



2020

Montgomery Planning | Functional Planning & Policy Division

2020 County Growth Policy

Planning Board Work Session #3

July 2, 2020



Today's Work Session

4.8	Moratorium applicability
4.9	Moratorium exceptions – no student impacts
4.10	Moratorium exceptions – affordable housing and condemned structures
4.11	Student Generation Rate calculation
4.12	Development Review – Planning Board review
4.13	Development Review – retesting for validity extension requests
4.14	Development Review – validity period
4.15	Development Review – MCPS and DRC
4.16	Utilization Premium Payment
6.1	School Impact Taxes – multifamily units
6.2	School Impact Taxes – calculation factors
6.3	School Impact Taxes – credits
6.4	School Impact Taxes – surcharges on large units
6.5	Impact Tax Exemptions – Enterprise Zones
6.6	Impact Tax Exemptions – 25% affordable
6.7	Impact Tax Exemptions – net impact basis
6.8	Recordation Tax



Index of Recommendations

CHAPTER 3. POLICY RECOMMENDATION

County Growth Policy

- 3.1 Policy name change

CHAPTER 4. SCHOOLS ELEMENT RECOMMENDATIONS

School Impact Areas

- 4.1 Creation of School Impact Areas

Annual School Test and Utilization Report

- 4.2 Annual School Test – guidelines
- 4.3 Annual School Test – individual school level
- 4.4 Annual School Test – adequacy standards
- 4.5 Annual School Test – length of test results
- 4.6 Utilization Report – countywide reporting
- 4.7 Utilization Report – individual school reporting

Residential Development Moratorium

- 4.8 Moratorium applicability
- 4.9 Moratorium exceptions – no student impacts
- 4.10 Moratorium exceptions – affordable housing and condemned structures

Student Generation Rate Calculation

- 4.11 Calculation of student generation rates

Development Application Review

- 4.12 Planning Board review of school adequacy
- 4.13 APF extension requests – retesting for school adequacy
- 4.14 APF extension requests – set validity period limits
- 4.15 MCPS representation on the Development Review Committee

Utilization Premium Payments

- 4.16 Establishing and requiring Utilization Premium Payments

CHAPTER 6. TAX RECOMMENDATIONS

School Impact Taxes

- 6.1 Calculating multifamily school impact taxes
- 6.2 School impact tax calculation factors
- 6.3 School impact tax credits
- 6.4 School impact tax surcharge on large units

Impact Tax Exemptions on Residential Uses

- 6.5 Enterprise Zone impact tax exemption
- 6.6 25% affordable impact tax exemption
- 6.7 Applying impact taxes on a net impact basis

Recordation Tax

- 6.8 Modifications to the Recordation Tax



Chapter 4. Schools Element Recommendations

Residential Development Moratorium





Residential Development Moratorium Recommendations

- 4.8 Automatic moratoria will only apply in Greenfield Impact Areas. The Planning Board cannot approve any preliminary plan of subdivision for residential uses in an area under a moratorium, unless it meets certain exceptions.
- 4.9 Exceptions to residential development moratoria will include projects estimated to generate fewer than one full student at a school in moratorium, and projects where the residential component consists entirely of senior living units.
- 4.10 Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.

Residential Development Moratorium

R4.8

Automatic moratoria will only apply in Greenfield Impact Areas. The Planning Board cannot approve any preliminary plan of subdivision for residential uses in an area under a moratorium, unless it meets certain exceptions.

- The current moratorium policy:
 - Slows the county's ability to fill its housing supply gap
 - Impacts housing affordability
 - Hinders economic development
 - Prevents sustainable growth patterns
 - Raises equity concerns
 - Does not solve over-crowding



Residential Development Moratorium

R4.8 Comment Summary

Pro	Older neighborhoods turning over causes school enrollments to surge in many areas and turnover has nothing to do with new development.
Pro	We need development to give us the tax base to afford to build new schools and other things.
Pro	The very idea of a moratorium is contrary to comprehensive planning, zoning, and budgeting—i.e., to responsible government.
Pro	Automatic housing moratorium encourages disproportionate investment in schools under moratorium, typically in wealthier neighborhoods, while overlooking other schools with inadequate and substandard facilities, typically in lower income communities.
Pro	Studies in other areas found moratoriums to accelerate, or frontload, development as threshold numbers are approached.
Pro	Just because we can't forbid families moving into existing older homes doesn't mean we should take it out on apartment development.
Pro	ULI supported this recommendation, believing it is prudent to limit automatic moratoriums to only Greenfield Impact Areas unless a project meets certain identified exceptions.



Residential Development Moratorium

R4.8 Comment Summary

Con	It's outrageous that the recommendation to eliminate automatic moratoria in most of the county was not accompanied by any new mechanisms to ensure adequate school infrastructure.
Con	Our schools are severely overcrowded. Until new schools are built and the overcrowding is addressed, more housing should not be added in clusters that are already stretched to the limit.
Con	When our schools are already struggling to meet demand, any increase hampers the school system.
Con	An attempt to end the moratorium is a prioritization of financial interests for the real estate sector, builders, agents, etc.
Con	A moratorium is a bad policy outcome, but the law itself is not bad policy. The problem is that planners have no interest in making sure that facilities come online to meet anticipated demand.
Con	Consider an emergency moratorium threshold for extreme situations. Options include: <ul style="list-style-type: none">• 150% utilization (maybe even limit to only one year)• 120% actual (not projected) utilization for three years in a row



Residential Development Moratorium

R4.8 Comment Summary

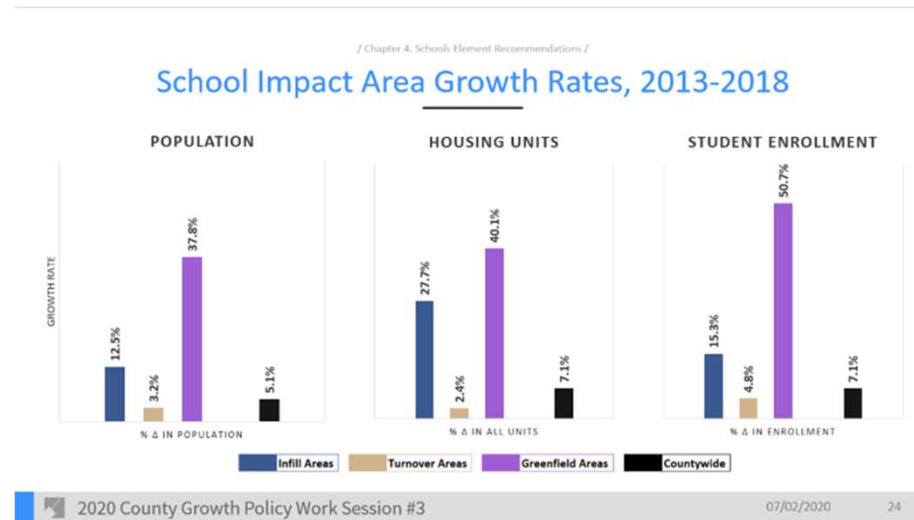
Con	Keeping moratorium in Greenfield Impact Areas is unfair. That area is important for meeting the county's housing goals
Con	"The Board heard an overwhelming amount of testimony rejecting moratoria and instead suggesting that the automatic moratoria be eliminated entirely to address inadequate school capacity issues."
Con	"Given the most recent COVID 19 experience, providing housing opportunities in Greenfield Impact Areas will allow for more single family attached and detached units with more space. Why stymie this type of growth?"



