Bicycle Circulation/Trails	N	N	N	Y	Y	Y	Y	on-road bikeway	N	N	N	N	
Bicycle Racks	N	N	N	N	Y	Y	Y	20 spaces	Y	2 racks, 8 lockers	Y	Y	
Parking	Y	surface	Y	on site	Y	all on site	Y	37% waiver reqt	Y	160 public +208 private	Y	underground	
Landscaping	Y	native species	Y	Y	Y	Y	Y	water feature, plaza	Y	plaza, light display	Y	Y	
Streetscape	N	Y	Y	Y	Y	Y	Y	Bethesda	Y	Silver Spring Guidelines	Y	Bethesda CBD std	
Lighting	Y	Y	Y	Y	Y	Y	Y	for plaza	Y	Y	Y	with public art	
Energy Efficiency/LEED	N	N	N	Y	Y	Y	Y	N	N	N	Y	Certification minimum	
Signage	Y	entrance monument	Y	Y	Y	Y	Y	Y	Y	Y	Y	proffered design	
Public Art	N	N	N	N	N	N	Y	Y	Y	within plaza	Y	Y	
HOA Covenants	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Neighborhood Specific	Olney Master Plan	N & W Silver Spring	Y	N & W Silver Spring	Y	Bethesda/Woodmont Tri	Y	Y	Y	Silver Spring Overlay	Y	Bethesda CBD/Woodmon	
Development Plan Binding	N	Y	restrictions	Y	Y	Y	Y	Y	Y	Y	Y	Y	
Mitigation Agreement										Y	3 super bus shelters	Y	Traffic mitigation amt

MPDU

N	None	N	None; 4 waived	Y	10 units	Y	68 units (15%)	Y	31 units (12.5%)	Y	30 units (15%)
---	------	---	----------------	---	----------	---	----------------	---	------------------	---	----------------

Water/Sewer

public	public	public	public	public	public	public	public	public	public	public	public
--------	--------	--------	--------	--------	--------	--------	--------	--------	--------	--------	--------

Other Expenses

Architectural/Engineering	below average	average	average	average	average	average	average	average	average	average	above average
Legal	below average	average	high	average	average	average	average	average	average	average	average
Community Meetings	below average	above average	above average	below average	below average	below average	below average	below average	below average	below average	below average

Totals

\$	538,561	\$	794,167	\$	2,340,213	\$	3,820,176	\$	1,965,779	\$	2,126,570	
Minimum Per Market Rate Unit	\$	33,660	\$	30,545	\$	34,929	\$	9,871	\$	9,361	\$	12,509

Notes: Costs estimated on basis of staff reports for actual development cases (Appendix C) , as if the applications were made according to current fee schedules. Building Permit and WSSC water and sewer fees are not included. Costs exclude MPDUs, studies, legal/architectural extras, community meetings

Appendices

A: Development Process in Montgomery County

B: Fee and Cost Tables

C: Case Studies

Appendix A. Development Process in Montgomery County

This section details the various components of development review in Montgomery County – the regulations, agencies, process steps, and topics involved.

Regulations

The governing documents for development review include:

- Montgomery County Zoning Ordinance (Chapter 59 of the County Code); Development standards are contained in underlying zones and in overlay zones.
- Montgomery County Subdivision Regulations (Chapter 50 of the County Code)
- Adequate Public Facilities Ordinance (included in Subdivision Regulations, Chapter 50-35(k))
- Moderately-Priced Dwelling Units (Chapter 25A of the County Code)
- Road Code (Chapter 42 of the County Code)
- Workforce Housing Law (now voluntary)
- Forest Conservation Law (Chapter 22A of the County Code)
- Transportation Management District (Chapter 42A of the County Code)
- Development Impact Tax for Transportation Improvements (Chapter 52, Section 57e of the County Code)
- Development Impact Tax for Public School Improvements (Chapter 52, Section 90e of the County Code)
- M-NCPPC Recreation Guidelines
- Stormwater Management
- Water Resource Protection (Chapter 19 of the County Code)
- Urban Renewal Plan (Chapter 56 of the County Code)
- Green Buildings Law (Chapter 44 Article VII of the County Code)
- Fire & Rescue
- Individual Master Plan or Sector Plan for location of development site
- Individual Streetscape Standard, if one exists for the location
- Parking District regulation, if one exists for the location

Emerging standards and documents include:

- Subdivision Staging Policy – due July 2012
- Unified Plan Review procedures – under development
- Streamlined zoning code – December 2012

Lead Agencies

Two agencies have lead responsibilities in development review: the Montgomery County Planning Board and Permit Processing. The Montgomery County Planning Board is an agency of Maryland National Capital Park and Planning Commission, and has responsibility for preparation of master plans and sector plans and reviewing development applications. Permitting Services is an agency of Montgomery County, and deals with land development and building construction permitting. Multiple other agencies at the local and state level provide input to the development review process.

Development Review Process through Development Approval at Site Plan

Key bodies involved in the development review process include:

- M-NCPPC staff
- Development Review Committee (composed of M-NCPPC and agency staffs)
- Planning Board
- Hearing Examiner (for rezoning)
- District Council (for rezoning)

Other agencies and their responsibilities include:

Historic Preservation Commission – may be asked to review a proposed development plan if a historic structure is located on the site.

Montgomery County Department of Environmental Protection – reviews the disturbance of trees or other vegetation and recommends mitigation measures.

Department of Recreation – for projects of more than 25 units, a recreation supply and demand analysis is carried out. Demand is calculated by age group and building type, and shown in factors per 100 dwelling units. Supply consists of points for tot lots, sitting areas, pedestrian circulation, indoor community space and fitness facilities. Supply points need to exceed demand points.

Montgomery County Department of Transportation (MCDOT) – reviews Preliminary Plans and specifies needed Right of Way dedication, slope and drainage easements, access improvements including handicap ramps and bikeways, sidewalks, street lights, trees in the County right of way, street grading and paving, storm drainage, erosion and sediment control measures.

Maryland State Highway Administration (SHA) – reviews cross sections and paving details when curb cuts or new roads interact with a state road; reviews traffic impact study.

Montgomery County Fire Marshal – specifies fire lanes; reviews installation of equipment for fire hazards.

