Consolidated Comments on Subdivision Regulations
Prince George's County

This document constitutes a major milestone of community stakeholder engagement in Prince George's County's effort to replace our outdated Zoning Ordinance and Subdivision Regulations. In September 2016, the County's consultant team, led by Clarion Associates, released the third of three modules containing their recommendations – based on national best practices – for creating a set of modern 21st Century zoning and subdivision laws and provide us with the necessary toolkit to successfully compete with our peer jurisdictions within the region, foster economic development opportunities, implement community-based planning, and incorporate simplified language and streamlined procedures.

Over the last seven months, the County Council (which sits as the District Council for planning and zoning matters in the County), Planning Board, County Executive's Office, residents, municipalities, civic groups, project focus groups, property and business owners, land use attorneys, the development community, Planning Department staff, and local, state, and regional agencies have engaged the project staff team and offered their thoughts on Module 3 (Process and Administration and Subdivision Regulations).

The result of this on-going, essential, and extraordinarily productive conversation is contained in this analysis. In response to community desire and to better document the overall process of the difficult task of comprehensively replacing the Zoning Ordinance and Subdivision Regulations, staff has adopted an approach like that taken when evaluating comprehensive plan testimony. All comments on Subdivision Regulations received during numerous meetings and online via e-mail and our Open Comment website (http://pgplanning.opencomment.us) have been listed below, associated with the page number from the version of the Subdivision Regulations included in Module 3 (the "with notes" version of Module 3) whenever possible.

This analysis contains community stakeholder comments received by staff as of the date of its compilation (April 2017). Many of these comments were analyzed by staff, which then offered a recommendation for how the Clarion Associates team should address the comment. It should be noted that the national zoning and subdivision expertise offered by the Clarion Associates team is necessary to fully analyze and address some of the comments; in other words, the project staff team was sometimes reluctant to address the comments that were received since they a) pertain to a recommendation offered by Clarion Associates that is a new concept to the County, and we cannot speak for Clarion's rationale, or b) were outside our direct areas of expertise. For other comments, staff has deferred analysis in anticipation of future decision points and/or additional testimony. Finally, staff has also identified, in very general terms, the source of the comment.

Comments are generally organized into four major categories:

1. Requests from the County Council and other parties for additional supportive information.

2. Changes that need to be incorporated in the Subdivision Regulations pursuant to staff analysis of comments received. Until this document was compiled, Planning Department staff, the Planning Board, and the County Council had not endorsed any of Clarion Associates' recommendations.

   Changes contained in this section of this analysis constitute staff's initial buy-in to some of the proposals (as they will be modified based on staff direction) offered for the consideration of Prince George's County by the Clarion Associates consultant team. Staff's further recommendations / endorsement of Clarion's proposals will occur with the Comprehensive Review Draft expected in Spring 2017.

   The County Council, sitting as the District Council, is not expected to take any action on any recommendations until the Comprehensive Review Draft is amended as may be necessary and appropriate, and converted into a legislative draft in late Summer 2017.

3. Comments and questions received from the community at large which should be evaluated by Clarion Associates, who should then respond appropriately. These may result in additional changes to the Subdivision Regulations, be incorporated in the Comprehensive Review Draft, result in no change, or merit a discussion or response as to why something was or was not incorporated. Staff may recommend an action for these comments and questions below but has not yet reached a final decision/direction. Final action by Staff for these comments and questions is in large part dependent on Clarion Associates' recommendations based on national best practices; the Clarion Associates team will have the opportunity to further explain or defend the rationale as may be necessary.

4. Typographical, grammatical, and other technical corrections that should be made prior to the release of the Comprehensive Review Draft.

ADDITIONAL INFORMATION				
Page Number	**Comment**	**Source**	**Staff Analysis**	**Staff Recommendation**
24-3—18 Public Facility Adequacy	The procedures for determining whether public facilities are adequate are confusing with regard to the calculation of "Available Capacity." To what is capacity added? What happens to pipeline development?	City of Greenbelt	Staff defers to Clarion Associates for additional information. The various public facilities (transportation, parks and recreation, etc.) listed in Division 3 each contain Level-of-Service standards that provide additional information for calculating available capacity, but this concept may better be explained through examples.	Clarion Associates should provide a couple of examples of how "Available Capacity" is calculated that illustrate the concept and speak specifically to what is meant by "Add Capacity within the Impact Area based on the LOS standard for the individual type of Public Facility."

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Subdivision Regulations – White and Smith Draft (2010) Summary of Findings	The current regulations do not define subdivision in a manner that emphasizes the planning nature of subdivision and the purview of the Planning Department and Planning Board. The technical process of subdivision, and the decisions which are made during a public hearing, can result in the appearance of a political decision instead of a planning decision.	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings. The proposed Subdivision Regulations incorporate appropriate references to planning and policy guidance, and establish clearly understandable regulations intended to facilitate planning – rather than political – decision-making.	Clarion Associates should update the definition for subdivision to include the term "technical process" or other descriptors to better convey the notion that the subdivision process is not a political process.
Module 1 (Zones and Uses) Public Utilities Easements	Do not see anything identified in each zone regarding the placement of utilities. How is this addressed? PEPCO offered a subsequent, more specific comment: "PEPCO 'urges that all preliminary plans and final plats should designate a PUE [public utilities easement] that at a minimum is ten (10) feet wide parallel, adjacent and contiguous to all public and private roads and alley rights-of-way free and clear of any permanent structures, building, sidewalks, curbs, paving, trees, shrubs, retaining walls, landscape, buffers and trails, with trenches of no more than a 4 to 1 slope.'"	Agencies, PEPCO	The first comment was received during the review of Module 1 (Zones and Uses). Utility placement is typically within dedicated public utilities easements, and would not be part of the Zoning Ordinance. In the proposed Subdivision Regulations, general reference is made to "easements" but there are few references to "public utilities easements." It appears that Clarion Associates intend to defer to regulations of applicable utilities, but this poses some potential issues, particularly in urban and transit-oriented locations. The recommendation that all preliminary plans and final plats designate a ten-foot free and clear Public Utilities Easement (PUE) adjacent and contiguous to all public and private roads and alley rights-of-way is contrary to the County's goal and vision for creating high-quality transit-oriented, mixed-use centers at designated locations – such as at Metro stations and other transit hubs. We will need to continue the conversation on the location and configuration of PUEs as they may pertain to more urban forms of development than the County has experienced to date as we continue to coordinate and refine the recommendations we are receiving from our consultant team. The staff team expects the PUE discussion to be one of the more significant outstanding items for the Subdivision Regulations, which may necessitate additional time to complete.	Clarion Associates should provide additional clarity regarding utility placement in the appropriate location of the Subdivision Regulations. Additionally, Clarion Associates should offer some information regarding the location of PUEs, whether they should remain "free and clear" of any paving or landscaping, and how PUEs are best addressed in urban and transit-oriented locations.
Module 3 (Process and Administration and Subdivision Regulations) Page 27-2—77 Special Exception	The Special Exception Decision Standards lists the following: "5. The proposed Special Exception will not have a substantial adverse impact on vehicular traffic or vehicular and pedestrian safety;" This may require additional transportation impact studies as part of a Special Exception review. Further, the transportation impact study does not review pedestrian or vehicular safety. Safety will be difficult to determine.	Planning staff	The current *Transportation Review Guidelines* require a traffic impact study for Special Exceptions. "TPS staff evaluates special exceptions for the new traffic impact of the proposed use versus the highest and best by-right use of the underlying zoning. Review is generally related to access can extend beyond the driveway and the limits of the site where access options are limited. In cases where the new traffic impact would exceed 100 peak-hour trips, applicants are encouraged and may be requested to prepare a TIS as described in Section 3." In these instances, pedestrian and vehicular safety are NOT measured. The crash/safety data is generally not accessible to planning staff, nor to applicants. If pedestrian and vehicular safety need to be addressed as part of a Special Exception review, a referral will need to be sent to the County Department of Public Works and Transportation or the Maryland State Highway Administration. Without this data being readily available to all parties, it is not possible to determine whether a proposed safety strategy will or will not work. The *Transportation Review Guidelines* further discuss traffic accidents: "The Planning Board does not have the authority to make its own findings regarding the causes of traffic accidents and the corrective actions needed to address safety issues."	Revise section 27-2.507.D.5 to read: "The proposed Special Exception will not have a substantial adverse impact on vehicular traffic; ~~or vehicular and pedestrian safety~~."
Adequacy of Public Facilities	An alternative approach to addressing the adequacy of public facilities should be proposed in the Comprehensive Review Draft to allow for a more robust discussion of different potential ways of ensuring adequacy.	Planning staff	During the review of the comments received on the proposed Subdivision Regulations, and given the need to defer substantive changes to the adequacy thresholds for most types of public facilities, staff now propose that a new approach toward adequacy of public facilities be incorporated in the Comprehensive Review Draft for public and Council discussion.	Insert a new Sec. 24-3.503 that would establish appropriate enabling language that a) clearly allows the District Council to set the adequacy thresholds and any desired