Residential Development Moratorium

R4.8

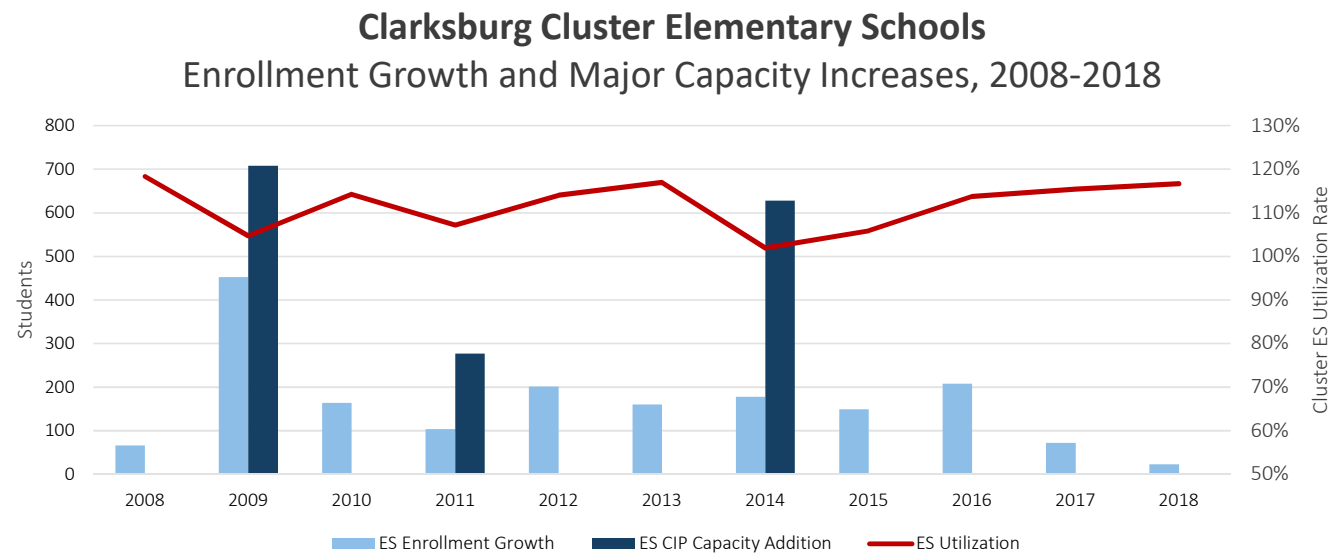
- Greenfield Impact Areas are still experiencing the type of development that originally led to the creation of the Adequate Public Facilities Ordinance, where the **construction of new schools cannot keep pace with rapidly increasing enrollment** caused by new development.



Residential Development Moratorium

R4.8

- Greenfield Impact Areas are still experiencing the type of development that originally led to the creation of the Adequate Public Facilities Ordinance, where the **construction of new schools cannot keep pace with rapidly increasing enrollment** caused by new development.



Residential Development Moratorium

R4.8 Board Discussion

- General support for recommendation.
- Concern that maintaining a moratorium in Greenfield Impact Areas will curtail new housing in the one area of the county where it remains feasible to build affordable single-family homes. Are there exception possibilities to allow affordable inventory to be built, and not just MPDUs?
- Interest in preventing moratorium even in Greenfield Impact Areas when surplus school capacity nearby indicates that a boundary change would relieve over-utilization, regardless of MCPS decisions to maintain boundaries.



Residential Development Moratorium

R4.9

Exceptions to **residential development** moratoria will include **commercial development, residential** projects estimated to **net generate** fewer than one full student at a school in moratorium, and projects where the residential component consists entirely of senior living units.

- The de minimis exception marks a change from “3 units or less” under the current policy.
- Using number of students as the threshold ties it directly to the impact and adjusts for both the type and number of units built.



Residential Development Moratorium

	Maximum Number of Units Allowed Before Generating a Single:		
	ES Student	MS Student	HS Student
Single-Family Detached	2 units	5 units	4 units
Single-Family Attached	3 units	7 units	6 units
Multifamily	3 units	7 units	6 units

- Considered higher thresholds.
- Given that moratoria will only apply to Greenfield Impact Areas, where new development is the leading cause of school overcrowding and school construction cannot keep pace, it is acceptable to limit the moratorium exception to only those projects estimated to not generate students, on average.



Residential Development Moratorium

R4.9 Comment Summary

Pro	ULI and NAIOP supported this recommendation.
Con	A threshold of “fewer than one student” is too high - SGRs are probabilities, not absolutes. The exception should only be allowed if it will generate fewer than one-half of one student.
Comment	The impacts of these exceptions should be tracked.
Comment	The de minimis exception should be clear in being interpreted as net additional students.



Residential Development Moratorium

R4.9.1

OPTION 1: Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 10 network miles of the proposed subdivision and meets the following adequacy standards:

ES: Seat Deficit < 50 seats or Percent Utilization $\leq 110\%$

MS: Seat Deficit < 90 seats or Percent Utilization $\leq 110\%$

HS: Percent Utilization $\leq 110\%$

- Staff has concerns that this will render the moratorium tool moot in an area where it can still be helpful.
- Important questions for the Board to consider:
 - Is this new exception appropriate?
 - What is the appropriate distance? 5 miles? 10 miles? Different by school level? Is there guidance on this from MCPS?
 - What are the appropriate adequacy standards for the “lending” school?
 - Should projects that go forward in an area otherwise under moratorium (i.e. projects that qualify for an exception) be required to pay Utilization Premium Payments?



Residential Development Moratorium

R4.9.1

OPTION 1: Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 10 network miles of the proposed subdivision and meets the following adequacy standards:

ES: Seat Deficit < 50 seats or Percent Utilization \leq 110%

MS: Seat Deficit < 90 seats or Percent Utilization \leq 110%

HS: Percent Utilization \leq 110%

- Suggestion offered by staff in response to the Board's discussion during work session #1 on June 18.

S4.1.3 Nearby Capacity

When a moratorium is imposed in a Greenfield Impact Area, the Planning Board may nevertheless approve a subdivision in the subjected area if a school located within ten network miles of the subdivision (at the same level as any school causing the moratorium) has a projected utilization rate in the current Annual School Test of no more than 110% (and less than a 55-seat deficit if at the elementary school level; less than a 90-seat deficit if at the middle school level).



Residential Development Moratorium

R4.9.1

OPTION 2: Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 3, 5 or 10 network miles (ES, MS or HS, respectively) of the proposed subdivision and meets the following adequacy standards:

ES: Seat Deficit < 25 seats or Percent Utilization \leq 105%

MS: Seat Deficit < 45 seats or Percent Utilization \leq 105%

HS: Percent Utilization \leq 105%



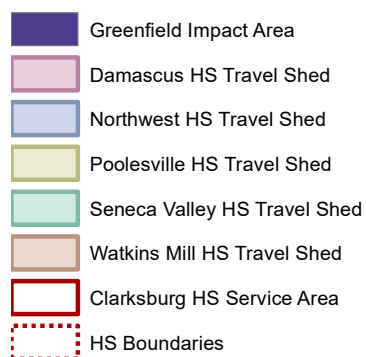
Residential Development Moratorium

R4.9.1

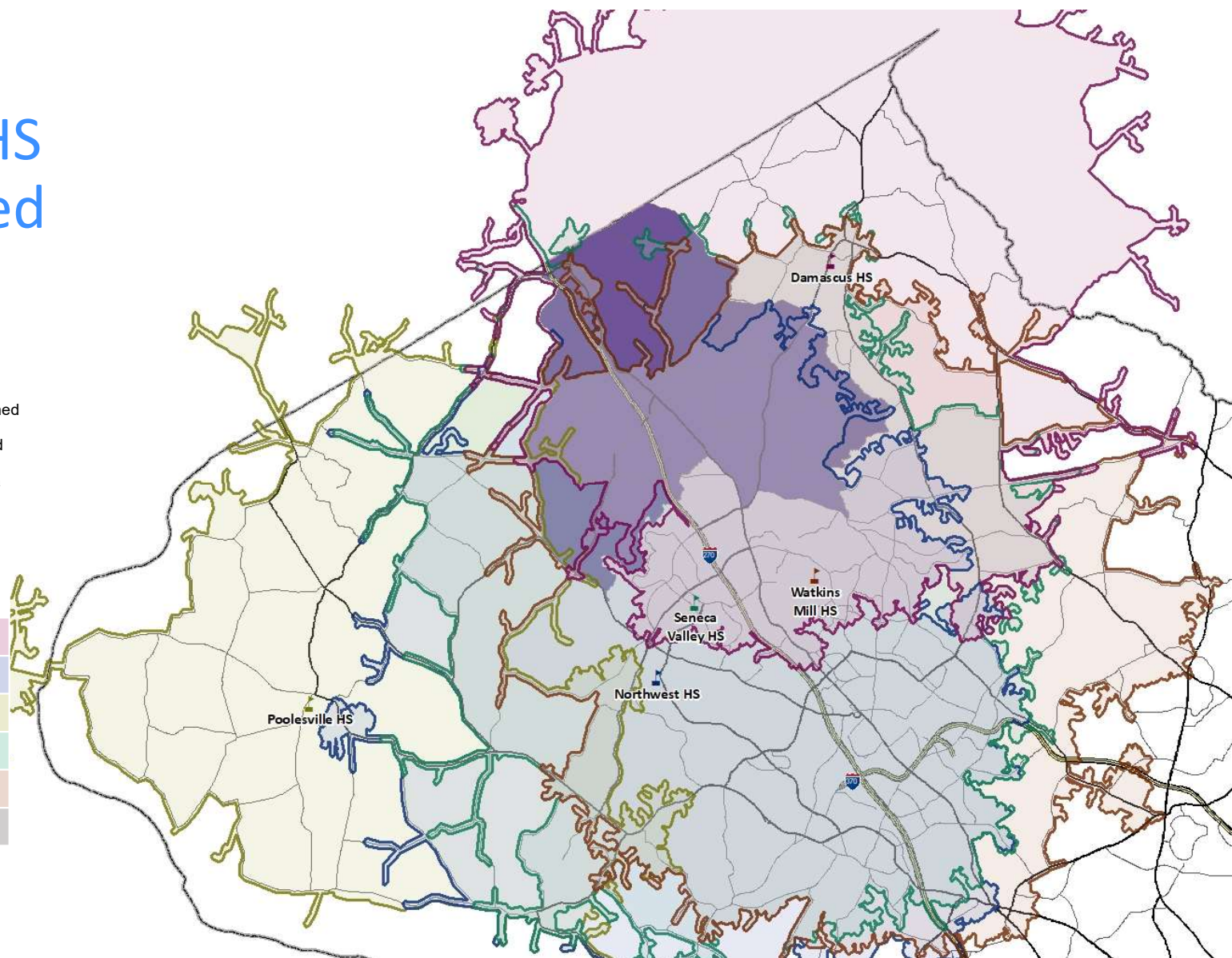
OPTION 3: Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 3, 5 or 10 network miles (ES, MS or HS, respectively) of the proposed subdivision and has a projected utilization equal to or less than 95%.