WSSC – The Washington Suburban Sanitary Commission operates wastewater treatment plants on behalf of Montgomery and Prince George’s Counties. In the two counties, WSSC operates over 4,000 miles of mainline sewer pipe, most of which was built in the 1960s and 1970s, and 50 pumping stations. The agency is involved in the review of site plans and grants water and sewer hookups to new developments. Its Development Review Committee reviews site plans, at the early stages and when fully engineered.

Department of Permitting Services – This is a Montgomery County department that reviews stormwater management plans, floodplain issues, and issues construction permits.

This first stage of development review takes the development proposal from the first contact the developer has with the public sector or citizen groups through an approval by either the Planning Board (site plans) or the County Council (rezoning applications).

Types of application

Pre-preliminary – This is a non-mandatory application that allows an applicant to meet with the Development Review staff and obtain initial feedback on the feasibility of a development application. This process is seen as helping the developer identify potential drawbacks to the development proposal prior to spending money on detailed design and engineering of a project.

Natural Resource Inventory/Forest Stand Delineation – identifies location of forest and other natural resources on a site.

Forest conservation – The Forest Conservation Law applies for developments on more than 40,000 square feet of land; the plans specify where applicants must save or plant forest.

Sketch plan – review process required in the new Commercial Residential (CR) zone in White Flint, Wheaton, Kensington, and Shady Grove Life Sciences sectors. Three major sketch plan applications were filed shortly after approval of the CR zone for White Flint. In early 2012, the first sketch plan for Wheaton was received, shortly after the sector plan was approved.

Project plan – focuses on design, public use space and amenities, master/sector plan conformance, and density. The project plan is usually submitted as part of an “optional” method of processing, and used in CBD zones and areas where increased density warrants the provision of additional public facilities.

Preliminary plan of Subdivision Review – divides a tract of land into lots, streets, and open space; results in the creation of recorded lots and takes into account conformance to master/sector plans, adequate public facilities, site utilities, and density.

Site Plan – detailed plan with emphasis on design and site details, including landscaping, lighting, compatibility with neighborhood, building location, and environmental factors

Site Plan Surety and Maintenance Agreement – details the anticipated costs, plus a 20% contingency, for items such as landscaping, lighting, paving, recreation facilities, artwork, fencing, retaining walls, private roads, green roof, and rooftop pool that will then be bonded to ensure that the work is completed as planned.

Record plat – places the approved subdivision on the land records of the County, with details on lot dimensions and other physical features of the plan. A record plat is the last step before applying for building permits.

Rezoning – where a Local Map Amendment is requested to change the zone of a parcel in conformance with the adopted Master Plan

Other – Other less frequently used applications include: Development plan, diagrammatic plan, schematic development plan, supplementary plan, urban renewal plan, variance, special exception.

In Montgomery County, unlike other jurisdictions in the Washington Metropolitan Area, master plan or sector plan amendments cannot be applied for in the course of development review processes.

Rezoning (Local Map Amendment)

The Local Map Amendment process is arduous and time consuming. The very fact of a rezoning application draws considerable neighborhood opposition. As a result, expenditures by the applicant go up dramatically to account for numerous community meetings, revisions and resubmission of the plans, legal fees, time elapsed that may result in a change to the market demand for the initial project proposed, and a more complex approval process that requires public hearings before a Hearing Examiner and the County Board in addition to the Planning Board which is the last stop for Project Plans, Preliminary Plans, and Site Plans.

Land Development and Building Permits

These are administered by the Permitting Services Department, which also maintains separate fee schedules. These processes are purely administrative, and do not require further public hearings or approval by governmental bodies.

Topic Reviews

Master Plan and Zoning

Each application is initially reviewed for consistency with the prevailing Master Plan, Sector Plan, and Zone.

The Master Plans cover the entire County, in discrete segments. More recent plans reflect the County's evolution toward smart growth and incentivizing development in existing urban areas. The plans for these more urban areas provide options for a range of development, often recognizing that a particular site may eventually be rezoned for more intense uses as the neighborhood evolves.

Several plan areas have companion regulations that support the plan and clarify design and development expectations, for example the Bethesda Streetscape Standards.

The County is currently going through a complete rewrite of its Zoning Ordinance to simplify the structure, eliminate the proliferation of very specialized zones that apply only to small areas of the County, and to facilitate redevelopment in urban or transit-supported areas.

Natural Resource Inventory and Forest Conservation

An early step in each cycle of development review is the natural resource inventory which eventually leads to requirements for tree cover on the site. Specimen trees may be required to be retained, or the site must retain a certain percentage of wooded areas. Mitigation is possible through offsite plantings or payment of fees.

Adequate Public Facilities

The County's Adequate Public Facilities Ordinance was adopted in 1973 and subsequently revised. It dictates that a Preliminary Plan of Subdivision will not be approved unless the Planning Board determines that public facilities will be adequate to support and service the area of the proposed subdivision. Public facilities defined in the ordinance include roads and transportation facilities, sewerage and water service, schools, police stations, firehouses, and health clinics. This type of ordinance was necessary in an era when greenfields development was the norm, and public facilities very likely did not exist to properly service the new homes built. The APFO's intent was to stage new development in concert with transportation and schools, and restrict development where there is insufficient capacity. The County developed a series of Impact Taxes to ensure that new development paid its share of the cost of public facilities. New guidelines are adopted on a biannual basis as part of the Growth Policy documents.

Impact Taxes

The rates are set on July 1, coinciding with the start of each fiscal year, and adjusted according to the Baltimore Construction Cost Index. Projects pay the rate in effect when they apply for their building permit, not when the project is approved, leading to further unpredictability about the bottom line. There are four types of fees, detailed in Appendix B. School and Transportation Impact Taxes apply to all projects and all units. School Facilities Payments and the Development Impact Tax for Transportation apply only for school age population or projected trips that exceed capacity in a specific planning cluster.

Growth Policy (now known as Subdivision Staging Policy)

The County's biennial Growth Policy documents clearly demonstrate the County's evolving view of where development is appropriate and what type of development to encourage. The Growth Policy is the source of the Transportation and Public School Facilities tests that are applied on new development, and dictate the application of additional impact fees.