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			The intent of this new approach would be to greatly simplify the complicated topic of Adequacy of Public Facilities (APF) review. It would consist of a new enabling clause that would allow the District Council to establish the adequacy thresholds (as well as any pertinent or desired mitigation procedures the District Council may wish to include) for all types of public facilities via resolution. Currently, there are only two types of public facilities that are subject to a genuine APF test: transportation and parks and recreation. There is language in the Subdivision Regulations regarding adequacy of schools and public safety, but these facilities are not subject to a genuine APF test, since there is no way for a project to "fail" the test and be denied subdivision approval. Fees to support school and public safety infrastructure are required in the County, but fees are not an APF test. The adequacy of water and sewer service is enforced via the water/sewer category process, but again this is not a genuine APF test. If a proposed subdivision has the correct category it may go forward, and if it does not, it may not go forward. There is no test other than checking the water/sewer category that applies. It may make sense to establish genuine APF tests for schools or public safety, and the agencies that provide these services have asked for exactly that. But creating these tests for the first time is a very complex undertaking, with major implications for economic development policy. Such tests also require a firm legal footing. The most practical approach is to enable the creation of new tests in the new Subdivision Regulations, but leave it to a future day for the Council to approve resolutions implementing specific tests. Staff notes that Montgomery County recently adopted a new set of Subdivision Regulations (effective February 13, 2017) that incorporates an approach very similar to that recommended by staff. We propose to use the Montgomery County approach as a template for Prince George's County for adequacy determination. The enabling clause used by Montgomery County is quoted below for informational purposes. The staff proposal is somewhat different in nature, in large part because the District Council would approve the resolution of facility thresholds and the Planning Director is proposed as the decision-making party for the Certificate of Adequacy. "*Applicability.* The Board may only approve a preliminary plan when it finds that public facilities will be adequate to support and service the subdivision. Public facilities and services to be examined for adequacy include roads and transportation facilities, sewer and water service, schools, police stations, firehouses, and health clinics." This proposed approach will necessitate several changes to Sec. 24-3.500. Public Facility Adequacy. Transportation adequacy and parks and recreation adequacy would be retained in the Subdivision Regulations, including some changes to the existing tests (potential exemptions from transportation adequacy in the Regional Transit-Oriented and Local Transit-Oriented zones; revised parks adequacy standards for Transit-Oriented/Activity Center zones). The provisions relating to other facilities currently listed would be relocated (water and sewer) or removed (police, schools) except for the language enabling future resolutions. Staff continues to support the requirement that applicants receive a Certificate of Adequacy from the Planning Director. The Planning Director will implement those APF tests that have been created by the Council. Currently, that includes tests for transportation and for parks and recreation.	mitigation standards for Police, Fire/EMS, Schools, and "other critical public facilities" by resolution, and b) authorizes the Planning Director, through the Certificate of Adequacy process, to find that public facilities will be adequate to support and service the subdivision. Revise/add appropriate enabling language that allows for the dedication or reservation of land for public facilities. Remove Sections 24-3.507. Police Facility Adequacy and Section 24-3.509. Schools Adequacy. Revise the purpose statements and Table 24-3.502: Summary of Public Facility Adequacy Standards as may be necessary to reflect the direction above, and renumber remaining Sections as needed.

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Transitional Provisions and Grandfathering	Based on ongoing discussion with key stakeholders, staff have developed an alternative approach to transitional provisions (including "grandfathering" of approved applications) for incorporation in both the Zoning Ordinance and Subdivision Regulations.	Council, Communities, Developers, Business Owners, Planning staff	Numerous comments have been received regarding the proposed transitional provisions and "grandfathering clauses" from most stakeholder groups. In collaboration with these stakeholders, staff has developed a list of key elements that should be adapted into the Transitional Provisions sections of the proposed Zoning Ordinance and Subdivision Regulations in the Comprehensive Review Draft. They include: <u>For Applications Pending Prior to the Effective Date of the New Zoning Ordinance and Subdivision Regulations</u> • Applications for any type of approval except a zoning map amendment (of any type) that were accepted prior to the effective date of the new codes (zoning or subdivision) shall be reviewed and decided under the substantive and procedural standards of the prior code. • If approved, the application remains valid for the period of time specified in the prior code. Extensions of time available under the prior code remain available. IF the application is for a Conceptual Site Plan (CSP) or Conceptual Design Plan (CDP), that approved CSP or CDP will remain valid for 10 years, not the current indefinite validity of today's Zoning Ordinance. • Until and unless the validity period expires, the project may proceed to the next step in the approval process and continue to be reviewed and decided under the substantive and procedural standards of the prior code. • Once constructed, a project approved under the standards of the prior ordinance shall be "deemed conforming" and subject to the same rules as other "deemed conforming" uses, structures, and site features. • An applicant may elect at any stage to proceed under the new code instead. • An application for rezoning that was accepted on or before the approval date of the new codes will be reviewed and decided. However, after the effective date, the property can only be placed in a zoning district that is contained in the new Zoning Ordinance. • Starting on the day after the new codes are approved, an application for rezoning may only be filed if it seeks a zone that exists in the new ordinance. <u>Projects Which Received an Approval Under the Prior Zoning Ordinance or Subdivision Regulations but Were Not Fully Constructed Prior to the Effective Date of the New Codes</u> • Approvals of any type (except rezoning) remain valid for the period of time specified in the prior code. Extensions of time (which were available under the prior codes) remain available. If the approval is for a CSP or CDP, it remains valid for 10 years from the date the CSP or CDP was approved, not the current indefinite validity of today's Zoning Ordinance. • Until and unless the validity period expires, the project may proceed to the next step in the approval process and continue to be reviewed and decided under the substantive and procedural standards of the prior codes. • Once constructed, a project approved under the standards of the prior code shall be "deemed conforming" and subject to the same rules as other "deemed conforming" uses, structures, and site features. • An applicant may elect at any stage to proceed under the new code instead. • A rezoning of property without a subsequent entitlement (i.e., there has been no additional development approval such as a CSP or Preliminary Plan of Subdivision) does not constitute a prior approval and does not allow the property to seek development approvals under the standards or	Revise the Transitional Provisions language in the Zoning Ordinance and Subdivision Regulations to incorporate these elements of transition and grandfathering.

