

LAND USE PLANS AND ZONES

INTRODUCTION

The League of Women Voters (LWV) of Montgomery County has studied and arrived at consensus on land use issues a number of times since its first consensus position supporting regional planning in 1957-58. During the past 10 years five studies on growth policy, planning and zoning have been produced. In addition, since 2002 four Fact Sheets dealing with agricultural land and one on green infrastructure have been developed. All of these Fact Sheets are available at <http://mont1.lwvmd.org>. As a new zoning code is being written, this Fact Sheet reiterates the planning goals and processes, summarizes the current status of land use plans and identifies the impact of citizen involvement..

THE GENERAL PLAN IMPLEMENTATION

Wedges and corridors have been the theme of planning for Montgomery County since 1964, when the Maryland National Capital Park and Planning Commission (MNCPPC) adopted the General Plan with that focus. By 1969 state law had been amended to require the County Council to review and approve the adoption of long range plans and the plan was updated. The General Plan was next refined in 1993 in a manner totally consistent with the wedges and corridors concept. This 1993 refinement is the basis for land use development today with master and sector plans providing the details for smaller segments of the county in harmony with that guidance. The land use goal of the plan supports the variety and intensity of uses in the different areas necessary to continue to provide the county with a full range of housing and economic activity. The plan pointed out that the achievement of a wide variety of uses and densities is key to the county's quality of life. The strategy to meet this objective of the plan calls for the county to direct the major portion of future growth to the urban ring and the I-270 corridor.

Objectives defined in the General Plan are 1. Recognize the importance of identifiable centers of community activity at all levels, i.e., city, town, neighborhoods and rural community. 2. Provide for moderate density residentially-based suburban communities located between the urban ring and corridors and the wedge. 3. Preserve farmland and rural open space in the agricultural wedge as a valued and permanent land use – not as a holding area for future development. 4. Maintain a low-density residential wedge to provide a large-lot housing resource and as one way to help protect sensitive environmental areas. 5. Provide zoned land for different types and intensities of housing and employment uses. 6. Coordinate residential land use patterns with employment and retail development to provide communities and neighborhoods where people can live and work. 7. Provide a coordinated and comprehensive system of parks, recreation and open space. 8. Recognize the importance of implementing the goals, objectives and strategies of the Refinement when allocating public investments in community facilities.

Following the Sustainability Working Group's 2009 recommendations, the County Council has directed planning work to focus on directing growth to create compact, livable places with a variety of housing types and mixed uses. As undeveloped land in the county has become scarce, the planning emphasis has shifted to infill development and sustainability. Planners have reviewed the county's overall land use using Geographic Information System (GIS) technology and concluded that only about 2% of the county is devoted to uses other than agricultural and residential. To sustain the county's quality of life, some changes to that distribution may be required.

Master and Sector Plans

Master plans and sector plans provide more specific recommendations on future land use, transportation needs, resource protection and public facilities for each of the many communities in the county. Master plans are visions for the county in the next 20 years. Master plan making is authorized by the County Council in the

work program and budget for the MNCPPC. The staff initiates work with data collection and analysis and community outreach both through meetings and online communication to ensure extensive public input. The Planning Board reviews the *Staff Draft* and, after possible modifications, approves the plan. This plan is then taken to public hearings for community comment, which the Planning Board reviews. It is also given to the County Executive who provides a fiscal impact analysis and comment from the relevant departments. The plan that evolves from this is the *Planning Board Final Draft Master Plan* and is forwarded to the County Council along with the County Executive's input. For areas that may require special emphasis, a sector plan covering just that portion of the planning area may be produced.

After the County Council holds public hearings and work sessions, it approves, disapproves or amends the Planning Board draft, which is forwarded to the Planning Board to be adopted by the MNCPPC to become the approved and adopted master plan. When the master plan is adopted, it becomes an amendment to the general plan.