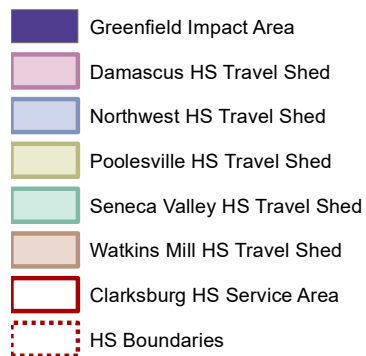
Upcounty HS 10-Mile Shed



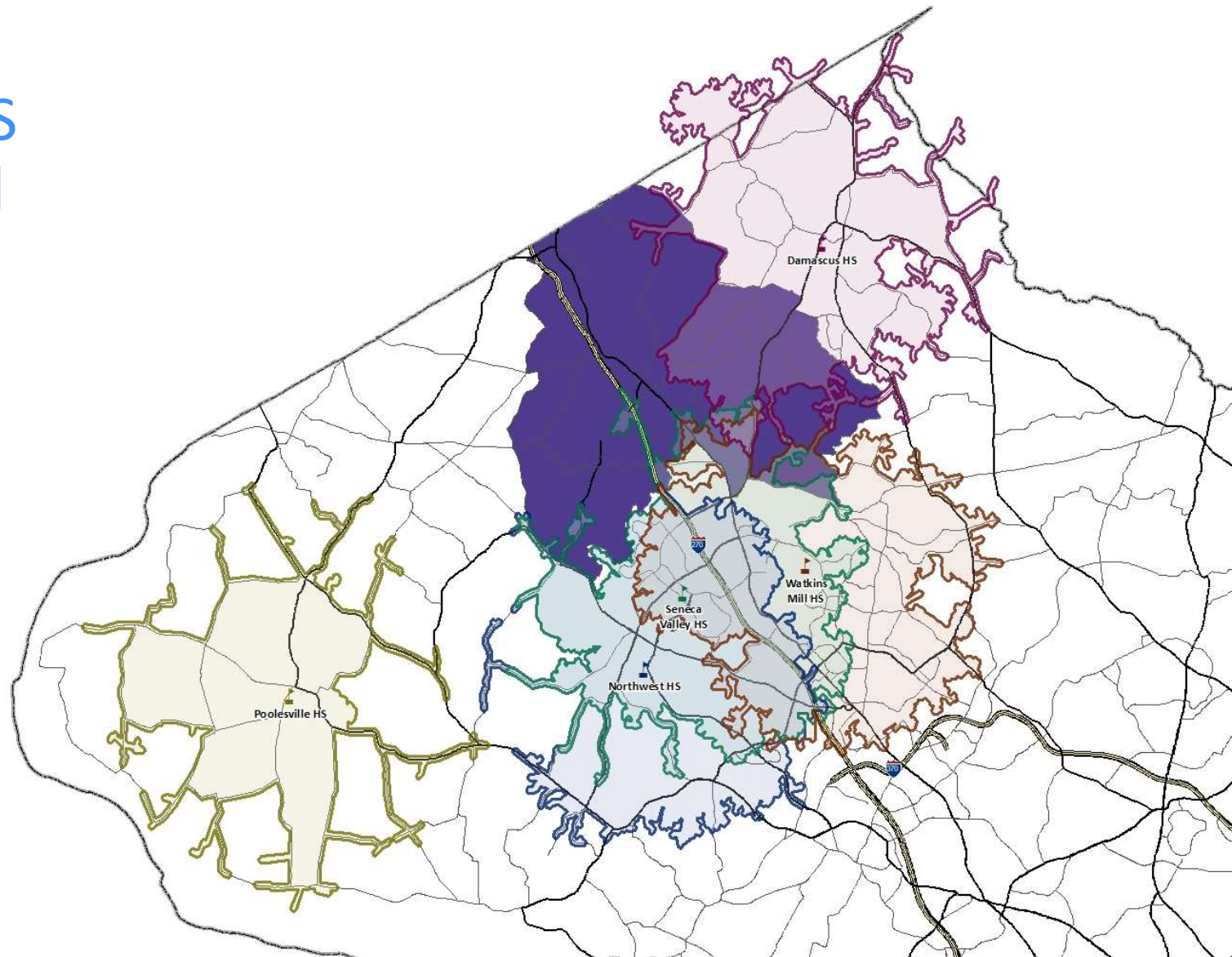
High School	Projected Utilization Rates		
	3-year	4-year	5-year
Damascus HS	94.4%	92.5%	88.9%
Northwest HS	109.9%	109.8%	109.0%
Poolesville HS	109.1%	84.2%	89.6%
Seneca Valley HS	97.4%	98.6%	98.8%
Watkins Mill HS	87.0%	87.4%	88.1%
Clarksburg HS	121.4%	120.7%	118.5%



Upcounty HS 5-Mile Shed



High School	Projected Utilization Rates		
	3-year	4-year	5-year
Damascus HS	94.4%	92.5%	88.9%
Northwest HS	109.9%	109.8%	109.0%
Poolesville HS	109.1%	84.2%	89.6%
Seneca Valley HS	97.4%	98.6%	98.8%
Watkins Mill HS	87.0%	87.4%	88.1%
Clarksburg HS	121.4%	120.7%	118.5%



Residential Development Moratorium

R4.9.1 Comment Summary

Con	Strong opposition to this from the parent and local neighborhood community.
Con	This proposal makes no sense when considered in the reality of how MCPS considers any changes to its school utilizations. Just because an adjacent school district has a lower utilization does not mean that a boundary change will take place. Unless and until the BOE will consider such relief and act accordingly, this is an option that will not be used, and the students will only suffer further.
Con	This proposal should not be added because it purports to count capacity where there really is none by conjuring a hypothetical boundary change when there is none indicated will ever happen. Capacity has to be based on reality, not some hypothetical.
Con	It is a falsehood to say MCPS can change boundaries any time it wants – as evidenced by the opposition to the countywide boundary analysis and the lawsuit challenging the upcoming upcounty boundary changes.