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			procedures of the prior codes. Instead, the property must develop in accordance with the zone it receives from the Countywide Map Amendment, and is fully subject to the new codes.	
Nonconformities	Based on ongoing discussion with key stakeholders, staff has developed some key revisions to the nonconformities clauses included in the proposed Zoning Ordinance.	Council, Communities, Developers, Business Owners, Planning staff	Numerous comments have been received regarding the proposed nonconformities division in the new Zoning Ordinance, from most stakeholder groups. While numerous changes were incorporated in the analysis of comments received for Module 3 (Process and Administration and Subdivision Regulations), additional collaboration with key stakeholders has resulted in the following additional, overarching approach to nonconformities for discussion during the Comprehensive Review Draft: • Uses, structures, and site features rendered nonconforming by the new Zoning Ordinance shall be "deemed conforming." They may be continued, renovated, repaired, or reconstructed, and may increase floor area, height, or building footprint by up to ten percent without the need to conform to the requirements of the new Zoning Ordinance. • Notwithstanding the above, any use that has been "deemed conforming" is considered abandoned if it ceases operation for more than 180 days. New language may be necessary to address existing/known nonconformities, or those that would exist prior to the effective date of the new codes. These are most often the result of deliberative legislative action and are intended to be transitioned to other uses, be redeveloped, or otherwise brought into conformance over time.	Revise the nonconformities division as necessary and appropriate to incorporate this new overarching approach. Provide language as may be necessary to address with pre-existing nonconformities (those that were nonconforming prior to the effective date of the new Zoning Ordinance and Subdivision Regulations).
Validity Periods for Preliminary Plans of Subdivision	The validity periods for minor and major preliminary plans of subdivision should be reconciled and standardized.	Planning staff	Staff concurs; this discussion supersedes prior discussion of validity periods for Preliminary Plans of Subdivision contained in the staff analysis of comments received on the Zoning Ordinance portion of Module 3 (Process and Administration and Subdivision Regulations). In the prior discussion, staff indicated the validity period for both minor and major preliminary plans was recommended as six years – this is incorrect. The validity for a Preliminary Plan of Minor Subdivision is recommended as two years, while that for a Preliminary Plan of Major Subdivision is recommended as two years for smaller projects and six years for larger projects. Extensions to the validity period of Preliminary Plans of Major Subdivision are possible with a 1-2 year initial extension and a final 2-year extension. To reconcile with the prior analysis and codify the intent of consistent validity periods, staff recommend increasing the validity period for Preliminary Plans of Minor Subdivision to six years and eliminating the distinction between large-scale subdivisions and smaller subdivisions for Preliminary Plans of Major Subdivision. Further, staff recommend increasing both the initial extension and potential final extension for a Preliminary Plan of Major Subdivision from two to three years.	Revise Sec. 24-2.502.C.1.a.xii. on page 24-2—24 to read: "An approved preliminary plan of minor subdivision is valid for ~~two~~ six years from the date of its approval, unless an extension of the validity period is granted." Add language to this subsection that provides guidance for seeking an extension for the validity period of an approved Preliminary Plan of Minor Subdivision (similar to that provided for major subdivisions on page 24-2—30). Combine Sections 24-2.502.D.1.a.xi. (A) and (B) on page 24-2—30 to eliminate the distinction of "large-scale subdivisions" and to set a single initial validity period for Preliminary Plans of Major Subdivision at six years. Revise Sec. 24-2.502.D.1.a.xii(A)(3) to change two years to six years.

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				Combine subsections (B) and (C) and establish the initial extension timeframe as three years. Revise subsections (D) and (E) to increase the final extension timeframe from two years to three years.
Revisions to Approved Preliminary Plans of Subdivision	There is a desire to incorporate a revision process to both approved Minor Preliminary Plans of Subdivision and Major Preliminary Plans of Subdivision that would provide additional flexibility between the level of a resubdivision (primarily intended for lot line adjustments) and new preliminary plans.	Planning staff	Staff would like additional information from Clarion Associates regarding this recommendation and whether it may be a common practice, and how other jurisdictions approach the central intent of this recommendation. Pending additional information, staff supports the intent of the recommendation and provides the following additional points of consideration for such a revision procedure. Any such procedure should: • Provide for a revision procedure with both Minor Preliminary Plans of Subdivision and Major Preliminary Plans of Subdivision. • Retain the validity of the initial Preliminary Plan of Subdivision/recognize the initial plan and any plats; the focus of the revision procedure would be on the potential for creating additional lots and parcels within the boundary of the existing geography of the initial Preliminary Plan of Subdivision. • Require that any additional lots and parcels that are proposed shall be subject to the requirements of the new Subdivision Regulations – including Certificates of Adequacy, bicycle and pedestrian impact statements, findings, etc. • Provide for the potential for the applicant to request expansion of the area covered by the initial Preliminary Plan of Subdivision (if, for example, the applicant purchased abutting property). Provide for a threshold/limitation. Beyond a certain percentage or acreage of new land, an applicant should be required to seek a new Preliminary Plan of Subdivision for the added land area. • Allow an applicant to request a minor revision, but the decision to proceed/process the request would be made by the Planning Director, who could also elevate such a request to a major revision at the Planning Board level. • Have notice provisions reflect that of the original Preliminary Plan of Subdivision (Major or Minor). The appeal of a minor revision should be to the Planning Board, then to Circuit Court. The appeal of a major revision should be to Circuit Court. • Add these revision procedures to the Summary of Subdivision Review Responsibilities table on page 24-2—1, as well as to the Advisory and Decision-Making Bodies for Subdivision Review section.	Clarion Associates should provide the project team with additional information regarding revisions to approved Preliminary Plans of Subdivision. Should this be a common practice, procedures should be added pursuant to the general guidance provided by staff.
Lot Line Adjustment	Bulletin No. 1-2015 discusses policy guidance for differences between Lot Line Adjustments (Sec 24-108) and Resubdivisions (Sec. 24-111). The interpretative guidance contained in this bulletin must be incorporated in the new Subdivision Regulations.	Planning staff	Staff concurs, and believes that, with minor edits, the proposed language on page 24-2—21 dealing with Minor Subdivision or Resubdivision Applicability will address Bulletin No. 1-2015 through the lens of the new Subdivision Regulations proposals.	Revise Sec. 24-2.502.B.1.c.i. to read: “A minor lot line adjustment shall be reviewed as a <u>final</u> plat <u>of</u> ~~for~~ minor subdivision<u>, for which no preliminary plan is required</u>….” Delete the last sentence dealing with resubdivision standards from this subsection.