The FY2007-2009 Growth Policy set forth eight public policy principles to guide the transition to a new system that more fairly allocates the marginal costs of growth and provide guidance for master plans, the

Capital Improvement Program, and the development review process. The ultimate objective of the 2007 Growth Policy was to encourage patterns of development that produce more sustainable places to live, work, conduct business, and recreate. Transportation Impact Taxes and School Impact Taxes were found to not cover the actual costs generated by new development. As a result, several new mechanisms were developed to quantify impacts and determine whether additional fees should be charged.

For Transportation, a two-part test was established, consisting of the Policy Area Mobility Review (PAMR) to assess the capacity of the transportation in the overall Policy Area where the project is located, and the Local Area Transportation Review (LATR) which is used to assess transportation capacity in the immediate vicinity of the subdivision. A set of marginal transportation impact tax rates necessary to support person-trips generated by new development was established, putting forth tax rates by type of land use (5 residential categories and 7 non-commercial categories) and by geographic area (Clarksburg, Metro Station area, and everywhere else). Metro locations had the lowest rates.

For public schools, a School Facilities Payment was to be triggered when a school cluster (elementary, middle, or high school) was at 110/105% of capacity. A moratorium was envisioned when a cluster was over 135% of capacity. School capacity in each cluster is examined, and clusters deemed to have inadequate capacity are identified. The Planning Board recommended that the cost-per-pupil of school infrastructure be the basis of a School Facilities Payment in addition to the School Impact Fee. The payment is assessed only for that portion of demand that is over the adequacy threshold, and is modified by a published set of School Generation Factors by housing unit type. In addition, a School Impact Tax applied to all residential development, according to the average number of students generated by each type of housing unit, regardless of the capacity of the cluster in which the development is located.

Additional provisions of the 2007 Growth Policy dealt with fostering high quality civic design and monitoring the sustainability of the development that results from implementation of the Growth Policy.

The Planning Board draft eventually is adopted by the County Council, with changes.

The FY2009-2011 Growth Policy modified the approach, recognizing that previous policy had the result of directing growth to areas with lower densities where road and school capacity were available. This led to an increase in Vehicle Miles Traveled. Developers were required to provide mitigation where growth is desirable, such as Metro station or urban transit-served areas which already have high development costs.

Desiring to improve the jobs-housing balance, reduce Vehicle Miles Traveled, and encourage new mixed-use development in urban areas, the Planning Board specified 11 recommendations. Key changes included:

- Redirecting PAMR mitigation to transit and affordable housing, and away from new road capacity
- Allowing a lower Level of Service if there was good transit Level of Service
- Expanding the available types of non-auto mitigation
- Lowering residential trip-generation rates
- In White Flint, replacing the LATR and PAMR mechanisms with Sector Plan mechanisms
- Changing APFO School payment thresholds to 110% of capacity
- Allowing unused capacity to transfer

The desired results is stated as fostering development that is more dense and diverse, provides wide choices in housing, employment and mobility, connects neighborhoods and activity centers, and insists on high design standards to create great places and add value to nearby established neighborhoods.

The County Council approved the 2009-2011 Growth Policy on November 10, 2009. They emphasized the new direction toward smarter growth, including Smart Growth Criteria referred to as Special Mitigation Standards. The Special Mitigation Standards apply to all appropriately zoned land within ½ mile of transit with minimum of 15-minute bus headways. Designated areas include all Metro Station Policy Areas plus the Town of Kensington, North Bethesda Road Code Urban Area, Rock Spring Office Park, and White Oak

Commercial Center. For projects meeting Smart Growth Criteria, PAMR mitigation costs should be allocated 50% to public transit improvements in the Policy Area, 25% to general transportation improvements, and 25% retained by the developer.

Action on the White Flint area was deferred until adoption of the White Flint Sector Plan. On April 27, 2012, the County Growth Policy was amended for the White Flint Metro Station Policy Area, exempting White Flint from the Policy Area Mobility Review and Local Area Transportation Review if the development is subject to the new special tax district.

The threshold for application of the school facility payment at school capacity utilization greater than 105% was retained, and the moratorium threshold also retained at 120%.

The timing of the Growth Policy Review was changed from every two years to every four years.

Schools Facilities Payments

Each year by July 1, the Planning Board evaluates the available capacity in school clusters and for roads. Detailed results of its schools and transportation tests are published and indicate requirements with respect to school and road capacity and facilities payments due prior to issuance of a Building Permit.

For FY2011, School Clusters requiring a School Facility Payment for residential approval (at 105% of capacity) included:

Elementary (7 of 25 clusters):

Bethesda Chevy Chase
Richard Montgomery
Northwest
Northwood
Paint Branch
Quince Orchard
Rockville

Middle School (4 of 25 clusters):

Bethesda Chevy Chase
Richard Montgomery
Northwest
Whitman

High School (1 of 25 clusters):

Wootton

No clusters were under moratorium (120% of capacity).

Transportation Mitigation Payments

Automobile trips required mitigation in 15 policy areas in FY 2011 (shown with percentage of trips requiring mitigation).

Aspen Hill	15%
Bethesda Chevy Chase	30%
Clarksburg	0%
Derwood	15%

Fairland/White Oak	45%
Gaithersburg City	50%
Germantown East	50%
Kensington/Wheaton	10%
North Bethesda	30%
North Potomac	10%
Olney	10%
Potomac	45%
Rockville City	20%
R&D Village	35%
Silver Spring/Takoma Park	10%

A staff report dated 5/3/12 finds that in CBD areas, where the methodology allows for credit against the number of trips to be mitigated, the majority of developments in Bethesda and Silver Spring CBDs have seen their trip mitigation requirements fully eliminated, with no PAMR fees due; this took place when the Bethesda mitigation requirement was set at 10% of trips.

Under the Special Mitigation Standards applying to all Metro Station Policy Areas, Germantown Town Center, Kensington, White Oak, Rock Spring Park, and North Bethesda Road Code Urban Area, development projects will be required to pay 75% of their trip mitigation payment to the County Department of Transportation, which must use at least 2/3 of that amount for transit serving the policy area in which the development is located. This applies to projects with a minimum of 50% of their floor area in residential use, and reaching at least 75 percent of achievable on-site density.

The 2012 Subdivision Staging Policy is the next iteration of the County's growth policies, succeeding the FY2009-2011 growth policy. As with prior Growth Policies, developers are required to pass transportation and school tests based on the predicted number of residents and/or vehicle trips. The overall policy is planned to be presented in draft form to the Planning Board in June 2012, with public hearings and work sessions in July 2012.