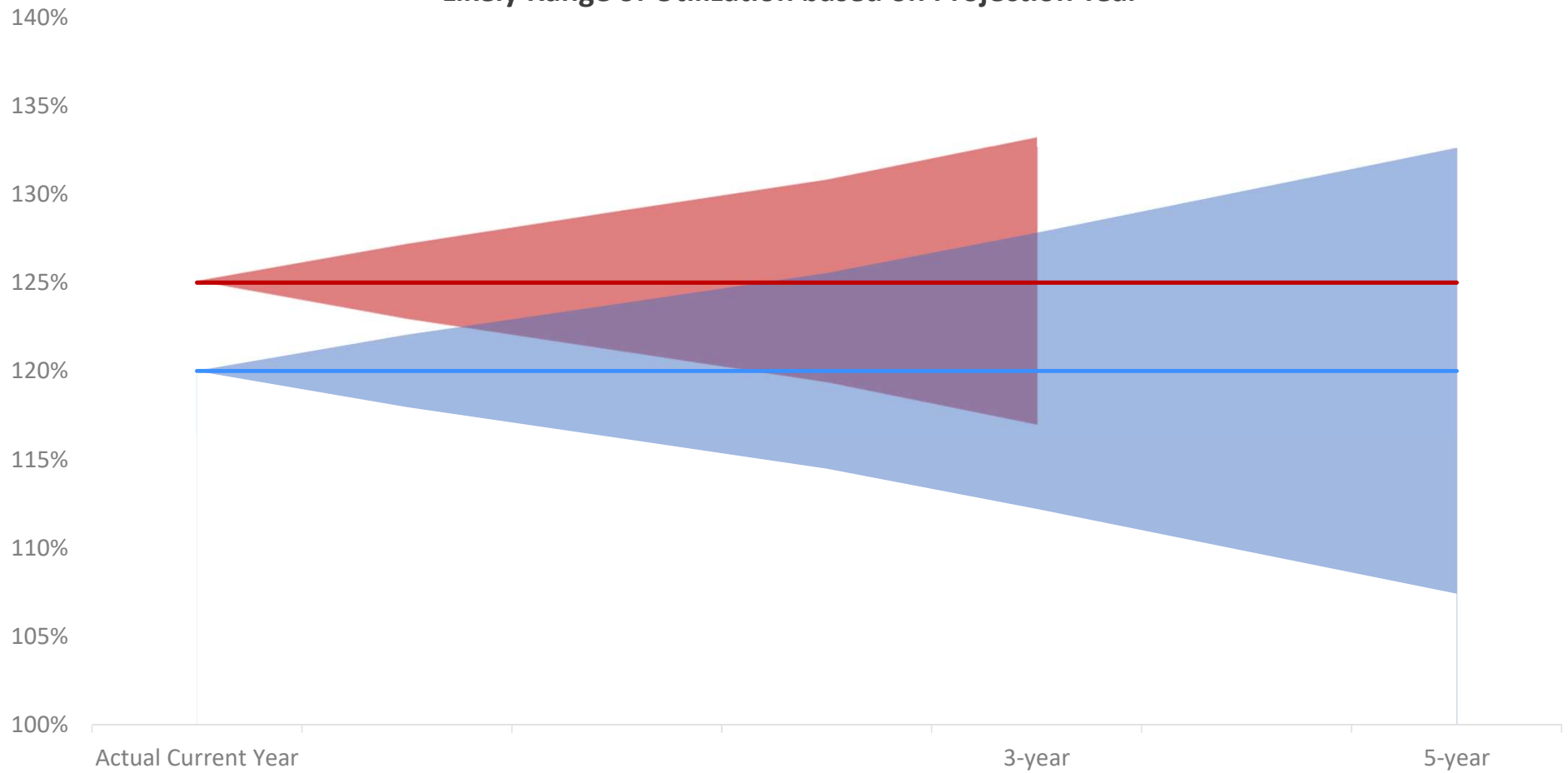
Residential Development Moratorium

R4.9.1 Comment Summary

Con	10 miles is too far. In this part of the county, that can take nearly an hour during peak periods. The current boundary change is being challenged in court primarily because people feel the reassignments cause students to travel too far to get to and from school.
Con	110% threshold does not ensure adequacy. MCPS would not and should not reassign students to a school already projected to be overcrowded.
Con	Only schools at 80-90% utilization should be considered.
Con	“Say NO to developer requested exceptions that undermine important public policies including adequate public facilities.”



Likely Range of Utilization based on Projection Year



Residential Development Moratorium

R4.10

Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.

- Was understood that the 2019 amendment would likely be a temporary adjustment that would allow for the revitalization of urban infill areas and for the development of large quantities of deeply affordable multifamily housing.
- Expectation that the 2020 SSP update would find a more permanent solution.
- The areas of the county that benefit from the 2019 moratorium exception are those recommended to be completely relieved of automatic moratorium under Recommendation 4.8.
- Moratoria will only be applicable in Greenfield Impact Areas, where new development of single-family homes continues to generate large quantities of students.



Residential Development Moratorium

R4.10

- The moratorium remains a valuable tool to prevent the over-crowding of schools in the Greenfield Impact Areas.
- To ensure that the moratorium can be an effective tool it does not seem necessary or appropriate to maintain this exception.



Residential Development Moratorium

R4.10 Comment Summary

Con	If any portion of the county would be subject to automatic moratoria, then this exception should remain. (NAIOP)
Con	Maintain exemptions for affordable housing. (MBIA)
Con	ULI expressed concern over this recommendation, thinking it may run the risk of losing sight of the county's affordable housing priorities. At the very least, it could lead to a perception of de-prioritizing affordable housing production. We don't want to be communicating a message detrimental to our affordable housing policy and community goals.



Chapter 4. Schools Element Recommendations

Student Generation Rate Calculation



Student Generation Rate Calculation

R4.11

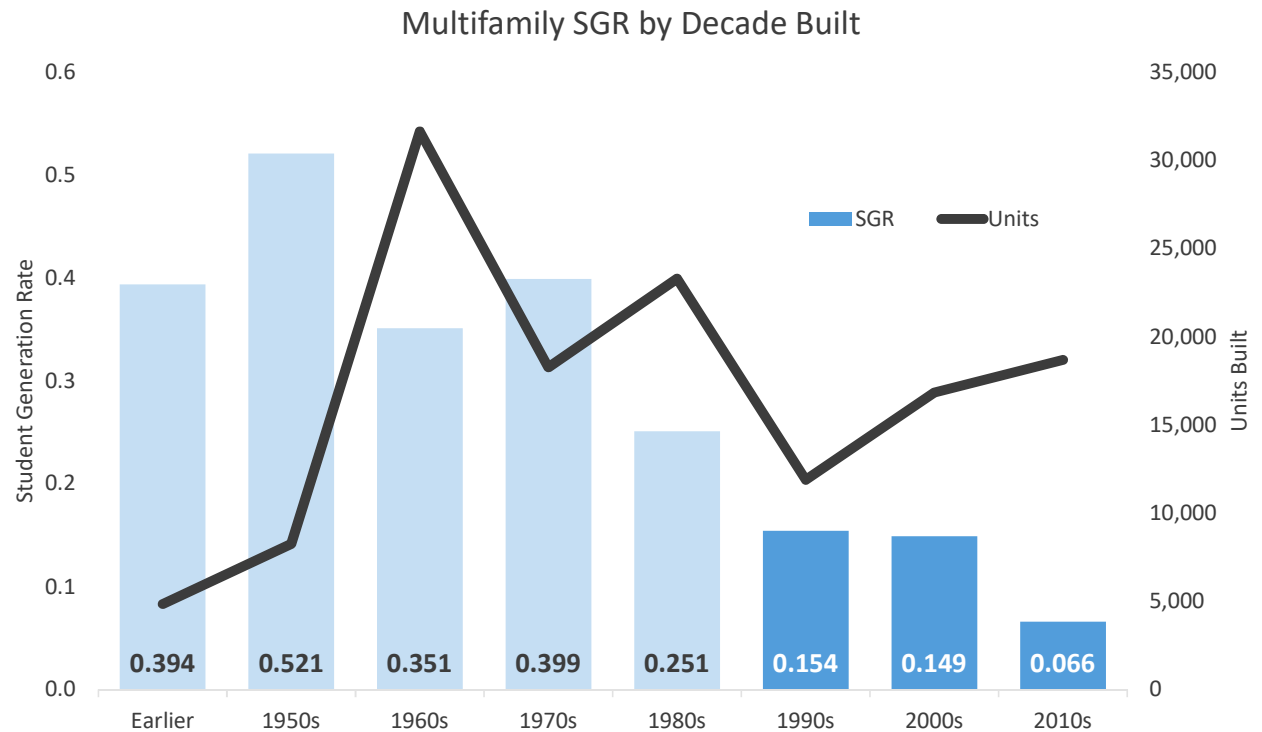
Calculate countywide and School Impact Area student generation rates by analyzing all single-family units and multifamily units built since 1990, without distinguishing multifamily buildings by height.