Sectional Map Amendments

The actual implementation of master plan recommendations does not occur until the County Council approves a sectional map amendment, covering a section of the county, usually the same area as the master plan. It proposes various zones to be applied to individual tracts of land, normally as recommended in the master plan. All property owners affected by any recommended change in zoning are notified individually and invited to testify at the County Council's public hearing on a proposed sectional map amendment. Following public hearing, the council must approve a sectional map amendment by majority vote. This becomes an amendment to the Zoning Map for Portions of the Maryland-Washington Regional District in Montgomery County, Maryland, dated May 31, 1958.

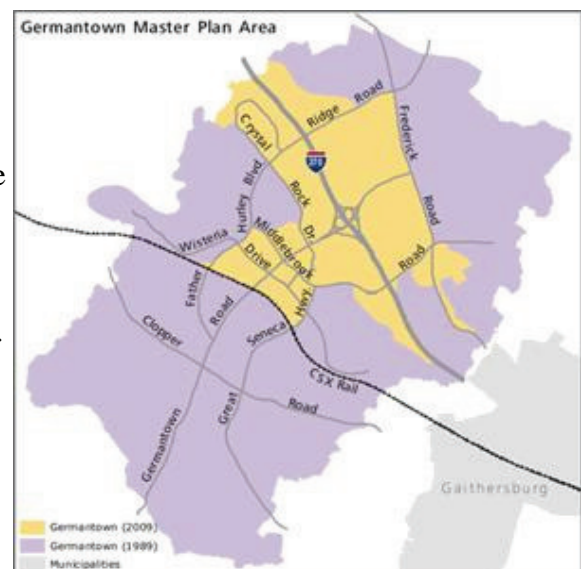
THE I 270 – MD 355 CORRIDOR DEVELOPMENT

In the LWV October 2009 Fact Sheet, the plans for these corridor communities were described in some detail. Plans have been adopted and some development is taking place.

Germantown Employment Area

This sector plan was approved and adopted on October 21, 2009 to complete the economic core envisioned in the General Plan, increase employment, organize communities around the MARC commuter rail and the future Corridor Cities Transitway, enhance connections to Germantown's greenbelt and stream valley parks, pursue design quality and sustainability in the public and private realms and build on cultural, historic and civic facilities.

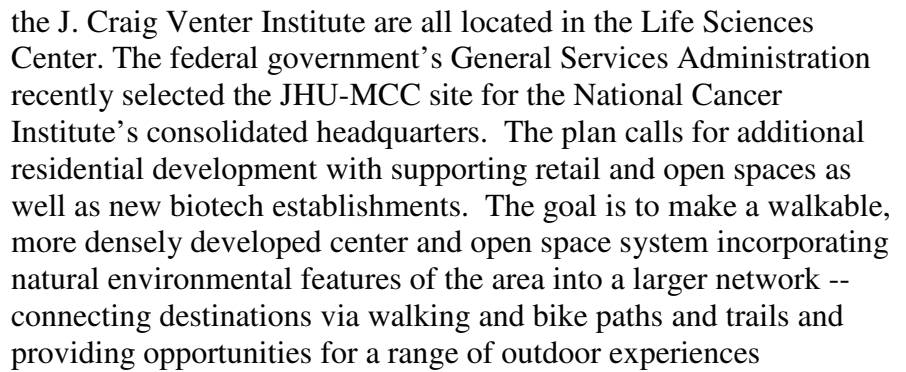
A forest conservation easement has been placed in the vicinity of the Montgomery College campus, and stream valley protections apply to Seneca Creek. The recent announcement of state approval of a hospital on the Montgomery College campus and the construction of a Wegman's in the area indicate plan implementation.



Great Seneca Science Corridor (formerly Gaithersburg West)

On May 4, 2010, the County Council approved the Great Seneca Science Corridor Master Plan, which includes a blueprint for the Shady Grove Life Sciences Center (LSC). In September 2010 the Planning Board appointed a plan Implementation Advisory Committee. See <http://www.montgomeryplanning.org/community/gaithersburg/index.shtml> for details.