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Text Amendments	The proposed text amendment procedures need to be revised to reflect District Council direction.	Planning staff	The District Council commented on the proposed text amendment procedures during their initial briefing on the recommendations of Module 3 (Process and Administration and Subdivision Regulations) on October 18, 2016. Based on these comments and on the Council's exclusive jurisdiction over zoning text amendments, the current text amendment process will be carried forward. Regarding the proposed Subdivision Regulations, Sec. 24-2.409. Review and Recommendation by Advisory Board only has a role in the proposed (to be deleted) text amendment procedures. There appears to be no other role for an advisory board in the Subdivision Regulations. This Section and the standardized references throughout the procedures are now moot and should be deleted.	Replace the proposed text amendment procedures with the current process, and revise all tables (including Table 24-2.200) and references as necessary. With this change, Sec. 24-2.409. Review and Recommendation by Advisory Board is now moot, and should be deleted, as should all references to this Section throughout the subdivision procedures.
Interpretations	There should be an administrative interpretation procedure for the Subdivision Regulations similar to that proposed for the Zoning Ordinance in Sec. 27-2.515.	Planning staff	Staff concurs.	Add an interpretation procedure, adapted as necessary and appropriate from proposed Sec. 27-2.515, to the Subdivision Regulations, including a procedure line for interpretations in Table 24-2.200 and additional language regarding the interpretation role to the Planning Director Powers and Duties on page 24-2—4.
Subdivision and Design Quality	Are there any best practices to resolve design issues when an applicant is only required to submit a Preliminary Plan of Subdivision and would not have to submit a Minor or Major Site Plan? More clarity is required to identify what elements of a development that are established in the approval of a Preliminary Plan of Subdivision cannot be "undone" or dramatically changed during a Minor or Major Site Plan process.	Planning staff	The first comment is noted. All new development, even that subject just to permit review, will have to comply with the new development regulations that are ultimately approved with the new Zoning Ordinance. While staff notes single-family detached residential types are not subject to proposed form and design standards, we believe this should remain the case to allow for architectural expression and variety in architectural styling. Ultimately, however, the development regulations would offer a high minimum threshold of quality for all new development. Staff concurs with the second comment that additional clarity on the aspects of subdivision that should not be changed during a zoning entitlement case would benefit applicants, reviewers, and decision-makers alike.	Clarion Associates should provide additional clarity (with cross-referencing, as deemed necessary and appropriate) that indicates the elements of a Preliminary Plan of Subdivision approval that cannot be changed in a zoning entitlement case and/or which would necessitate a revised subdivision or new subdivision application.
Archeology Guidelines	In November 2005, the County Council passed and the County Executive signed, new regulations that required review of all subdivision developments to determine whether archeological investigations should occur on development properties. In May 2015, the Guidelines for Archeological Review were updated and adopted to provide guidance to applicants when complying with the subdivision regulations regarding archeological investigations and report preparation.	Planning staff	The proposed Subdivision Regulations do not contain the specific historic preservation requirements that are listed in Sections 24-104, 24-121(18), and 24-135.01. It is recommended that the submission requirements regarding historic preservation be included in the separate Applications Manual that outlines the specific requirements for historic preservation, among other elements. This allows both the guidelines and any materials needed for submission to be updated without needing to amend the text of the subdivision ordinance. Sec. 24-2.405.A indicates a completed application as (in part) one that "[c]ontains all content as required for the particular type of application in the Procedures Manual."	Clarion Associates should ensure that all required Historic Preservation materials, including the Archeological Review, be listed in the Applications Manual.
Hydraulic Planning Analysis	"The application procedure needs to include proof that the applicant has coordinated with WSSC as well.	Washington Suburban Sanitary Commission	The staff analysis of comments received for Module 3 (Process and Administration and Subdivision Regulations) had initially indicated that requiring proof of submittal of a Hydraulic Planning Analysis to the Washington Suburban Sanitary Commission (WSSC) was outside the direct purview of the County's Zoning Ordinance or Subdivision Regulations.	Add a submittal requirement in the Applications Manual for Preliminary Plans of Subdivision that will require proof of submittal of a