- Multifamily units built in the last several decades generate students differently than older multifamily units.
 - fewer bedrooms
 - smaller
 - more expensive
 - less family-oriented



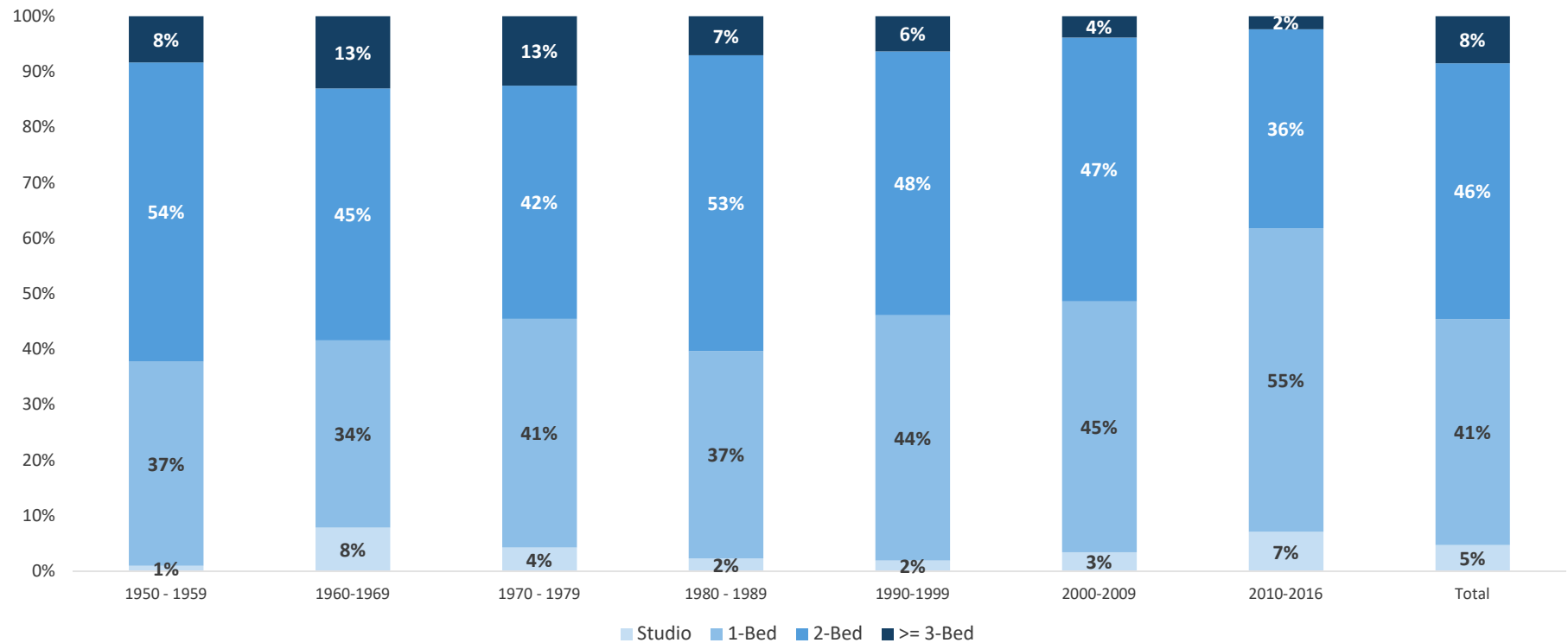
Student Generation Rate Calculation

- K-12 SGR for multifamily structures built prior to 1990 was statistically different from the average for structures built in 1990 and later.
- K-12 SGR for structures built in the 1980s were statistically significantly different from those built in the:
 - 1990s
 - 1990s, 2000s and 2010s combined



Student Generation Rate Calculation

Multifamily Rental Units by Unit Size and Decade Built, 1950-2016



Student Generation Rate Calculation

R4.11

- Why eliminate the distinction between high-rise and low-rise?
 - Some recent analyses suggest that the distinction between low- and high-rise might be more of a distinction between old and new buildings.
 - Land use designations in SDAT parcel data are inconsistent and unreliable for multifamily uses and require an extensive amount of staff correction. (Also, SDAT is no longer maintaining the land use field.)
 - Low-rise/high-rise construction type distinctions have blurred as lumber is frequently used to build structures of six or more stories.
 - Unclear how to classify buildings with multiple heights.



Student Generation Rate Calculation

R4.11

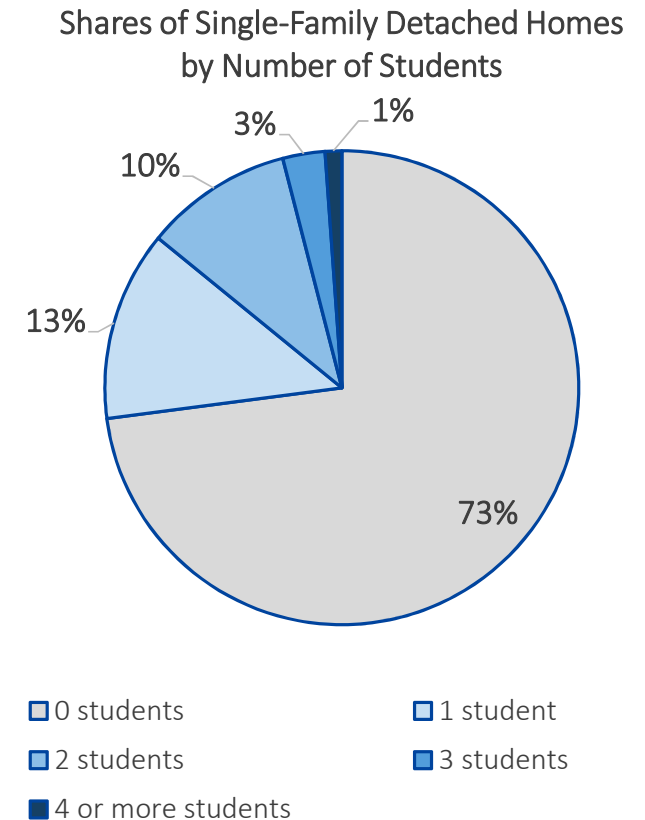
- Planning staff did not calculate the low-rise and high-rise student generation rates for units built since 1990 using the 2019 enrollment data.
- An earlier analysis using 2018 enrollment data provided some insight on this (note that the cutoff in this analysis was 1991 instead of 1990).

	Built Through 1990	Built 1991 and later	Difference
MF Low	0.459	0.200	-0.259
MF High	0.141	0.053	-0.088
Difference (high-low)	-0.318	-0.147	

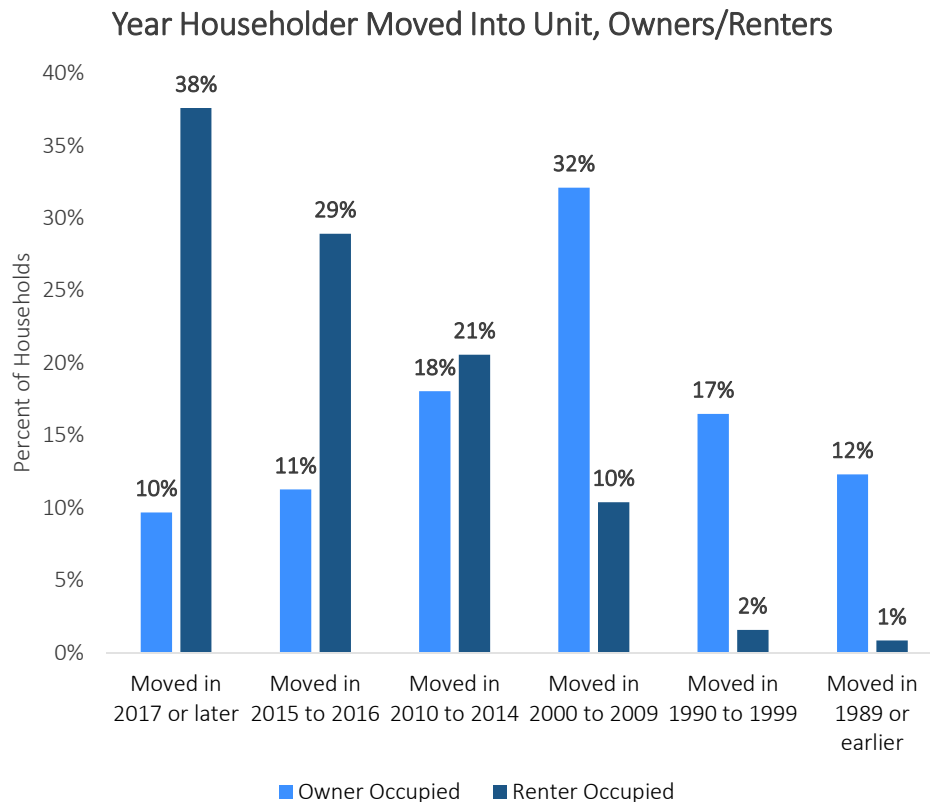


Student Generation Rate Calculation

- Why use “all years built” for single-family units?
 - Relationship between year built and student generation is less clear, with no distinction based on decade built.
 - SGRs tend to be cyclical based on how recently the unit sold, regardless of age.
 - Very likely to generate students for the first 10 to 15 years after being sold.
 - After 15 years post-sale, on average, single-family homes generate no students for long periods of time (until sold again).
 - Using recently built single-family homes would bias the rates higher since that would disproportionately include homes recently sold.
- Therefore, in the case of single-family homes, we want to be sure to capture the average student generation over the entire life of the home.