A new assessment tool is being formulated and is planned for adoption in May 2012, the Transportation Policy Area Review (TPAR). This methodology will establish standards for traffic and transit, and implement monitoring and reporting mechanisms to ensure that required transportation improvements have taken place. If a proposed development exceeds road or transit capacity, improvements must be approved in the County Operating Budget or Capital Improvements Program to meet the 10-year forecast of development activity. The Local Area Transportation Review will still be used in development review to determine if the project will create unacceptable congestion around its site.

Initial proposals for trip mitigation suggest that the percentage of trips requiring mitigation will decrease by 5% in seven policy areas and by 10% in one policy area. Clarksburg will see the only increase in trips requiring mitigation, by 10%. The other 6 policy areas will experience no change from FY 2011.

School Facility Payments will continue to be required when school enrollment in a cluster exceeds 105% of projected school capacity. The FY2013 school enrollment and capacity information is to be presented to the Planning Board prior to the staff draft of the 2012 Subdivision Staging Policy. It appears that development in 14 school clusters will be required to make a school facility payment (in FY2012, the number of clusters was 13). One school cluster was in moratorium for FY2012, Richard Montgomery. This

cluster will reopen for FY2013, but Bethesda Chevy Chase may be declared in moratorium – the calculations are not final yet.

These payments apply only when a school cluster exceeds 105% of school program capacity. The rates take into account the Student Generation Rate for each unit type and the cost of providing a seat at a school in the cluster.

Housing: MPDU and Workforce housing

Moderately priced dwelling units

Montgomery County has had a Moderately Priced Dwelling Unit program since 1974 which is credited with producing more than 12,000 units. The program requires that 12.5% of each residential development project be identified as MPDU units, and bonus density is granted for additional units according to a sliding scale:

Bonus Density Sliding Scale

<u>%MPDU</u>	<u>Bonus Density</u>
12.5%	0%
12.8%	3%
13.2%	7%
13.6%	11%
14.0%	15%
14.4%	19%
15.0%	22%

The size of project the minimum 12.5% applies to has changed over time, most recently in 2005 when the threshold of 35 units was lowered to 20 units.

When the County staff analyzed the program, it found that between 1989 and 2004, over half of the site plans approved included no or minimal bonus density units, while one quarter achieved the full 22% density bonus. Characteristics of the size, zoning requirements, and height limits affected the developer’s ability to use bonus density and create the desired MPDUs. In addition, bonus density is an option, and developers may choose not to use it.

Allowable rents are set when the DHCA approves a Rental Offering Agreement with a builder. In general, the rent levels are set so that the qualified household pays no more than 25% of monthly gross income in rent. The maximum income for the MPDU rental program is 65% of area median income for the Washington Metropolitan Area for garden apartments, and 70% for high-rise apartments. For 2012 maximum MPDU rents are \$1,025 per month for a studio apartment up to \$1,520 per month for a 3-bedroom apartment in a garden-style building, and \$1,095 to \$1,640 in a high rise. Minimum unit sizes are specified.

Sales prices are also set with a Sales Offering Agreement that differs for each new project. DHCA’s MPDU web site lists only 23 units available between February 26 and May 22, 2012. Of these 14 were townhouse style, 6 garden-style, and 3 high-rise apartments.

The MPDU program is generally considered successful, but suffered from a short period of control before market rate sales prices or rents kicked in (originally 10 years for sales units and 20 years for rental units).

As units began dropping off the County’s inventory, the control period was extended to 30 years for sales units and 99 years for rental units.

Housing in Master Plans

Montgomery County is increasingly including analysis of housing needs and supply in new Master Plans for individual areas of the County. In 1993, the General Plan was “Refined” and included more discussion of housing goals and objectives. Prior to that time, Master Plans addressed development of large tracts of vacant land and housing provision was less of a concern. Since that time, Master Plans recognize that developable land is constrained, and the focus has shifted to redevelopment of already developed sites. The 22 Master Plans adopted between 1993 and 2008 consider different aspects of housing issues, as follows:

<u>Issue:</u>	<u>Number of Master Plans Addressing Issue:</u>
Housing Inventory	7/22
Housing Projections	10/22
Senior Housing	10/22
TDR	8/22
Workforce Housing	2/22
MPDU	15/22

In 1995, the County realized that its population was aging and Master Plans began to consider the need for senior housing. In 2001, the County adopted its first Housing Policy, with recommendations for senior and affordable housing.

In 2006, the County added Workforce Housing to the County Code as a requirement in CBD/transit areas. (this program is now voluntary).

Workforce Housing

The County’s first Workforce Housing project, the Village at King Farm, held its ribbon cutting ceremony in November 2008. The 49-unit garden style condo project is designed for households earning up to 120% of the median income for the County (at that time a maximum of \$119,000 for a family of four). The project was developed by the Housing Opportunities Commission of Montgomery County, under the provisions of Amended Executive Regulation 18-06AM, “Requirements and Procedures for the Workforce Housing Program” (July 31, 2007).

Workforce Housing was intended to be affordable for households whose incomes were too high to be eligible for the MPDU program, and applied to developments of 35 units or more in high density, transit-oriented zones in the County. It required developers to provide 10 percent of units as Workforce Housing. The requirement also applied to residential development using County-owned land, such as the Lot 31 development in downtown Bethesda. Nine Metro Station Policy Areas were considered for inclusion of Workforce Housing requirements.

Housing Supply and Demand

In July 2003, the County’s total future residential construction capacity was estimated to be 75,100 units; of these 43% were in the I-270 corridor, particularly close to Gaithersburg and Rockville; Bethesda/Chevy Chase/North Bethesda and Silver Spring/Takoma Park accounted for 33 percent of the capacity.; Georgia Avenue for 10%. Potomac, Eastern County, and rural areas accounted for 4 to 5 percent each.

The Residential capacity study identified 435 parcels with the capacity for at least 20 units (the level beyond which MPDU requirements would apply), accounting for a potential of 61,659 housing units, or 82% of the total forecast new housing capacity.

Residential building permits from 1981 to 2006 averaged 5,340 units per year. If all were built, 138,855 units would have been delivered in 26 years.

From 1991 to 2007, the County approved 70,767 housing units, or 3,472 per year.

The GMU forecast of housing needs identifies a need for 108,522 new housing units by 2030.