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	"Procedures needs to include proof of submittal of WSSC Hydraulic Planning Analysis (HPA) to WSSC for review or a letter from WSSC indicating that an HPA is not needed."		Following that analysis, staff held additional conversations with WSSC staff and received information that Montgomery County has recently incorporated such a requirement in their new Subdivision Regulations. Staff now concur that proof of submittal for a Hydraulic Planning Analysis to WSSC is an appropriate component of a proposed Preliminary Plan of Subdivision. However, such a requirement would not need to be codified and should be included in the upcoming Applications Manual.	Hydraulic Planning Analysis to WSSC.
Building Restriction Lines	Building Restriction Lines established on final plats approved prior to the first Zoning Ordinance in 1949 have become problematic for numerous homeowners because they prevent repairs and expansion of front porches – even if the porch would otherwise comply with the setback requirement of the zone – and force an onerous re-platting procedure to remove the line.	Planning staff	Staff concurs this is an issue that should be corrected. The establishment of setbacks with the Zoning Ordinance addresses many of the issues a front Building Restriction Line would have been intended to cover, and it is counterproductive to enforce both a setback and a Building Restriction Line. Staff notes that Building Restriction Lines are still used in certain circumstances to prevent encroachment into environmentally-sensitive areas and ensure noise protection for properties abutting major noise generators; these types of Building Restriction Lines serve valid purposes and should remain available for use and in-place where they have been recorded on plats. It is the limited situation of Building Restriction Lines established prior to 1949 that needs to be addressed. The best location to address this situation would appear to be in Sec. 24-1.700. Transitional Provisions since the most feasible solution is to legislatively extinguish any Building Restriction Line imposed on plats recorded prior to 1949 as a one-time action.	Add a new subsection to Sec. 24-1.700. Transitional Provisions. Suggested language – which Clarion Associates may modify as necessary and appropriate, may look something like this: "24-1.705. Building Restriction Lines "Any Building Restriction Line shown on a plat recorded on or before November 29, 1949 is hereby extinguished. Buildings and structures that may have been impacted by such Building Restriction Lines may be altered, enlarged, or extended, if the alteration, enlargement, or extension conforms to the dimensional standards of the zone in which it is located."
Resubdivision	Although Sec. 24-2.502. Minor and Major Subdivision, or Resubdivision references resubdivision of property and provides resubdivision decision standards, it is not clear under what circumstances a resubdivision is appropriate or may be required, nor is it clear that an applicant can request a resubdivision.	Planning staff	To some extent, the proposed definitions for both "Resubdivision of Land" and of "Subdivision" provide some insight, particularly since the definition for "Resubdivision of Land" adapts current language found in Sec. 24-111(a) Resubdivision of Land, which establishes what the County means by a resubdivision (essentially a change between a lot and the street shown on the record plat or between one lot and another). However, the proposed language of Sec. 24-2.502. Minor and Major Subdivision, or Resubdivision, is imprecise and unclear. Several points of clarity are suggested. Staff notes that a resubdivision appears to be identical to a "lot line adjustment" in the proposed Subdivision Regulations. Sec. 24-2.502.B.1.c.ii. needs to be revised to clarify that a major lot line adjustment is not automatically subject to a Preliminary Plan of Minor Subdivision process – this decision is more flexible in nature depending on the details of the individual application. Sec. 24-2.502.B.1.c.iii. should be further clarified. Subsection i. indicates that minor lot line adjustments shall be reviewed as a plat for minor subdivision, while Subsection ii. indicates a major lot line adjustment shall be reviewed as a preliminary plan and treated as a minor subdivision. It does not seem to make sense for the Planning Director to decide that a minor lot line adjustment should rise to a major subdivision, but not provide for a similar decision for a major lot line adjustment.	Revise Sec. 24-2.502.A. to read: "The purpose of this Section is to establish a uniform procedure for the review of minor and major subdivisions and resubdivisions." Revise Sec. 24-2.502.B. to read: "There are two basic types of subdivision review under these Regulations: minor subdivisions and major subdivisions ~~(Resubdivision is also considered under these procedures for resubdivision).~~ Both types of subdivision include separate review procedures and decision standards as set forth in this Section and in the ~~Procedures~~ Applications Manual.

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				"Resubdivision of land that has been legally subdivided, with the intent to change the relationships between a lot and the street shown on the record plat, or between one lot and another, is permitted pursuant to the regulations of Sec. 24-2.502.B.1.c." Revise Sec. 24-2.502.B.1.a. to read: "…similar impacts to surrounding lands, infrastructure, or the environment as a major subdivision, in which case the subdivision shall be reviewed as a major preliminary plan of subdivision:" Revise Sec. 24-2.502.B.1.c.ii. to read: "A major lot line adjustment shall be reviewed as a preliminary plan and may be treated as a minor subdivision subject to the determination of the Planning Director." Revise Sec. 24-2.502.B.1.c.iii. to read: "The Planning Director may determine that a minor or major lot line adjustment rises…." Revise the subheading name for Sec. 24-2.502.B.2. to read: "Major Subdivision or Resubdivision Applicability."
Minor Final Plats Without Preliminary Plans of Subdivision	Additional clarity is necessary regarding various procedures that result in a Minor Final Plat that may not otherwise be subject to or require approval of a Preliminary Plan of Subdivision.	Planning staff	Staff concurs. Existing procedures from Sec. 24-107 have not been fully reflected (land conveyance applications "may be treated as a request for a minor final plat of subdivision for which no preliminary plan is required unless otherwise required."), and other procedures pertaining to a potential Minor Final Plat that otherwise would not need a Preliminary Plan of Subdivision could benefit from clarification.	Add a new sentence to Sec. 24-1.404.B. on page 24-1—5 that reads: "No Preliminary Plan of Subdivision shall be required for such conveyances of land unless otherwise required." Revise Table 24-2.200 on pages 24-2—1 and 24-2—2 to add a line for Minor Final Plat Not Otherwise Subject to a Preliminary Plan of

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				Subdivision. Add a “D” for the Planning Director. Revise Table 24-2.408.B. on page 24-2—13 to add a line for Minor Final Plat Not Otherwise Subject to a Preliminary Plan of Subdivision. Should the “Body or Person” column remain, add “Planning Director.” Add “N/A” for the public notice for publication, posting notice, and mailed notice.
Final Plat Signatures	The signing of final plats by the Planning Board Chairman and Secretary-Treasurer or his official designee is viewed as important to retain in the Subdivision Regulations for clarity and transparency.	Planning staff	Staff concurs.	Add a new subsection d. to Sec. 24-2.502.C.2. on page 24-2—27 and a new subection d. to Sec. 24-2.502.D.2. on page 24-2—35 to read: “d. **Signing of Final Plats** “The Chairman of the Planning Board and the Secretary-Treasurer of the Commission or the Secretary-Treasurer’s official designee, shall signify approval by signing the final plat after all conditions pertaining to the final plat have been satisfied.”
Comprehensive Planning Process	The Comprehensive Planning Process outlined in the proposed Zoning Ordinance portion of Module 3 (Process and Administration and Subdivision Regulations) does not fully incorporate the staff proposal.	Planning staff	Prior to the Zoning Ordinance and Subdivision Regulations rewrite project, a number of staff were involved in a multi-year discussion to revise the current master planning process. This discussion proceeded to the point that draft legislation was prepared for possible District Council consideration, at which time it was decided to defer this effort to the Zoning Ordinance rewrite. The draft legislation was provided to Clarion Associates, but many of the provisions that were included in the Comprehensive Plan Procedure proposed in Module 3 (Process and Administration and Subdivision Regulations) reflect the current master planning process rather than the desired process. The Comprehensive Plan Procedure must be revised to incorporate key elements of the original staff proposal, with consideration given to where things may need to evolve based on other approaches offered by Clarion Associates and incorporated in the proposed Zoning Ordinance and future Applications Manual.	Given the number of edits needed to integrate the staff proposal to the Comprehensive Plan Procedure, staff has prepared a Microsoft Word document and used track changes to reflect the staff recommendation. Clarion Associates should use that document to guide revisions to the Comprehensive Plan Procedure.
24-1—3 Exemptions	Revise the section header to include the word “general.” Refine the purpose of the exemption statements. Remove the phrase “into a lot” in exemption G.	Planning staff	Staff concurs.	Revise the section header to read: “General Exemptions.” Revise Sec. 24-1.403 to read: “With the exception of property located in Sustainable Growth Tier IV, t ~~T~~he following shall be exempted from the requirements of filing a