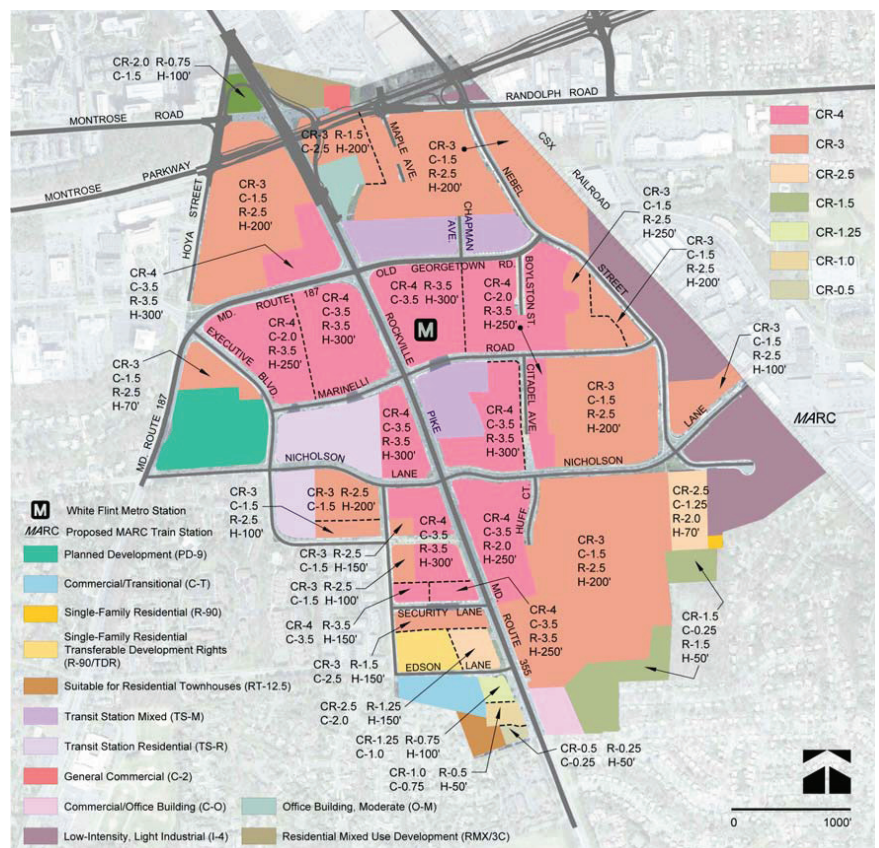
Shady Grove Adventist Hospital, Johns Hopkins University-Montgomery County Campus (JHU-MCC), the Universities at Shady Grove and biotechnology companies such as Human Genome Sciences, BioReliance, and



The County Council on March 23, 2010 approved the sector plan following many public hearings and community meetings. An ongoing advisory committee will monitor the plan's progress. The plan seeks to unify the area with an urban core where active public

Because the plan calls for a large number of transportation improvements to realize the vision, a funding mechanism has been established to support the design and implementation of these improvements. A special taxing district has been created with a surtax of up to 10% of the current levy on non-residential property in the district. This revenue will go to support bonds to be issued to allow infrastructure to be provided before development is complete. Because this funding mechanism is in place, as development takes place the traffic adequacy tests normally associated with each development project will not occur. In their place the planning department will conduct a comprehensive local area traffic review every other year to identify which traffic improvements should be scheduled in the Capital Improvement Plan.

Two sketch plans have been approved by the Planning Board for development in this area. The Mid-Pike Plaza plan calls for 24.38 acres of mixed-use development including over 1.5 million square feet of commercial uses



and 1.9 million square feet of residential space. The Rockville Gateway plan for development on Rockville Pike, south of Nicholson Lane, consists of 11.04 acres of mixed-use development including up to 1,236,648 square feet of commercial uses and up to 1,073,288 square feet of residential space

PURPLE LINE CORRIDOR

On September 8, 2010 the full Commission (MNCPPC) approved the Montgomery County Planning Board Draft Purple Line Functional Plan with amendments. The plan calls for a light rail connection between New Carrollton in Prince George's (PG) County and Bethesda in Montgomery County. A very nice description of the route can be found at http://www.montgomeryplanning.org/transportation/projects/purple_line.shtmhttp://www.montgomeryplanning.org/transportation/projects/purple_line.shtmhttp://. Eleven stops are planned for Montgomery County: Bethesda South, Connecticut Avenue, Lyttonsville; 16th Street; Silver Spring Transit Center, Fenton Street, Manchester Place, Arliss Street, Gilbert Street and Takoma/Langley Park. The County Council has instructed the planning staff to develop sector plans for certain locations along the line. The plans discussed below are in various stages of development.