As of March 2012, the County has 36,713 approved units “in the pipeline” to be built.

Capacity for Residential Development

Montgomery County’s planners have published figures that demonstrate that only 4% percent of the County’s land area zoned for development remains undeveloped. This land totals 14,000 acres; the amount could be reduced once steep slopes, flood plains, and forest stands are removed from the inventory. An additional 8,000 acres is in surface parking lots; and 10,500 acres are located in “strategic growth” areas – overall the County considers it has 28,800 acres available for new development, both residential and commercial. Between 1990 and 2009, 40,000 acres were developed and provided 72,000 housing units – a density of less than 2 units per acre.

This raises the concern of whether the County will truly have enough appropriately master planned/zoned land for its future housing needs.

A housing capacity study conducted in 2005 with 2003 data concluded the County had capacity for only 75,100 more units, whereas the GMU study forecasts a need for at least 108,000 more units. The study also indicated that only 435 parcels remained where at least 20 units could be built. The County since 2005 adopted several master plans that will provide more units than previously thought, through greater density, but that may still be insufficient.

Historical Approval Rates

A review of building permits issued in recent years (or units approved) shows that the annual rate is not sufficient to reach 108,000 new units by 2030. New approvals averaged only 3,472 dwelling units per year from 1991 to 2007. Not all will be built, but if they were at the current rate of approval, 69,000 dwelling units could be built in 20 years, not the more than 108,000 forecast as needed.

Housing Policy

The 2001 Housing Policy analyzed only Department of Housing and Community Affairs programs. The 2012 Housing Policy analysis is broader and makes recommendations in a number of areas:

- Establish a numerical goal, such as no net loss of regulated affordable housing units
- Allow affordable housing projects on County owned land to go through mandatory referral rather than special exception or rezoning
- Preserve affordable, privately owned, unregulated rental and homeownership units
- Remove impediments to adequate, efficient and expeditious review of affordable housing
- Analyze revisions to the MPDU program to retain existing MPDUs as they turn over
- Take advantage of infill opportunities; develop new housing units on underutilized sites
- Analyze current and pending foreclosures
- Help households make their homes more energy efficient and help pay utility costs

Appendix B Fee/Cost Tables

Application Fees

Major application fees for residential development are as follows:

	<u>Per Project Fee</u>
• Pre-Application staff review	\$3,000.00
• Natural resource inventory	\$ 720.00
• Forest Conservation Plan	
○ Single-family	\$ 480.00 + \$200 per lot
○ All others	\$ 980.00 + \$290 per acre
• Preliminary Plan of Subdivision	
○ 1 to 100 dwelling units	\$2,500.00 + \$365 per DU
○ DUs over 100	+ \$100.00 per DU
• Project Plan	\$4,500.00 + \$75.00 per DU
• Site Plan	
○ 1 to 9 dwelling units	\$4,000.00 + \$165 per DU
○ 10 or more dwelling units	\$5,500.00 + \$165 per DU
• Record Plat	\$2,100.00

There are additional fees for amendments, extensions, and waivers.

Impact Taxes

The rates are set on July 1, coinciding with the start of each fiscal year, and adjusted according to the Baltimore Construction Cost Index. Projects pay the rate in effect when they apply for their building permit, not when the project is approved, leading to further unpredictability about the bottom line. There are four types of fees, detailed below. School and Transportation Impact Taxes apply to all projects and all units. School Facilities Payments and the Development Impact Tax for Transportation apply only for school age population or projected trips that exceed capacity in a specific planning cluster.

<u>School Impact Taxes</u>	<u>Per Unit Fee</u>
Single Family Detached	\$23,868
Surcharge of \$2/square foot for houses exceeding 3,500 square feet	
Single-Family Attached (Townhouse)	\$17,970
Multi-Family – Garden Style	\$11,358
Multi-Family High Rise	\$ 4,815
Multi-Family Senior	\$ 0

Transportation Impact Taxes

	<u>Per Unit Fees</u>		
	Metro	Clarksburg	General
Single Family Detached	\$6,213	\$18,638	\$12,425
Single-Family Attached (Townhouse)	\$5,084	\$15,250	\$10,166
Multi-Family Garden Apartment	\$3,953	\$11,860	\$ 7,906
Multi-Family High Rise	\$2,824	\$ 8,472	\$ 5,906
Multi-Family Senior	\$1,129	\$ 3,388	\$ 2,259

School Facilities Payment

	<u>Per Unit Fees</u>		
	Elementary	Middle School	High School
Single Family Detached	\$6,244.48	\$3,659.18	\$3,733.63
Single Family Attached (Townhouse)	\$ 4,117.45	\$3,100.14	\$3,049.61
Multi Family Garden Apartment	\$2,985.64	\$1,423.02	\$ 1,111.54
Multi-Family High/Low Rise with Parking	\$ 819.59	\$ 991.03	\$ 940.53

These payments apply only when a school cluster exceeds 105% of school program capacity. The rates take into account the Student Generation Rate for each unit type and the cost of providing a seat at a school in the cluster.

Transportation Payment

Currently \$11,300 per mitigated trip, may be increasing to \$11,700

New Construction Application Fees (Building Permit)

These fees are per dwelling unit for one and two family dwellings, and based on a percentage of the cost of construction for larger buildings.

Single-Family Detached	\$2,350 for gross floor area less than 5,000 sf
Single-Family Attached	\$1,090
Other Structures	Cost of construction up to \$8,000,000 times permit-fee multiplier of \$0.0301, PLUS cost of construction over \$8,000,000 (to a maximum of \$50,000,000) times \$0.003. MPDU units are excluded from the additional calculation.

Mechanical, Electrical and Plumbing

Detailed fees depend on number of fixtures and design

Certificate of Occupancy Fees

Single Family

\$145

Other

\$860 plus \$0.0230 per SF of area exceeding 20,000 sf

WSSC Fees

	<u>Unimproved area</u>	<u>Improved area</u>
Water Standard Svc Connection in Public ROW	\$2,250	\$7,250
Sewer Standard Svc Connection in Public ROW	\$3,500	\$10,750

System Development Charges (includes both water and sewer)

Housing units with 3 or 4 toilets	\$5,090
Housing units with 1 or 2 toilets	\$3,054
Apartment units	\$2,036

In addition, WSSC adds a Front Foot Benefit Charge to residential property tax bills for a period of 23 years starting with the date of connection to the water and sewer mains.