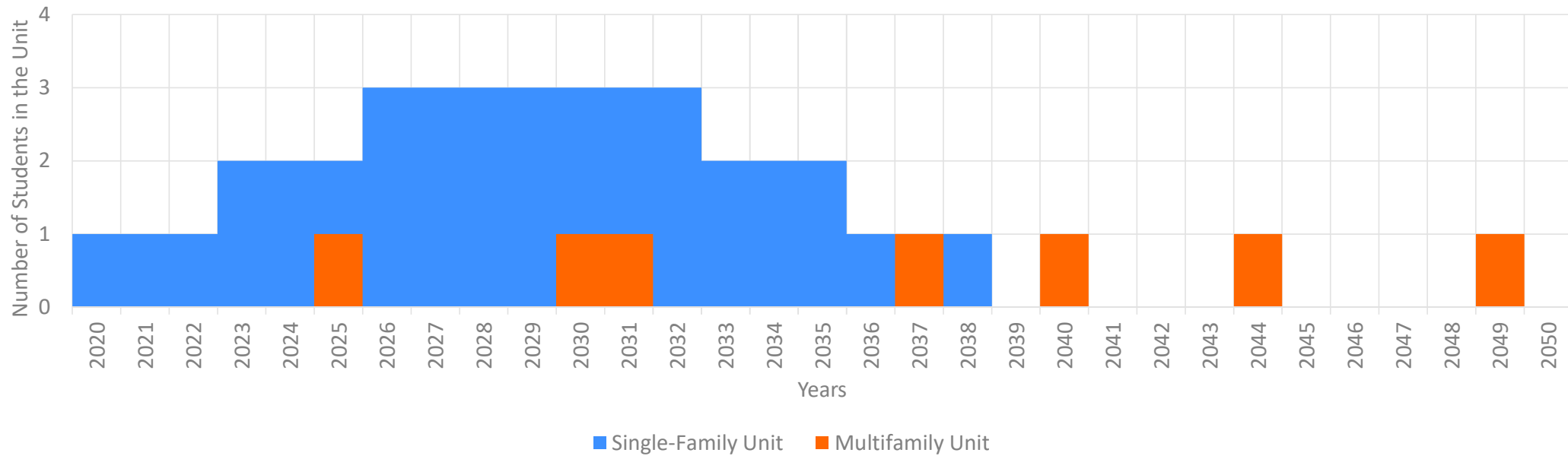
Student Generation Rate Calculation



- 61% of owners have lived in their home more than 10 years, compared to only 13% of renters
- 38% of renters have lived in their home for two years or less, compared to 10% of owners
- In 2019, about 4% of our single-family detached homes were sold, whereas about 33% of rental units (mostly multifamily) changed hands.
- Student Generation Rates
 - The SGRs for a renter-occupied unit are steadier because they turnover more frequently
 - The SGRs for a owner-occupied unit are more cyclical because people stay in them longer and experience different life stages in the homes

Student Generation Rate Calculation

Hypothetical Unit Life-cycle Comparison



Student Generation Rate Calculation

2018 Student Generation Rates by Geographic Region

- Include regional rates arbitrarily based on school cluster boundaries.
- Based on September 2018 enrollment and housing data.

COUNTYWIDE STUDENT GENERATION RATES		Student Generation Rates			
		ES	MS	HS	K-12
Countywide	Single-Family Detached	0.199	0.110	0.154	0.462
	Single-Family Attached	0.227	0.113	0.150	0.490
	Multifamily Low- to Mid-Rise	0.197	0.086	0.109	0.393
	Multifamily High-Rise	0.055	0.023	0.031	0.110
	All Dwelling Units	0.185	0.095	0.128	0.408

REGIONAL STUDENT GENERATION RATES		Student Generation Rates			
		ES	MS	HS	K-12
East (Downcounty Consortium, Northeast Consortium)	Single-Family Detached	0.203	0.103	0.144	0.450
	Single-Family Attached	0.219	0.115	0.160	0.494
	Multifamily Low- to Mid-Rise	0.253	0.112	0.148	0.512
	Multifamily High-Rise	0.088	0.036	0.047	0.171
	All Dwelling Units	0.200	0.097	0.133	0.430
Southwest (BCC, Churchill, WJ, RM, Rockville, Whitman, Wootton)	Single-Family Detached	0.186	0.109	0.151	0.446
	Single-Family Attached	0.167	0.085	0.111	0.363
	Multifamily Low- to Mid-Rise	0.150	0.068	0.085	0.303
	Multifamily High-Rise	0.041	0.018	0.025	0.084
	All Dwelling Units	0.149	0.082	0.111	0.341
Upcounty (Clarksburg, Damascus, Gaithersburg, Magruder, Northwest, Poolesville, QO, Seneca Valley, Sherwood, Watkins Mill)	Single-Family Detached	0.210	0.120	0.169	0.499
	Single-Family Attached	0.248	0.121	0.157	0.526
	Multifamily Low- to Mid-Rise	0.183	0.077	0.093	0.352
	Multifamily High-Rise	0.020	0.008	0.010	0.038
	All Dwelling Units	0.209	0.106	0.142	0.457



Student Generation Rate Calculation

OPTION A: Public Hearing Draft

2019 Student Generation Rates by School Impact Area

- Include rates by School Impact Area, which are based on the actual growth context
- Based on September 2019 enrollment and housing data.

		Student Generation Rates			
		ES	MS	HS	K-12
Countywide	Single-Family Detached	0.198	0.111	0.155	0.464
	Single-Family Attached	0.222	0.115	0.151	0.487
	Multifamily (Since 1990)	0.066	0.030	0.036	0.133
Infill Impact Areas	Single-Family Detached	0.171	0.082	0.113	0.366
	Single-Family Attached	0.179	0.092	0.119	0.391
	Multifamily (Since 1990)	0.049	0.020	0.024	0.093
Turnover Impact Areas	Single-Family Detached	0.194	0.109	0.155	0.458
	Single-Family Attached	0.225	0.118	0.157	0.499
	Multifamily (Since 1990)	0.090	0.046	0.055	0.192
Greenfield Impact Areas	Single-Family Detached	0.336	0.181	0.206	0.724
	Single-Family Attached	0.318	0.141	0.158	0.618
	Multifamily (Since 1990)	0.253	0.131	0.149	0.532



Student Generation Rate Calculation

OPTION B: Adding MSPAs to Infill Impact Areas

2019 Student Generation Rates by School Impact Area

- Include rates by School Impact Area, which are based on the actual growth context
- Based on September 2019 enrollment and housing data.

		Student Generation Rates			
		ES	MS	HS	K-12
Countywide	Single-Family Detached	0.198	0.111	0.155	0.464
	Single-Family Attached	0.222	0.115	0.151	0.487
	Multifamily (Since 1990)	0.066	0.030	0.036	0.133
Infill Impact Areas	Single-Family Detached	0.189	0.100	0.156	0.446
	Single-Family Attached	0.214	0.113	0.143	0.470
	Multifamily (Since 1990)	0.053	0.021	0.026	0.100
Turnover Impact Areas	Single-Family Detached	0.193	0.109	0.153	0.455
	Single-Family Attached	0.218	0.114	0.154	0.486
	Multifamily (Since 1990)	0.093	0.050	0.059	0.202
Greenfield Impact Areas	Single-Family Detached	0.336	0.181	0.206	0.724
	Single-Family Attached	0.318	0.141	0.158	0.618
	Multifamily (Since 1990)	0.253	0.131	0.149	0.532