Takoma Langley Crossroads

This plan began as a joint venture between Montgomery and PG Counties, but has been split into two plans. The PG plan has been adopted, but public hearings are continuing in Montgomery County. Centered around the planned Purple Line stop at the intersection of New Hampshire Avenue (MD 650) and University Boulevard, the plan recommends preserving affordable housing in the area while broadening housing opportunities, creating connections to public transportation and improving pedestrian safety. Commercial residential (CR) zoning is recommended, but businesses in the area have concerns that the zone will inhibit their ability to maintain their properties until the Purple Line is in place, which is when major renovation may become affordable. Residents of single-family zones have protested quick approval by the Takoma Park government without adequate public input.

Long Branch

Two groups appointed by the County Executive examined commercial reinvestment, pedestrian and public safety, and recreational opportunities for this area near the intersection of Piney Branch and University. The Long Branch Sector Plan will build upon these recommendations for the community of older, neighborhood-oriented commercial areas and a mix of single-family and multifamily housing. Staff will present it to the Planning Board later this spring.

Preliminary ideas call for reinforcing the commercial uses at Flower Avenue and Arliss Street in a town center that would feature a community space. Planners also recommend continued diverse and affordable housing options and retention of small businesses. They call for better pedestrian mobility and safety by improving connections to buses and the future Purple Line which is proposed to run along University Boulevard, Piney Branch Road and Arliss Street.

Chevy Chase Lake

While this planning area extends from East West Highway to Jones Bridge Road and east from Columbia Country Club to Rock Creek, planners will focus on land use and zoning recommendations for redevelopment around the proposed Purple Line station at Chevy Chase Lake Drive and Connecticut Avenue. There will likely be a change in the amount and density of retail development and the Housing Opportunity Commission apartments. The Base Realignment and Closure (BRAC) activity is expected to have some impact on this area in the relatively near term and the plan will not be presented to the Planning Board until next year.

INFILL DEVELOPMENT PLANS

In keeping with the focus upon increasing development opportunity around public transportation centers, new plans are being developed for communities north of the Beltway.

Kensington

The Kensington Sector Plan was designed to protect Kensington's stable residential neighborhoods by maintaining their residential zones and to preserve the town's historic character by recommending additional areas and sites to be evaluated for addition to the *Master Plan for Historic Preservation*. The CR zone was recommended for Antique Row and along segments of Connecticut Avenue to broaden housing choices for an array of ages and incomes. Objection to the utilization of this zone has led to the planning staff's revision of the zone to make its scale more constrained by type of neighborhood. The County Council's consideration of the plan awaits the CR zone revisions described later in this Fact Sheet.

Wheaton Central Business District and Vicinity Sector Plan Update

The goal of the plan is to create new development and revitalization efforts near Metro's Red Line by bringing more residents into the area and making more jobs available near the Metro. While preserving Wheaton's ethnic diversity, the plan seeks to design quality public spaces inviting to pedestrians and to foster an environmentally sustainable community. Bringing a more pedestrian friendly access to the Wheaton Mall along Viers Mill Road is one of the recommendations of the plan to provide more interchange between Mall customers and patrons of the small shops of Wheaton. The current rebuilding of the Safeway store into a 17-story residential building moves the area toward a greater mix of residential and commercial uses. The plan is scheduled to be complete with a new zoning map later this year. An advisory group has been formed for this area.

Burtonsville

The commercial crossroads properties at MD 198 and US 29 have seen redevelopment and circulation changes. The numerous curb-cuts and change in location of the grocery store leaving a large building empty have many area local merchants, property owners and residents questioning the area's future economic viability. The study's broad goal is to evaluate the connectivity and design of the commercial area so that the area is more balanced and livable. It will evaluate the need for a planned loop road and recommend design improvements for the future state highway, MD 198 project.