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				preliminary plan of subdivision and final plat ~~these Regulations~~." Revise Sec. 24-1.403.G. to read: "Any division of land by deed~~, into a lot,~~ prior to January 1, 1982, provided…."
24-2—1 24-2—2 Summary Table of Subdivision Review Responsibilities	The conservation subdivision sketch plan should be included on Table 24-2.200. The Planning Board should receive the letter "D" for a Final Plat of Minor Subdivision or Resubdivision, in addition to the Planning Director, to reconcile with procedures listed on page 24-2—26.	Planning staff	Staff concurs and notes the procedures on page 24-2—26 call for the Planning Director to refer final plats of minor subdivision to the Planning Board, which may choose to take action. However, there appears to be a small error with these procedures – the Planning Director is authorized to make the decision in sub-clause v.(B). but sub-clause v.(A). requires a referral to the Board, which then would approve or deny the application, which precludes Director final action. It appears that the director referral to the Board should be left to the director's discretion, which would resolve this error.	Add sketch plans for conservation subdivisions to Table 24-2.200: Summary of Subdivision Review Responsibilities. Revise Sec. 24-2.502.C.2.a.v.(A). on page 24-2—26 to read: "The Planning Director may ~~shall~~ refer the application to the Planning Board…."
24-2—3 Advisory and Decision-Making Bodies for Subdivision Review	The proposed duties of the District Council include a clause that would provide for actions not delegated to other bodies or persons within the District Council's authority; however, state law vests exclusive jurisdiction over the administration of Subdivision Regulations to the Planning Board.	Planning staff	The Maryland Land Use Article (see § 20-202) grants exclusive jurisdiction over the administration of the County's Subdivision Regulations to the Planning Board. Sec. 24-2.303.B.4. on page 24-2—3 may lead to confusion and should be removed.	Delete Sec. 24-2.303.B.4. on page 24-2—3.
24-2—3 Advisory and Decision-Making Bodies for Subdivision Review	The sketch plan for conservation subdivisions should be listed for the Planning Director responsibilities.	Planning staff	Staff concurs.	Revise Sec. 24-2.305.B.1. to add a new c. reading: "Sketch plans for conservation subdivisions (Sec. 24-3.703.C.1)."
24-2—3 24-2—4 Advisory and Decision-Making Bodies for Subdivision Review	The Subdivision and Development Review Committee language should be relocated to the Applications (formerly Procedures) Manual.	Planning staff	Staff concurs. Staff has every intention of continuing the invaluable Subdivision and Development Review Committee following the effective date of the new Zoning Ordinance and Subdivision Regulations but this committee does not need to be codified. Additionally, this committee has a role over zoning entitlements that are not fully reflected by the proposed Subdivision Regulations location and language.	Relocate Sec. 24-3.305.C. to the Applications Manual, but delete clause 3 regarding Variations. These would naturally be discussed in the committee when they are associated with Preliminary Plans of Subdivisions.
24-2—5 24-2—6 Pre-Application Conference	For the submittal materials prior to the Pre-Application Conference, staff need additional information for the required conceptual plan to determine conformance to the Subdivision Regulations.	Planning staff	Staff concurs.	Revise Sec. 24-2.402.C.1. to read: "…a conceptual plan of the subdivision to be proposed in the application (to include conceptual grading, the proposed lotting pattern, and on-site circulation and access), and…."

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24-2—6 through 24-2—8 Pre-Application Neighborhood Meeting	The Council would like to see clarification that discussions at Pre-Application Neighborhood Meetings are not considered part of the record and that no summary of the meeting should be provided in the Technical Staff Report. Additionally, everyone who attends these meetings should be advised of the importance of becoming a person of record. The notification time for any Pre-Application Neighborhood Meeting should be increased to 30 days. The Council also asked that language be added to require an additional Pre-Application Neighborhood Meeting be held if the application is not filed in a timely manner. Finally, Council has indicated those entitled to a Pre-Application Neighborhood Meeting should include, at minimum, all entitled under Sec. 27-125.01 of the current Zoning Ordinance. Moreover, all who attend the Pre-Application Neighborhood Meeting should be given notice of the acceptance of an application; the Council would also like to receive these notices.	Council	This comment applies both to the Zoning Ordinance and the Subdivision Regulations, and has already been sent to Clarion Associates for changes to Module 3 (Process and Administration and Subdivision Regulations) for Subtitle 27. The comment and analysis are duplicated here to ensure Subtitle 24 is reconciled. The details on notifying meeting attendees of the importance of persons of record status will be contained in the Applications Manual, as it does not need to be codified. Similarly, details on who would receive a notice will be contained in the Applications Manual. While staff will comply with Council direction regarding the notification timeframe, we would recommend consideration be given to increasing the notice time from 10 to 15 days, as a 30-day notice provision will lengthen the development review process and one of the goals of the project is to streamline procedures and timeframes when possible. Staff notes that an overly-stringent subsequent meeting requirement may be a disincentive to development because the developer is unlikely to be able to make changes from the first meeting and continue with their application should a short timeframe be provided. Staff recommend one year of time prior to a second required Pre-Application Neighborhood Meeting if no application were filed, with an option to extend this timeframe for good cause.	Extend the notification timeframe for mailings and postings for the Pre-Application Neighborhood Meeting to 30 days. Provide for a required subsequent Pre-Application Neighborhood Meeting (also with 30 days of notice) if an application has not been filed within one year of the initial Pre-Application Neighborhood Meeting. Provide for an option to extend this timeframe upon a demonstration by the applicant of good cause.
24-2—6 through 24-2—8 Pre-Application Neighborhood Meeting	No civic association should bear costs pertaining to the Pre-Application Neighborhood Meeting.	Planning staff	Staff concurs: the costs of mailings, postings, and publication in papers of record are all borne by the applicant.	Revise Sec. 24-2.403 to eliminate any reference to fees. All costs involved with notification associated with any step in the development review process will be borne by the applicant, not civic associations or residents.
24-2—11 Staff Review and Action	Broaden the ability to revise applications to all applications associated with the Subdivision Regulations.	Planning staff	Staff concurs.	Revise Sec. 24-2.407.A. to read: "…a reasonable opportunity to discuss the deficiencies and revise the application and amend or revise the plan, ~~or~~ plat, or other subdivision application type, as appropriate, to address them."
24-2—13 Standard Subdivision Review Procedures	Table 24-2.408.B: Required Public Notice is not consistent in terms of format with the similar table that appears in the Zoning Ordinance. The Variation procedure is missing from this table. Staff desires consistency of notice timeframes, to the extent possible, with that of certain zoning procedures.	Planning staff	Staff concurs that the table formatting should be as close as possible to the same type of table proposed within the Zoning Ordinance and that all procedures that involve public notice should be part of the table. With regard to the Variation procedure, staff notes that all variations – both minor and major – would be associated with a Preliminary Plan of Subdivision and Note [1] for the public notice table indicates descriptions of requested variations shall be provided in the notice for the preliminary plan. Therefore, there is no need to add Variation to the table. Staff concurs with the comment to provide for some similarity/consistency of mailed notice with some zoning procedures that may be viewed as those of similar effect or impact.	Revise Table 24-2.408.B. to better reflect the formatting used in the public notice table in the proposed Zoning Ordinance (in terms of column order and either removing the "Body or Person" column or adding a similar column to the Zoning Ordinance).