Student Generation Rate Calculation

SGR Comparison of Option A and Option B

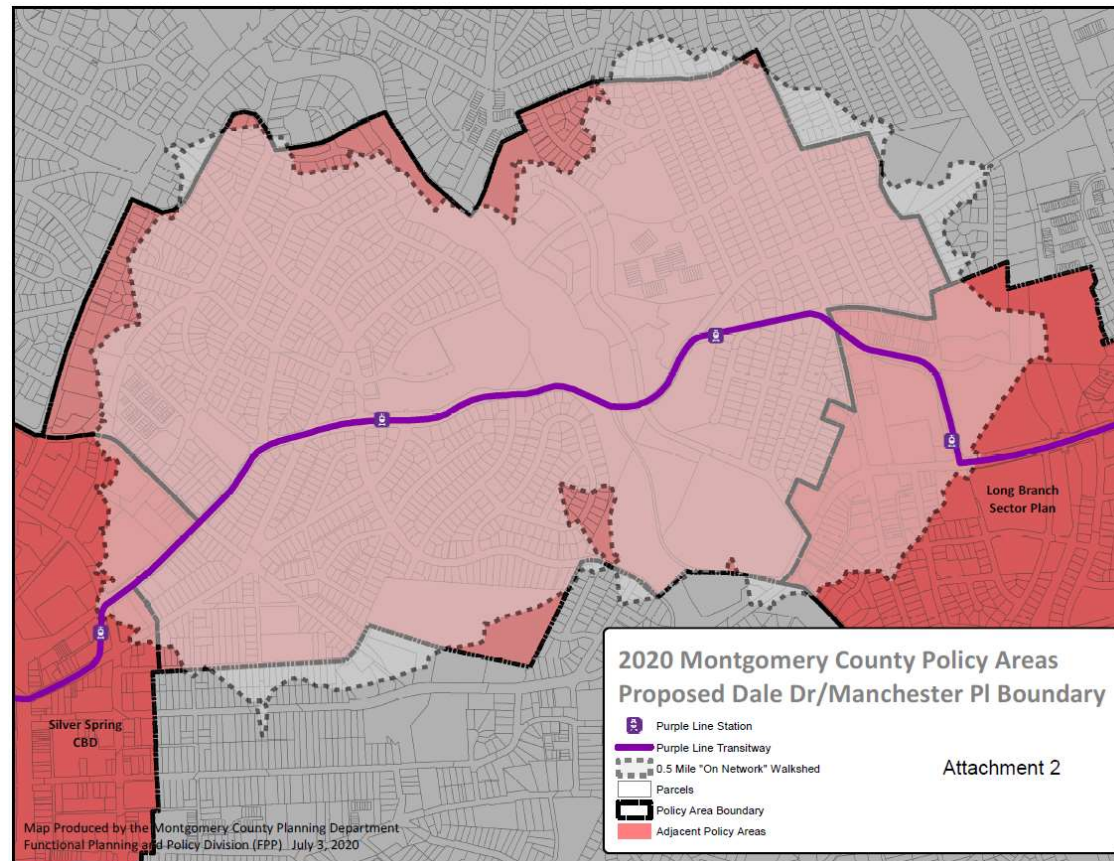
2019 Student Generation Rates by School Impact Area

- Include rates by School Impact Area, which are based on the actual growth context
- Based on September 2019 enrollment and housing data.

		Student Generation Rates			
		ES	MS	HS	K-12
Countywide	Single-Family Detached	0.000	0.000	0.000	0.000
	Single-Family Attached	0.000	0.000	0.000	0.000
	Multifamily (Since 1990)	0.000	0.000	0.000	0.000
Infill Impact Areas	Single-Family Detached	0.018	0.018	0.043	0.080
	Single-Family Attached	0.035	0.021	0.024	0.079
	Multifamily (Since 1990)	0.004	0.001	0.002	0.007
Turnover Impact Areas	Single-Family Detached	-0.001	0.000	-0.002	-0.003
	Single-Family Attached	-0.007	-0.004	-0.003	-0.013
	Multifamily (Since 1990)	0.003	0.004	0.004	0.010
Greenfield Impact Areas	Single-Family Detached	0.000	0.000	0.000	0.000
	Single-Family Attached	0.000	0.000	0.000	0.000
	Multifamily (Since 1990)	0.000	0.000	0.000	0.000



Student Generation Rate Calculation



Student Generation Rate Calculation

R4.11 Comment Summary

Pro	The panel enthusiastically endorses the staff recommendation to calculate student generation rates using data analysis of all single-family units and only multifamily units built since 1990 (and combining all multifamily, not distinguishing by height).
Pro	NAIOP also supported this recommendation.



Student Generation Rate Calculation

R4.11 Comment Summary

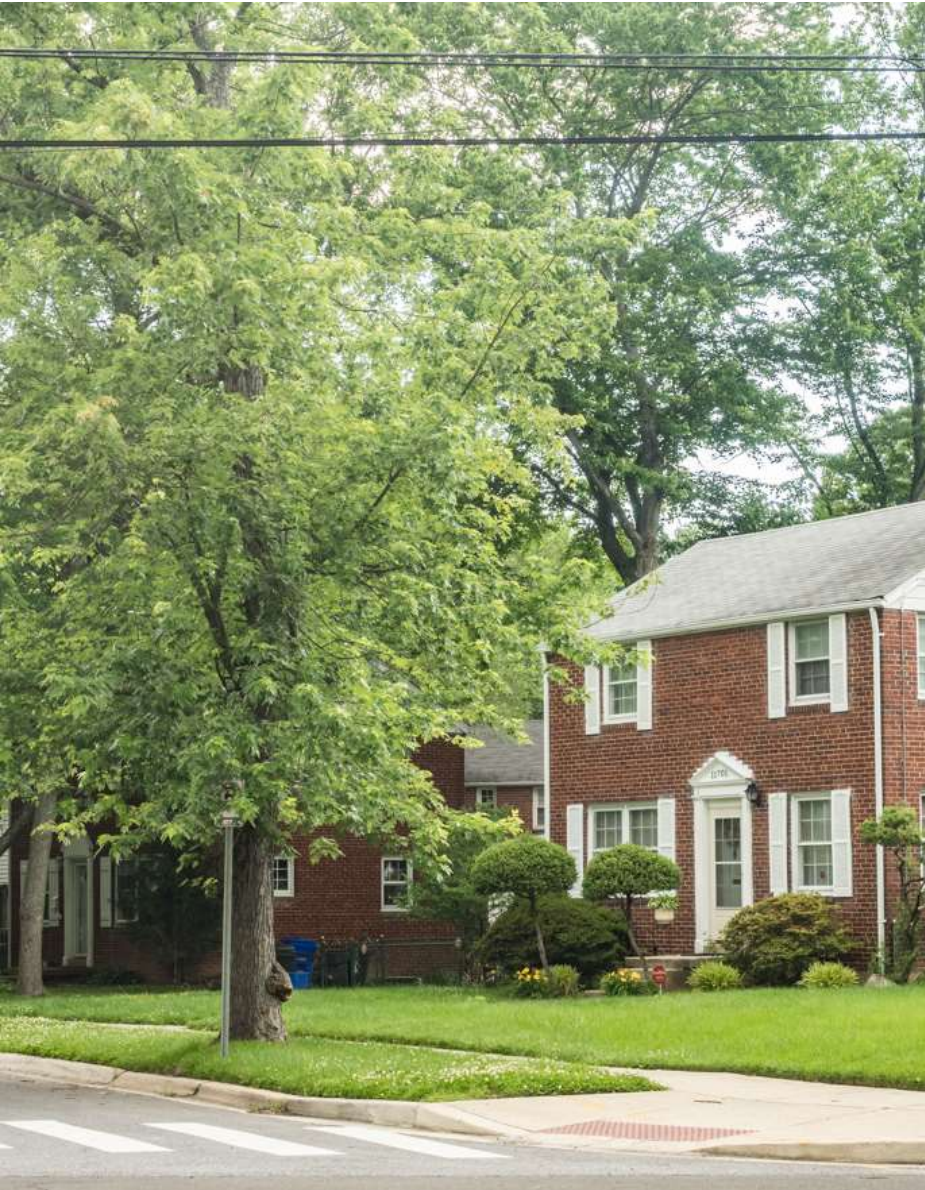
Pro	MCCPTA supported calculate SGRs for units since 1990 as proposed, but to continue to track the four established unit types.
Comment	Can we conduct an analysis of the potential impact of including vacant units in the denominator? Can short term rentals (e.g. Airbnb) should be excluded from the unit count?
Con	Differentiate low-rise from high-rise, because staff's own data show the differential is statistically significant.
Con	Use only 'since 2010' multifamily student generation rates, not 'since 1990' rates, and adjust the rates accordingly, because staff's own data show the differential is statistically significant.



Chapter 4. Schools Element Recommendations

Development Application Review





Development Application Review Recommendations

- 4.12 The County Growth Policy should explicitly allow the Planning Board to deny a residential development project in Turnover Impact Areas and Infill Impact Areas if it deems there is inadequate public school infrastructure, after consideration of the applicable data and circumstances.
- 4.13 Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to require a development application to be retested for school infrastructure adequacy when an applicant requests an extension of their Adequate Public Facilities validity period.

Development Application Review Recommendations

- 4.14 Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to cap the Adequate Public Facilities validity period for development to no more than 22 years, at which point the applicant can no longer request an extension of the approval and must restart the plan application process.
- 4.15 Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS' official positions.



Development Application Review

R4.12

The County Growth Policy should explicitly allow the Planning Board to deny a residential development project in Turnover Impact Areas and Infill Impact Areas if it deems there is inadequate public school infrastructure, after consideration of the applicable data and circumstances.