East County Science Center

The scope for this plan is still to be developed, but the planners hope to capitalize on the location of the Federal Research Campus, which includes the Food and Drug Administration (FDA) facility, to realize the potential for an East County Science and Technology Center on county-owned land known as Site 2 (formerly belonging to the Washington Suburban Sanitary Commission (WSSC)). The area is expected to house the relocated Washington Adventist Hospital and a potential new community on the Percontee property. Because part of the Federal Research Campus is a secure area, transportation limitations are a major hurdle. Access needs to be improved for development to occur. The plan is scheduled for completion in 2012.

THE AGRICULTURAL WEDGE

Preservation of agricultural land has been facilitated in the past by the county's program of transferable development rights (TDRs). This program allows landowners in the Agricultural Reserve to sell a development right to be used to achieve bonus density in a part of the county designated as suitable for increased development density. The Agricultural Policy Working Group, a citizen advisory panel, proposed a program supplementary to the TDR called building lot termination (BLT) to further protect agricultural land. A BLT can be created via an easement on the agricultural land and requires proof that a viable septic system could be constructed on the land. The BLT can be sold for an increase in development density outside the agricultural reserve in accordance with conditions specified in the zoning code.

The CR zone created for use in development in the I-270-MD 355 corridor requires that a BLT be purchased for 5% of the incentive density sought for development, with one BLT for each 20,000 square feet of that 5 %. This is a very small requirement and would not create a demand for many BLTs, but only this zone currently **requires** the BLT. The TMX-2 zone allows BLTs and TDRs to be used for additional density, but this zone has

limited applicability and no development is planned for any area so zoned. The CR zone is currently being revised with changes that further diminish the utilization of BLTs.

Recently a subdivision in the Agricultural Reserve called Barnesville Oaks was approved by the Planning Board for 21 lots and 3 outlots. Because this was a large land-holding, that number of lots was permitted under the one dwelling unit per 25-acre zoning. The property owners have filed a lawsuit challenging some of the conditions for that approval and seeking even more lots. The transfer-of-development program could have been a means to prevent this type of development, but has not been robust enough to attract landowners. A market for transferable development rights is not currently established.

GROWTH POLICY/SUBDIVISION STAGING POLICY

In July 2010, Bill 38-09 was enacted by the County Council to amend the growth policy. The changes provide that the County Council must adopt a subdivision staging policy every four years rather than the growth policy every two years. The legislation eliminates the need for review by WSSC and includes guidelines to the Planning Board for the administration of the subdivision ordinance and other laws and regulations that affect the adequacy and timing of public facilities needed to support growth and development. The subdivision staging policy is to be adopted in the second year of each council's term.

The current growth policy extends until November of this year and will probably be extended until the first subdivision staging policy is adopted in 2012. The major components of the subdivision staging policy will remain a school test and a traffic adequacy test. While the school test will remain essentially the same (see the October 2009 Fact Sheet for details), significant changes will be made to the traffic adequacy test.

A traffic consultant working with an advisory panel including citizens has made a series of recommendations to the County Executive and County Council. Responsibility for further developing the policy has been assigned to the planning staff. A set of standards for transit service in urban, suburban and rural areas will be defined in terms of coverage, headways and span of service, and perhaps for capacity and performance. A new modeling approach is to be used for roadway level-of-service standards. For both transit and roadway travel there will be a policy area review to identify inadequacies and solutions. Actions needed to rectify the inadequacies could be tested in the model, and costs could be estimated. Costs for the chosen solution would be allocated to public and private sources, and a program of public and private commitments would be developed, with public costs incorporated into the capital improvement budget. One significant change is that developer costs would be programmed within the policy area to pay for improvements to alleviate the impact of that development. Annual monitoring and reporting would determine whether the projected development has taken place, and that the improvements are proceeding according to budget. The details and implementation of this program should be monitored by the League as planners fully develop this program.