	<u>Per Front Foot</u>	
Length 0-150 ft	\$4.00 water	\$6.00 sewer
Length 151-300 ft	\$3.00	\$4.50
Over 300 ft.	\$2.00	\$3.00

Appendix C Case Studies

Fee schedules for various regulatory processes related to development review were obtained, and the listed fees applied to actual development projects either already built or currently working their way through the development review process, to determine what the fee load on these projects, including school and transportation impact fees, would be if they were being processed today. The projects reviewed were:

Townhouse:

- Brookeville (single family and townhouse)
- Courts at Woodside
- Chelsea Court

Multi-Family:

- Woodmont Central
- The Galaxy
- The Monty
- North Bethesda Market
- Lot 31/31A

Case Study: Brookeville Preserve (single family and townhouse)

Brookeville Preserve consists of 16 dwelling units, including 5 single-family detached homes and 11 townhomes located in the Olney Master Plan area, at the intersection of Georgia Avenue and Owens Road, on 12.77 acres. It was processed under the optional Transfer of Development Rights method.

Timeline

9/22/2010	100-year flood plain delineated
12/14/2010	Preliminary Plan application
1/31/2011	Manor Oaks Homeowners Association sends resolution expressing concern about traffic on Georgia Avenue, schools capacity, possible use by new residents of Manor Oaks common areas, and concerns about construction over a natural gas pipeline on the site.
8/4/2011	Site Plan application
3/1/2012	Staff report on Preliminary Plan and Site plan recommends approval with conditions
3/5/2012	Planning Board public hearing

Preliminary Plan Comments

The property was designated as a TDR receiving area for the Agricultural Reserve in 1980, at a density of 4 units per acre.

The property would generate 13 to 18 weekday hour trips, and as such is not subject to LATR.

The site is located in the Olney Policy Area which has a 10% PAMR trip mitigation requirement; a payment of \$23,400 is required to mitigate 2 peak hour trips.

The school cluster has capacity and no school facilities payment is required.

Other public facilities are adequate, including water and sewer.

The site is heavily forested; a portion would be removed for the housing units; the remaining portion is sufficient. A waiver is requested to remove a few specimen trees.

As part of community meetings and reviews, unit count went from 19 to 16, pedestrian path has evolved, and vehicular access reduced from 3 to 2 points.

Noise study showed noise on Georgia Avenue; project will build an earthen berm.

Stormwater management concept is Environmental Site Design, which includes micro-biofilters, landscape infiltration facilities, drywell, and areas of sheetflow to buffers.

Case Study: Rezoning: Townhouse: Courts at Woodside

Courts at Woodside: This project required a rezoning in order to transform five single-family lots into a 26 unit project with 23 new townhouses and 3 renovated single family homes. The proposal was consistent with the North and West Silver Spring Master Plan, which anticipated a local map amendment to change the zoning from R-60 (single family) to R-T (townhouse). Citizen opposition developed, and as the project wound through approvals, County regulations changed and additional permits were required. The initial filing for rezoning took place in November 2003; units were under construction in 2010, and the project finally sold out in July 2011. It is now considered a success.

Timeline:

- 11/12/03: Initial filing for rezoning from R-60 to R-T 12.5; project deemed compatible with Master Plan.
- 6/17/04: Staff report recommends approval, and Planning Board approves 6-0
- 6/28/04: Public hearing before the Hearing Examiner (required for Rezoning)
- 7/16/04: Public record closed
- 7/26/04: Public record reopened
- 8/5/04: Public record closed
- 9/7/04: Public record open for Declaration of Covenants
- 9/8/04: Hearing Examiner recommends approval
- 10/12/04: District Council recommends approval.
: Resolution 15-788
- Jan 2005: Civic association letter re Plan 1-05061
- 4/1/05: The Moderately-Priced Dwelling Unit ordinance was amended in the fall of 2004 to require 12.5% of units to be MPDUs beginning at a 20 unit threshold, to apply to all projects that did not receive Preliminary Plan approval by April 1 2005; the threshold was 35 units when the rezoning was approved and the project was exempt from MPDU requirements. With the new requirement, the project would have had to provide 4 MPDU out of 26 total units.
- Sept 2005: Civic association protests waiver
- 02/24/06: Staff report on Preliminary Plan of Subdivision 1-05084; recommends waiver of MPDU requirements due to the physical constraints imposed during the rezoning (and not due to physical limitations of the site).

- 2/24/06: Staff report on Site plan 8-06003; Site plan review checklist indicates agency reviews in 2005 and 2006. Recommend approval.
- 3/09/06: Planning Board public hearing recommends approval with changes.
- April 2010: Units are under construction
- July 2011: All units sold

Case Study: Chelsea Court Rezoning

This project proposes to redevelop a private school site into 76 townhouse residential units on 5.25 acres, preserving a historic house and providing three parks. A rezoning from R-60 to R-T is required. The project is in the North and West Silver Spring Master Plan and in the transition area between downtown Silver Spring and the residential areas to the north. The project was later revised to 63 townhouses and one single-family.

Timeline

Preliminary actions: In December 2010 the project received a Recognition award from the Urban Land Institute. The developer obtained letters of support in October and November 2010. In October 2010, the Seven Oaks Evanswood Citizens Association went on record opposing the project.

- 1/4/2011 The project applied for a Local Map Amendment (rezoning) .
- March 2011 The civic association retained legal counsel, and by April, letters were submitted questioning the project’s compliance with the master plan.
- 05/09/11 Staff Report found the project compatible with the master plan and recommended approval of the Map Amendment
- 05/19/11 Planning Board public hearing recommended approval subject to binding elements
- 05/26/11 Hearing Examiner, followed by additional public hearings on 6/6, 6/27, 6/30, 7/18; recommended consideration of less density, less massing, and better site access
- 7/22/11 Staff report is revised for technical items
- 9/22/11 Hearing Examiner recommends approval with downsizing
- 10/18/11 District Council votes 5-4 to request less density and massing consistent with transition from CBD to R-60 zone, per the Hearing Examiner’s recommendation
- 11/7/2011 A local blog describes the project and a vigorous discussion ensues about whether zoning is a contract with the adjacent homeowners
- 1/26/12 Staff report on Remand from the Hearing Examiner; project size reduced to 63 townhouses and one single-family unit; staff recommends approval of rezoning from R-60 to R-T 12.5 and the revised plan.
- 3/23/12 Hearing Examiner hearing on remanded project, followed by additional hearings on 3/26 and 3/20. Report not yet available.