To aid the Board in making this decision, Planning staff will provide the following:

- school facility status information, including number of relocatable classrooms and Key Facility Indicator information
- the development application's estimated enrollment impacts
- historical, current and projected school utilization data for the schools serving the subject property
- the current and projected utilization of the three other nearest schools at each level (elementary, middle, and high)
- updated development pipeline status for approved development applications served by the same schools as the subject property



Development Application Review

R4.12 Comment Summary

Con	Potentially could lead to subjective determinations and arbitrary results. Unnecessary, unwarranted recommendation in light of UPP which help address capacity problem and are a known and fixed amount that provides certainty to applicant. (NAIOP)
Con	Strongly oppose discretionary review and possible disapproval of projects by the Planning Board. APFO should be based on strict criteria that is not open to subjective review - unfair to projects that have gone through testing. Utilization Premium Payment is recommended for these projects. (MBIA)
Con	Eliminating requirement to deny applications where facilities are not adequate is already inconsistent with an effective APFO. (MCCPTA)
Con	120% is a crisis. Policy should allow PB to deny projects if any school in the affected area is over 110% capacity.
Comment	If the PB is authorized and/or expected to deny any applications, it will need a specific and consistent rubric for doing so. (MCCPTA)



Development Application Review

R4.13

Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to require a development application to be retested for school infrastructure adequacy when an applicant requests an extension of their Adequate Public Facilities validity period.

- Currently allowed to require an updated traffic impact study.
- Recognizes that school conditions and school tests also change over time.
- The application would be reviewed for school infrastructure adequacy under the test that applies at the time of the extension request.



Development Application Review

R4.13 Comment Summary

Pro	Circumstances can change dramatically in 5-10 years and retesting all infrastructure should be mandatory. (MCCPTA)
Con	Oppose. This provision creates uncertainty. (MBIA)



Development Application Review

R4.14

Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to cap the Adequate Public Facilities validity period for development to no more than 22 years, at which point the applicant can no longer request an extension of the approval and must restart the plan application process.

- Lengthy extensions can complicate long-term planning and enrollment projection efforts.
- The 22 years is inclusive of the original validity period and any combination of extensions under Section 4.3.J.7.
- Although this falls under the schools element chapter, this would apply to all approvals.



Development Application Review

R4.14 Comment Summary

Pro	MCCPTA supports this recommendation.
Con	The types of projects that require lengthy validity periods are often complex, large-scale, multi-phased, long-term projects that meet many County strategic policy objectives and significantly benefit the County economically. The County should not automatically prevent implementation of these important projects and deprive itself of the existing flexibility to make case-by-case determinations. (NAIOP)
Con	Many projects provide public benefits in the form of infrastructure improvements or financial contributions well in advance of realizing full build out - it would be grossly inequitable not to allow projects to proceed after providing costly facilities required by the regulatory approvals. (NAIOP)
Con	There are many legacy projects in the County that have proceeded since original approvals and adding a cap would be detrimental. Any new cap in this regard should have appropriate grandfathering provisions. (MBIA)
Con	If this recommendation is not rejected outright, it should only apply to completely new development approvals. (NAIOP)



Development Application Review

R4.15

Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS' official positions.

- Beneficial to both agencies in terms of better understanding applicable school conditions, a development's potential impact on schools and any potential solutions.
- Opportunity for discussion about potential land dedications, school construction or facility improvements to be performed or paid by the applicant.



Development Application Review

R4.15 Comment Summary

Pro	MBIA and NAIOP support this recommendation.
Pro	We need systemic alignment between the Planning Board and MCPS - planning for Montgomery County's growth must include a plan for our schools.
Comment	MCCPTA asks to be recognized as a reviewing agency to be included on the Development Review Committee, or at least have area vice president notified where annual school test results are over 105%.



Chapter 4. Schools Element Recommendations

Utilization Premium Payments



Utilization Premium Payments

R4.16

Require applicants to pay Utilization Premium Payments in Turnover and Infill Impact Areas when a school's projected utilization three years in the future exceeds established adequacy standards.

- With less of an emphasis on moratorium, more emphasis on getting the needed infrastructure.
- In the Turnover and Infill Impact Areas, this shifts the developer payment burden to those developing in areas with the greatest need.
- Utilization Premium Payment exemptions include legacy approvals and MPDUs (and other affordable units).
- These should be calculated on a net unit basis, like impact taxes.



Utilization Premium Payments

- The adequacy standards are the same that apply for moratoria in the Greenfield Impact Areas.

School Level	Utilization Premium Payment Thresholds
Elementary School	Projected three years in the future: <ul style="list-style-type: none">• seat deficit \geq 110 seats and• utilization $>$ 120%
Middle School	Projected three years in the future: <ul style="list-style-type: none">• seat deficit \geq 180 seats and• utilization $>$ 120%
High School	Projected three years in the future: <ul style="list-style-type: none">• utilization $>$ 120%



Utilization Premium Payments

OPTION A: Public Hearing Draft

- Per unit payment amount is calculated as a percentage of the standard impact tax rate, based on unit type and School Impact Area.

Schools Exceeding Payment Thresholds	Premium Payment Factor	Turnover Impact Areas			Infill Impact Areas		
		Single-Family Detached	Single-Family Attached	Multifamily	Single-Family Detached	Single-Family Attached	Multifamily
Elementary School	25%	\$5,407	\$5,876	\$2,234	\$4,297	\$4,576	\$1,081
Middle School	15%	\$3,244	\$3,525	\$1,340	\$2,578	\$2,745	\$649
High School	20%	\$4,325	\$4,701	\$1,787	\$3,437	\$3,661	\$865
Total <i>if all three levels exceed the thresholds</i>	60%	\$12,976	\$14,102	\$5,362	\$10,312	\$10,982	\$2,595



Utilization Premium Payments

OPTION B: Adding MSPAs to Infill Impact Areas

- Per unit payment amount is calculated as a percentage of the standard impact tax rate, based on unit type and School Impact Area.

Schools Exceeding Payment Thresholds	Premium Payment Factor	Turnover Impact Areas			Infill Impact Areas		
		Single-Family Detached	Single-Family Attached	Multifamily	Single-Family Detached	Single-Family Attached	Multifamily
Elementary School	25%	\$5,369	\$5,714	\$2,365	\$5,264	\$5,514	\$1,163
Middle School	15%	\$3,222	\$3,429	\$1,419	\$3,159	\$3,308	\$698
High School	20%	\$4,295	\$4,571	\$1,892	\$4,211	\$4,411	\$930
Total <i>if all three levels exceed the thresholds</i>	60%	\$12,886	\$13,714	\$5,676	\$12,634	\$13,233	\$2,791



Utilization Premium Payments

UP Payment Comparison of Option A and Option B

- Difference between Option A and Option B for designation of School Impact Areas.

Schools Exceeding Payment Thresholds	Premium Payment Factor	Turnover Impact Areas			Infill Impact Areas		
		Single-Family Detached	Single-Family Attached	Multifamily	Single-Family Detached	Single-Family Attached	Multifamily
Elementary School	25%	(\$38)	(\$162)	\$131	\$967	\$938	\$82
Middle School	15%	(\$22)	(\$96)	\$79	\$581	\$563	\$49
High School	20%	(\$30)	(\$130)	\$105	\$774	\$750	\$65
Total <i>if all three levels exceed the thresholds</i>	60%	(\$90)	(\$388)	\$314	\$2,322	\$2,251	\$196



Utilization Premium Payments

R4.16 Comment Summary

Pro	"The recommendation that developers pay "Utilization Premiums" we support with a few concerns, regarding the three-year window and the amount of the payment"
Con	Drop the seat deficit metric for UPP - that is useful for determining moratoria due to how MCPS decide to increase capacity but adds unnecessary complexity for UPP
Con	Terribly regressive tax effect ... higher rates in the lower socio-economic areas than applicable in the economically advantaged areas.
Comment	The CE is interested in, and wants further information on, the new Utilization Report and the recommended Utilization Premium Payments.
Comment	At the time of building permit, if a school's projected utilization three years in the future no longer exceeds adequacy standards, then the UPP should no longer be applicable.
Comment	The threshold should be 105% - payments should start when the relevant schools are over capacity and not wait until there is a 120% over capacity crisis.
Comment	The threshold should be 90%



Utilization Premium Payments

R4.16 Comment Summary

Comment	Please consider requiring additional impact fees anytime capacity goes above 100% (not 120%) in any area where they are building. The additional space is even more important now during COVID-19.
Comment	UPPs should be triggered in all school impact areas. Should be calculated with additional 25% of cost per seat, with no cap.
Comment	If multiple schools for a development are over capacity payment should be additive - if both ES and HS are over capacity, 25% increase for ES + 20% for HS
Comment	In lieu of automatic moratoria, inadequate school capacity in Greenfield Impact Areas would be better addressed by applying the flexibility recommended for Turnover and Infill Impact Areas – more specifically, the Utilization Premium Payments.