BUDGET CONSTRAINTS ON THE PLANNING BOARD

The Planning Board budget reduction this fiscal year eliminated 22 planning positions. More positions may be lost when the next budget is adopted. To make the organization as efficient as possible, the planning department is departing from the neighborhood-based planning scheme. The planning staff has been restructured into three teams that will handle both master plan development and regulatory review. One team will address plans and development inside the Beltway; the second team will oversee the I-270 corridor south of Germantown and east to the FDA and the proposed East County Science Center. The third team will have responsibility for the area wrapped around from Potomac to Fairland, including the agricultural reserve and Germantown.



In her report to the County Council, Planning Board Chair Françoise Carrier has indicated that simplification of the development review process will be supported by electronic plan submission and rollout for county agency review. This will include both application tracking and online application intake. Web-based Geographic Information System (GIS) tools will provide planning information and analytics to county agencies, the land

development community and the public. Greater reliance upon computer-based information conveyance has reduced the availability of printed plans and information. Staff reduction has also curtailed the availability of staff interaction with the public.

Plan development work is continuing on those master plans already underway, and work is scheduled to begin on sector plans for White Flint Phase II, Gaithersburg East/Montgomery Village and the Broockville Road Purple Line Station area. The Green Infrastructure Plan called for by the League and later by the Sustainability Working Group has been postponed once more.

ZONING ORDINANCE REVISION

Montgomery County planners are continuing the comprehensive rewrite of the county's zoning ordinance begun in 2008. As reported in the October 2009 Fact Sheet, a team of consultants (Code Studio), a zoning advisory panel (ZAP) and planners are simplifying a complex, outdated code to maintain Montgomery County's quality of life, but the approval date has been postponed to at least 2012. The zoning code was last comprehensively rewritten in 1977. During the revision process a number of efforts have been made to inform the public, but frequent criticism of the process and interim product has been voiced by persons who feel the opportunity for public input has been inadequate. For a quick overview, see <http://montgomeryplanning.org/blog-director/wp-content/uploads/Presentation-to-Montgomery-Cty-Council-18-11.pdf>

Ten objectives of the new zoning code have now been established: 1. Shift emphasis from "greenfields" to infill. 2. Re-think the planning and zoning framework so the master plan drives the code that drives the design guidelines. 3. Match regulations to impacts so the right rules are in the right places. 4. Improve the quality of development. 5. Provide incentives for public benefits. 6. Simplify and streamline standards and process. 7. Match land use and development patterns. 8. Provide easy access and use of the code. 9. Modernize and consolidate with an intuitive table of contents and with consistent modern uses. 10. Provide an efficient and effective implementation strategy with text amendments and map changes.

Proposed Agricultural and Residential zone drafts have been published. The drafts lay out initial ideas related to building types and standards in the county. The current proposal includes three rural zones: AC (agricultural) RR (rural residential) and RR-C (rural residential cluster) and eight residential zones that range from high-density urban areas to residential estates. A new "Allowed Use Table" defining the types of building and uses allowed in the various zones has been developed and is currently being reviewed, with some changes possible. The table incorporates both residential and rural areas based on the new zoning designations. Each projected use is identified in each zone with a P (permitted use), L (limited use), C (conditional use) or a blank cell (use not permitted) to further define how the zone may be used. The limited-use designation is new in this rewrite and provides the limitations that were covered by footnotes in the old code. Conditional use will require a process similar to the special exception process for approval. See the March 2007 Fact Sheet for the special exception process.

One controversial segment of the new code has been the proposal for new development patterns in residential areas. After three ZAP meetings commenting on the discussion draft, analysis by planning staff and comment by the planning board chair, the planning director has directed the zoning team to pull the section on development patterns out of the draft. The ideas behind the development patterns - such as "cottage courts", "tandem housing" and "corner stores" - which the consultant proposed to raise the level of design and bring enhanced public benefits along with a slight increase in density in some areas - will become the focus of a long-term study. Initial staff analysis indicates some of these development patterns may be desirable if placed along major arterials where infill housing may be appropriate.