Case Study: Multi-Family Woodmont Central

This project was originally two non-contiguous lots using density transfer provisions to create multi-family, office, and retail uses. The developer wanted to separate the uses rather than have each lot be mixed use. The second request modified the floor area.

- 1/22/09: Application filed for one six-story office and retail building with 81,107 sf office; and one 18 story residential building of 457 units with 9,051 square feet of retail. The overall development is 100,663 square feet, at an FAR of 5.5.
- 6/15/09: Staff report for Project Plan and Preliminary Plan.

The Project Plan review found the project in compliance with the following:

- Bethesda CBD Sector Plan and Woodmont Triangle amendment
- Bethesda Streetscape Standard
- Urban Renewal Plan provisions (Chapter 56 of County Code)
- Open space requirements
- Vehicular and pedestrian circulation requirements
- Landscaping, lighting, and signage provisions
- MPDU requirements in Chapter 25A of the County Code
- Staging program provisions (verify>>)
- Forest Conservation Plan requirements (Chapter 22A)
- Water Resource Protection requirements (Chapter 19)

The Preliminary Plan review reiterated many of these findings and elaborated on the road and transportation aspects of the plan as well as specifics of forest conservation and stormwater management.

Major cost items imposed on the project as a result of the findings of the review include:

- Policy Area Mitigation: one building was found to generate 13 net new trips and the other 16 net new trips, to be mitigated at \$11,000 per trip, or \$319,000
- School facility payment is required
- Forest conservation: planting or equivalent payment for an area equal to 0.26 acres
- Stormwater management: 1000 square feet of green roof
- Participation in a transportation management district to achieve 37% non-auto goal

Items beneficial to the developer included:

- MPDUs: the developer received a bonus of 22% in total housing units for providing 15% MPDUs on site.
- The urban nature of the site meant that the transportation analysis credited the project for the presence of the Metro station; the project is served by public water and sewer, reducing those availability and connection costs.

6/25/09: Planning Board public hearing on Project Plan and Preliminary Plan

4/21/2011: Staff report for Project Plan Amendment, Preliminary Plan Amendment, and Site Plan

The developer redesigned the project and requested some amendments to the previous approvals. The amendments included:

- Removing units of workforce housing (the County's requirement for such units was removed)
- New design turning one building into two on the residential parcel
- Fewer curb cuts and redesign of the public space

- Parking waiver.

The office lot remained as in the previous approval and two options were analyzed for the residential lot:

- a) 174 foot building with 455 residential units and retail, for a total of 493,965 sf of development
- b) 143 foot building with 366 residential units and 408,459 sf of development

The analysis and requirements were similar to those in the previous approval. While the Policy Area Mitigation fee increased to \$11,300 (from \$11,000), the number of trips decreased. The area requiring afforestation increased from 0.26 acre to 0.43 acre, meaning that the payment would increase.

The Site Plan Review under the Mixed Use Optional Method found that the project met the following requirements:

- 20% of net lot area as public use space
- FAR maximum of 5.0 (proposed at 5.18, which is allowed by the density bonus for MPDUs at 15%, yielding a maximum FAR of 5.88)
- Zone setback, height, and site area requirements
- Parking is not required on site, but a tax must be paid. The applicant requested a 37% waiver, and the Planning Board will have to decide.
- Location of structures, landscaping and circulation
- Structures are compatible with the adjacent neighborhood
- Forest conservation: off-site fee must be paid
- Water resource management: satisfied
- Stormwater management: Environmental Site Design principles to be followed
- MPDU: no density bonus at 12.5%, or 22% bonus at 15% of total units
- Recreation: provide 6 picnic areas, 2 pools, 2 community spaces, 1 indoor fitness area
- Maintenance of public amenities
- Public art, with quantity/quality/design unspecified
- Landscape bond
- Development program/phasing schedule.

Case Study: The Galaxy

This project was originally approved as a 328-unit multi-family project of four buildings, and later amended to be 241 units in two buildings. The site is in the Silver Spring Central Business District Sector Plan.

Timeline

3/21/2005	Natural Resource Inventory/Forest Stand Delineation approved
7/28/2005	Preliminary Plan 120050890 hearing and approval at Planning Board. The Preliminary Plan consolidates 8 properties into one lot.
7/28/2005	Concurrent Project Plan 920050050 approval of 1 lot for construction of 328 multi-family residential units including a minimum of 12.5% moderately priced dwelling units.
10/2/2005	Planning Board approval of Project and Preliminary Plan. The Adequate Public Facilities analysis is deemed valid for a period of eight years, expiring October 21, 2013.
12/13/2005	Site Plan sets for 321 dwelling units including 41 MPDUs on 2.62 gross acres in the CBD-1 zone submitted to MNCPPC

1/12/2006	Site Plan public hearing and approval
2/22/2006	Planning Board Opinion of the Site Plan approval
Unknown	Dept of Public Works Docket No 667 approves abandonment of existing public alley
9/27/2007	Application filed for Preliminary Plan Review to amend the Subdivision to permit a reduction in the number of multi-family units to 241. Project Plan and Site Plan amendments are being reviewed concurrently.
11/29/2007	Plan sets stamped received at MNCPPC
1/7/2008	Stormwater management concept approved
1/8/2008	Staff memorandum on Preliminary Plan Review, amendment 12005089A
1/10/2008	Staff report on site plan amendment 82006013A for 241 multi-family units including 31 MPDUs and 3,663 square feet of retail space on 2.62 acres.
1/24/2008	Planning Board approves Amendment A to the Site Plan
9/14/2009	Applicant files for Amendment B to the Site Plan to eliminate one level of underground parking
11/19/2009	Staff report on request to reduce private parking garage by 66 spaces and revise phasing of the project
12/3/2009	Planning Board public hearing and approval of Amendment B and Site Plan
12/17/2009	Resolution signed as the Opinion of the Planning Board
1/6/2010	Date Resolution mailed to parties of record; 30 day appeal period begins.