<table>
<tr><th colspan="5">DIRECTED CHANGES</th></tr>
<tr><th>Page Number</th><th>Comment</th><th>Source</th><th>Staff Analysis</th><th>Staff Recommendation</th></tr>
<tr><td></td><td></td><td></td><td></td><td>Review the table to confirm all procedures that may require public notice are listed, and revise as may be necessary.

Expand the mailed notice timeframe for Major Preliminary Plans of Subdivision from 10 days to 30 days prior to the hearing.

Provide for an appellate mailed notice for Minor Preliminary Plans of Subdivision such that it is identical to the appellate mailing requirement for Minor Site Plans (appeal only, 30 days of notice, to the identified parties on pages 27-2—22 and 27-2—23 of the proposed Zoning Ordinance).</td></tr>
<tr><td>24-2—20 through 24-2—35

Minor and Major Subdivision, or Resubdivision</td><td>The proposed thresholds between minor and major subdivisions are confusing and allow too many projects that may result in impacts come in as a “minor” subdivision.</td><td>Council, Communities, Planning staff</td><td>Subsequent to the release of this module, discussion revolved around the proposed threshold between major and minor subdivisions, with the general consensus that 50 trips was too confusing and would allow too much development to be viewed as “minor.”

Although using trips as the threshold measurement between minor and major subdivisions would indicate a level of transportation impact for subdivisions, trips are not an easily understood concept for the public and may require an additional determination by transportation staff for each subdivision application, which would lengthen review timelines.

Per Council guidance, Planning Department staff has developed a new approach that is much more intuitive and understandable by lay audiences. Staff proposes “25” as the threshold. In the Comprehensive Review Draft, a minor subdivision would be required for development that contains 25 of fewer dwelling units or 25,000 square feet or less of nonresidential development; mixed-use development is a hybrid of these numbers. Major subdivisions would be required for development that exceeds the “25” threshold.

For proposed subdivisions that are a combination of dwelling units and nonresidential development, we recommend combining the number of dwelling units and the proposed square footage in thousands. If the combination is greater than 25, the proposed subdivision is considered a major subdivision. For instance, a proposed subdivision that has 11 dwelling units and 15,000 square feet of retail would be considered a major subdivision, because the number of dwelling units (11) added to the number of square feet in thousands (15) is greater than 25.

The table below distinguishes the difference in size between the major and minor subdivisions.

<table><tr><td></td><td>Proposed Residential Development (Dwelling Units)</td><td>Proposed Non-Residential Development (Gross Floor Area)</td><td>Combination Residential & Non-Residential</td></tr></table></td><td>Revise the threshold between minor subdivisions and major subdivisions on page 24-2—21 pursuant to the staff analysis.</td></tr>
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Page Number	**Comment**	**Source**	**Staff Analysis**	**Staff Recommendation**
			<table><tr><td></td><td></td><td></td><td>(# Dwelling units + Gross Floor Area in thousands)</td></tr><tr><td>Minor Subdivision</td><td>0 – 25</td><td>0 – 25,000</td><td>0 – 25</td></tr><tr><td>Major Subdivision</td><td>> 25</td><td>> 25,000</td><td>> 25</td></tr></table> The process should be clear for applicants, reviewers, and the public to easily understand which proposed subdivisions are considered major and minor. The 25-dwelling unit/25,000 square feet threshold is a reduction from the initially recommended 50-trip threshold, which would have equated to 55 single-family dwelling units. We recommend that the Council revisit this threshold after a certain length of time and reset the threshold at a different level if too many proposed subdivisions are going through one process or the other.	
24-2—21 Minor and Major Subdivision, or Resubdivision	Additional clarity is desired regarding minor lot line adjustments.	Planning staff	Staff concurs.	Revise Sec. 24-2.502.B.1.c.i. to read: “The minor lot line adjustment shall not materially change the character of the lot <u>and block</u> including frontage, access, and orientation.”
24-2—21 Minor and Major Subdivision, or Resubdivision	It was felt necessary to incorporate a current exemption from filing Preliminary Plans of Subdivision for conversion of condominiums to fee-simple ownership.	Planning staff	Staff concurs, and notes Section 24-108(a)(6)(A) is the most pertinent sub-clause to carry forward to the new Subdivision Regulations. Sub-clause (B) is overly specific and applies to very limited circumstances that, ideally, would have already taken advantage of the provision and converted to fee-simple. Under this assumption, staff does not recommend carrying forward sub-clause (B) at this time.	Adapt current Sec. 24-108(a)(6)(A) as a new Exemption from Filing Preliminary Plans on pages 24-2—22 and 24-2—23, to read: “The conversion of condominium townhouse dwelling units in general, and two-family dwelling units in the R-R Zone only, to individual record lots provided the condominium townhouse dwelling units are shown on an approved preliminary plan of subdivision, the number of lots does not exceed the Preliminary Plan of Subdivision approved number of townhouse dwelling units, the individual townhouse dwelling units and lots are reflected on an approved Specific Design Plan, Detailed Site Plan, or Special Exception and conform to Subtitles 24 and 27.”
24-2—25 Minor and Major Subdivision, or Resubdivision	Although the procedures for Preliminary Plans of Minor Subdivision and Preliminary Plans of Major Subdivision are different, the decision standards should be the same.	Planning staff	Staff concurs.	Ensure the decision standards for Preliminary Plans of Minor Subdivision on page 24-2—25 are identical to the decision standards for Preliminary Plans of Major Subdivision on page 24-2—32.