The zoning rewrite continues in the drafting stage. The stages of the draft are posted on the MNCPPC website <http://www.montgomeryplanning.org/development/zoning/> under Zoning to better inform the public. Additional sections of the code will be drafted in the coming months. These sections are to be consolidated into a *Public*

Review Draft in September, incorporating comments and input from the consultant team, planning staff, ZAP and the public. The staff will choose site plans and master plans to “test” the proposed zoning by applying the proposed zoning and checking parcel by parcel the compatibility and consistency to ensure that the zoning conforms to the plans. There will be multiple opportunities for the public to comment on the zoning changes before final approval by the County Council scheduled for 2012.

THE CR ZONES

The Commercial Residential Zone has been developed and applied to some master plans as the zoning rewrite has proceeded. This zone incorporates current ideas related to combining multiple uses in areas around transportation centers and along transportation corridors. As adopted by the County Council last year, the CR zone may be applied only as recommended by a master or sector plan. It specifies parameters associated with the zone: the overall floor area ratio (FAR), the ratio of the building coverage to the lot area, permitted for the properties to which it is applied; the maximum FAR of commercial development (C) permitted; the maximum FAR of residential development (R) permitted and the maximum height (H) of a building in the zone. For an example, refer to the map of White Flint on page 3. There is some flexibility in the mix of commercial and residential use, but not in the total density. To achieve the maximum density, a mix of uses must be provided. The intended use of the zone is to provide greatest density surrounding a transit area, with density tapering toward residential development.

For density above the minimum, the CR zone offers an optional method development which requires incentive public benefits in four of the six categories: major public facilities, transit proximity, connectivity and mobility, diversity of uses and activities, quality building and site design, or protection and enhancement of the natural environment to be provided in exchange for density in excess of the standard 0.5 FAR. A point system is provided to evaluate the benefit according to standards and requirements adopted and published by the Planning Board with 100 points required in the CR zone. Five points are awarded for a mandatory purchase of a BLT to support preservation of agricultural land or payment into a fund for BLT purchase for 5% of the incentive density. There is provision for a partial BLT purchase since a single BLT would be sufficient for 400,000 square feet of incentive density.

To utilize the optional method of development, a developer must present a sketch plan with the application for approval of the development. This is a tool planners can use to communicate what is proposed to the public in order to gather public input. The purpose of the sketch plan is to identify land uses, proposed development and any public benefits. The sketch plan is intended to be conceptual in nature with an emphasis on building mass, placement and height, varying densities and heights, the general circulation patterns for all modes of transportation and the locations of open and public use spaces.

At least two related zones, a town (CRT) zone and a neighborhood (CRN) zone are under study by the Planning Board. The zones are essentially the same as the CR zone except that the range of development densities and heights is decreased, as is the number of public benefit points. There is no requirement to purchase BLTs. Some restrictions apply to parcels adjacent to a residential or agricultural zone. The CRT zone’s maximum density could be achieved under the optional method of development, but only 50 points would be needed for public benefits. The CRN zone would have a smaller maximum density and only the standard method of development would apply. No public benefits would be required, and a sketch plan would be required only if the property were adjoining residential or agricultural land. The application of any of the CR zones would necessarily be set out in a master or sector plan and approved by the County Council in a sector map amendment.

Members of the committee that prepared this Fact Sheet are: Elaine Apter, Margaret Chasson, Barbara Ditzler, Diane Hibino, Melpi Jeffries, Brigitta Mullican, Alyce Ortuzar, Lorna Post and Linda Silversmith. The committee thanks the Montgomery County Planning Department staff for their excellent assistance.

Glossary to Land Use Plans and Zones Fact Sheet

BLT – building lot termination

BRAC – base realignment and closure

CR – commercial/residential zone in Chapter 59 of the zoning code

FAR – floor area ratio (the ratio of floor space to the size of the lot)

JHU-MCC – Johns Hopkins University Montgomery County Campus

LSC – Life Sciences Center

MARC – Maryland Area Regional Commuter train line

MNCPPC – Maryland National Capitol Park and Planning Commission

outlot – the remainder portion of a land parcel after lots have been subdivided

PG – Prince George's County

TDR – transferable development right agricultural easement

TMX-2 – transit mixed use zone in Chapter 59 of the zoning code

WSSC – Washington Suburban Sanitary Commission

ZAP – Zoning Advisory Panel

This was an information only Fact Sheet.
No positions were developed as a result.