Conditions of Development:

- Limitation on number of units to 241 multi-family units including 12.5% MPDU
- Dedicate additional right of way 41 feet from 13th Street centerline
- Provide three super bus shelters and two real-time transit information signs, per Transportation Management Agreement
- Provide and maintain in perpetuity a north-south pedestrian connection between 13th Street and King Street
- Provide 160 public parking spaces in a structured garage
- Provide 274 parking spaces in private parking garage below grade
- Provide a Class III bikeway (on road, shared)
- Provide 20 bike parking spaces
- Stormwater management approach: two proprietary filters and green roof
- Streetscape improvements in accordance with Silver Spring Streetscape Plan (brick pavers, street trees, lighting, undergrounding of utilities on frontage of property)
- 23,468 sf on-site public use space and 13,157 sf off-site public use space
- Public art program within the public plaza, using local artists
- Lighting according to IESNA standards for mixed-use development
- Provide recreation facilities including 12 picnic areas, a tot lot, pedestrian system, indoor community space, and two indoor fitness facilities
- Provide 31 moderately priced dwelling units (12.5% of total units)
- Enter into agreement with Silver Spring Urban District to maintain on-site public open spaces

Case Study: The Monty

The Monty is a 17-story multi-family apartment building with a maximum of 200 units including 30 MPDUs (15%) with up to 7,700 sf of retail, a through block pedestrian connection and public art on 1.12 acres zoned CBD-2 in Bethesda's Woodmont Triangle, with 211 parking spaces under the building.

Timeline

8/3/2006	Site exempt from submitting Forest Conservation Plan
5/31/2007	Planning Board approval of Project Plan 920070020 for 133 units including 15% MPDUs and 7,700 sf of non-residential uses.
12/11/2007	Applicant files project plan amendment to increase number of units
2/7/2008	Planning Board public hearing and approval of Project Plan amendment to increase the number of units from 133 to 200.
3/13/2008	Planning Board Resolution on Project Plan amendment
4/10/2008	Planning Board approval of Resolution on Project Plan
4/25/2008	Planning Board "written opinion"
1/23/2009	Site Plan filed
3/12/2009	Planning Board approves Preliminary Plan 120090060 to create one 24,500 sf lot for the project
3/26/2009	Planning Board Resolution on Preliminary Plan
3/30/2008	Official date of Resolution
6/22/2009	Staff report on site plan
7/2/2009	Planning Board public hearing on site plan 820090110

The project was processed using the optional Density Transfer method to increase development intensity on the site while reducing it on five properties elsewhere in the study area.

Development conditions:

- Standard Bethesda CBD streetscape, including pavers, street trees, lighting, undergrounding of utility lines
- Provide mid-block pedestrian connection
- Mitigate two trips pursuant to Policy Area Mobility Review, total cost of \$22,000
- Provide two bike racks near main entrance and eight bike lockers in the garage
- Provide recreation facilities including swimming pool, fitness facilities, meeting/lounge areas
- Provide sidewalks according to Bethesda Streetscape Standard
- Stormwater management concept via green roof and structural filter
- Maintain all on site publicly accessible amenities, through agreement with Bethesda Urban Partnership
- Achieve LEED Certified rating; determine feasibility of achieving LEED Silver
- Relocate benches, provide electrical outlet by pedestrian promenade
- Provide 5,480 sf of on-site public use space

- Provide 10,480 sf of off-site public amenity space
- Provide public art concept as reviewed by the Art Review Panel
- Provide 15% moderately priced dwelling units, in exchange for 22% density bonus and height
- Provide small-scale retail with opportunities to retain existing businesses; animate first floor with commercial uses
- Create a stepped-back building, in compliance with Woodmont Triangle Sector Plan general recommendations
- Comply with Woodmont Triangle Sector Plan Urban Design Guidelines
- Comply with Woodmont Triangle Sector Plan Public Amenities and Facilities Guidelines

Case Study: North Bethesda Market II

This mixed use project was submitted after adoption of the White Flint Sector Plan, using the Sketch Plan process. It is located in the new CR zone, which gives density increases in exchange for public benefits according to a point system.

The project proposes 740,528 square feet of residential, commercial, and retail space on 4.41 acres.

Timeline

9/24/10	Sketch Plan filed
1/20/11	Staff report on sketch plan, recommends approval
8/12/11	Planning Board approval of conditions for Preliminary and Site Plan
3/1/12	Staff report on Preliminary Plan and Site Plan
3/1/12	Planning Board
3/5/12	Adoption of Resolutions for Preliminary Plan 120120060 – MCPB No 12-30 Adoption of Resolution for Site Plan 820120040 – MCPB No 12-31

Public benefits identified as being proposed and provided by the project include:

- Proximity to transit
- Neighborhood services
- Minimum parking
- Through-block connection
- Public parking
- Dwelling unit mix
- Structured parking
- Setbacks of the building line for the tower building
- Public art
- Exceptional design
- Off-site streetscaping
- Building lot termination
- Tree canopy
- Vegetated roof

Case Study: Preliminary Plan Lot 31/31A, Woodmont and Bethesda Avenue

Two lots straddling Woodmont Avenue are to provide 250 dwelling units with 35 workforce housing units, minimum of 12.5% MPDU.

- 3/27/07: initial filing by applicant
- 9/20/07: Staff report on Preliminary Plan of Subdivision and Planning Board public hearing
- Dec. 2007: Initial approval by Planning Board; Resolution 07-184
- 1/26/12: Consolidation of lots, staff report, Planning Board hearing on Preliminary Plan Amendmet 12007069A.

Conditions of initial development approval included:

- Forest conservation plan
 - Local Area Transportation Review: left turn lane, exclusive left turn, operational restrictions
 - Traffic Mitigation Agreement – Transportation Management Organization
 - Conditions by Montgomery County Department of Transportation
 - Vehicular, pedestrian, and bicycle circulation plan
 - Right of way dedication
 - Construction of road improvements to design standards
 - Public use easements
 - Stormwater management
 - Improvements to Capital Crescent Trail
 - Bicycle drop off facility
- 4/27/12: Article in Washington Business Journal indicates work has started construction for Lot 31. The project replaces two surface parking lots. The project includes an 88-unit condominium called The Darcy, and a 162-unit rental building called The Flats. The 250 residential units and 40,000 square feet of retail are expected to be ready for move-in by early 2015.