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24-2—27 24-2—35 Minor Subdivision Record Plat and Major Subdivision Record Plat	The party who must sign and seal record plats is listed as "the surveyor." Per discussion with the state, the "surveyor" has been clarified.	Planning staff	The "surveyor" would be one of these two parties: a "Licensed Professional Land Surveyor" or a "Licensed Professional Line Surveyor." The language should be changed to refer to these parties.	Revise Sec. 24-2.502.C.3.a. and 24-2.502.D.3.a. to replace the term "the surveyor" with the language: "a Licensed Professional Land Surveyor or a Licensed Professional Line Surveyor."
24-2—35 through 24-2—39 Variation	What modifications can be requested or granted through the proposed variation process?	Planning staff	The proposed language regarding variations does not explicitly list what modifications may be made to the Subdivision Regulations through a variation.	Provide a clear list of the elements of the Subdivision Regulations that can be varied through the variation procedure.
24-3—3 Planning and Design Grading	"Include 'water and sewer' in Sec. 24-3.103: "'The submission of general grading plans and a Tree Conservation Plan Type 1 (TCP-1) for major subdivisions is required and may be required for a minor subdivision in order to efficiently plan the subdivision layout, which includes but is not limited to stormwater management, street grades, tree preservation, parkland, *and water and sewer lines*. The submission of a general grading plan, at two foot contours, shall be required with an application for a major preliminary plan of subdivision and may be required for a minor preliminary plan of subdivision, unless waived by the Planning Director.'"	Washington Suburban Sanitary Commission	Staff concurs.	Revise Sec. 24-3.103 as follows: "…which includes but is not limited to stormwater management, street grades, tree preservation, <u>water and sewerage,</u> and parkland."
24-3—6 through 24-3—9 Transportation, Pedestrian, Bikeway, Circulation Standards Private Streets and Easements	"There is an exemption for streets in AL, AR, RE, and RR zones if the right of way [sic] width is at least 20 feet. "However, WSSC requires a 30-foot WSSC easement when both water and sewer are in the private street. "There is need to ensure that there is adequate space for utilities, even in private streets."	Washington Suburban Sanitary Commission	Comments noted. The specific subsection referred to by this comment provides for an exemption in the four named zones to permit a private right-of-way easement in situations that are identical in language to the current regulations regarding minor subdivisions. In reviewing this comment, staff believes the intent is more appropriately focused on development that is not served by public water and sewer. Furthermore, the proposed revisions to the thresholds between Minor and Major Preliminary Plans of Subdivision require additional revision of this proposed regulation.	Revise Sec. 24-3.204.B.1.a. to eliminate the four-lot provision and more clearly associate this exemption to the lack of water and sewerage service for property located within Sustainable Growth Tier IV.
24-3—13 Public Facility Adequacy	The third purpose statement for public facility adequacy should refer more generally to the applicable policy plans and not tie to a specific General Plan (e.g. Plan 2035).	Planning staff	Staff concurs.	Revise Sec. 24-3.501 to read: "Establish LOS standards that reflect policy guidance of the <u>General Plan,</u> applicable <u>Area Master Plan or Sector Plan, and the applicable</u> functional master plan for each facility<u>;</u> ~~and *Plan 2035;*~~

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24-3—13 Public Facility Adequacy	Why mention zoning map amendment and basic plan approvals here? They are not part of the Subdivision Regulations. Where and when are these requirements? Why are site plans referenced in this section when this is part of the Subdivision Regulations?	Planning staff	The first comment refers to the applicability of determining public facility adequacy, specifically Sec. 24-3.502.A.3. The reason that zoning map amendments are included in the applicability of public facility adequacy review is that such review is proposed to be required for rezoning to a Nonresidential base zone, Transit-Oriented/Activity Center base zone, or a Planned Development zone (see page 24-3—16). This would allow the public facility adequacy of development anticipated to generate the most potential impacts to be fully evaluated. It is unclear whether site plans are intentionally referenced in some parts of this section or not. In some locations in the Certificate of Adequacy section, the term "site plan" is used. Is it the intent of Clarion Associates that Major Site Plans or Minor Site Plans are subject to the Certificate of Adequacy requirement? If yes, these site plans need to be explicitly accounted for in the applicability section and they are not at the moment. It is important to note that subjecting site plans to procedures contained in the Subdivision Regulations may create certain procedural conflicts with Maryland State Law. Clarion Associates should discuss this in further detail with the project team. Staff generally agrees the Certificate of Adequacy proposal is a reasonable approach, but notes there are several minor clarifications to the language that are necessary, and more importantly, there should be clear references in the rezoning procedures of the new Zoning Ordinance that will provide the necessary link between these zones and the Certificate of Adequacy requirement.	It is unclear if the requirement that Planned Development zones under a Certificate of Adequacy process applies to *all* Planned Development zones or just the Transit-Oriented/Activity Center Planned Development zones (see page 24-3—16). Clarion should provide additional clarity. Revise Sec. 24-3.502.A.3 on page 24-3—1 to read: "3. An application for a zoning map amendment / <u>Planned Development</u> basic plan, when specifically required in this Section." Provide clarity regarding major and/or minor site plans. Revise Sec. 24-3.503.A.1.c on page 24-3—16to read: "Zoning Map Amendment or Planned Development Basic Plan approval to a: i. Nonresidential base zone; or ii. <u>Transit-Oriented/Activity Center base</u> zone or planned development zone; or…." Staff notes the above should be further revised depending on the intent. If this regulation is intended to apply to all Planned Development zones, that should become a new item iii. in this subsection for clarity, with Transit-Oriented/Activity Center base zones remaining item ii. Revise the rezoning procedures of the new Zoning Ordinance to provide appropriate cross-reference language that clearly indicates

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				rezoning to the above-mentioned zones requires compliance with the Certificate of Adequacy process contained in the Subdivision Regulations.
24-3—13 through 24-3—27 Public Facility Adequacy	Should use the correct title because there used to be a document called the guidelines for public safety and it was replaced by "*Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure*"	Planning staff	Staff concurs.	Revise any references to the "*Public Safety Guidelines*" in the Subdivision Regulations, including the definition, to refer instead to the "*Guidelines for the Mitigation of Adequate Public Facilities: Public Safety Infrastructure*."
24-3—13 through 24-3—27 Public Facility Adequacy Water and Sewer Adequacy	"There are LOS [level-of-service] standards for each sustainable growth tier in the County. It is important that 'lots' are replaced with 'subdivisions.'" "WSSC cannot meet adequacy for all lots if the water and sewer are private. It can however meet adequacy for the subdivision as a whole."	Washington Suburban Sanitary Commission	It is important to note the language contained in the proposed Subdivision Regulations reflect current language dictated by Maryland's Sustainable Growth and Agricultural Preservation Act of 2012. That said, the State's guidance does point to "subdivision" rather than lot, which means the County may have been particularly aggressive in implementing State guidance. Staff concurs with this comment based in part on other comments from the Washington Suburban Sanitary Commission that indicate individual lots may not always be servable from community water and sewerage systems, even if the subdivision is served.	Revise the to-be-relocated language on water and sewerage adequacy to refer to subdivisions rather than lots.
24-3—14 Public Facility Adequacy	Table 24-3.502: Summary of Public Facility Adequacy Standards "defines level of sewer service for residential areas, but does not define for commercial, industrial, or institutional. Please provide clarity on how these other types of development will be served for sewer." The water and sewer adequacy provisions should also include regulations for access. "Subdivisions without water infrastructure should be required to provide access, right of way/land, and underground storage tanks for fire suppression operations as mitigations measures."	Department of Permitting, Inspections, and Enforcement, Prince George's County Fire/EMS Department, Planning staff	The table refers to residential development for water and sewerage service because of the state's Sustainable Growth Act. Certain sewerage restrictions were imposed by the state on residential subdivisions depending on their location (by Tier). However, by not explicitly referencing other types of development it does become unclear how they are to be served. In general, staff has determined that water and sewer service should not be tested for Level of Service (LOS) of public facilities adequacy. The "test" for whether a property passes is simply if it is within the appropriate service area of the County's Ten Year Water and Sewerage Plan. Rather than require a Certificate of Adequacy and LOS test for water and sewer service, this can simply be adapted to act as a "check" – is the property in the appropriate service area or not? There is no need for a Certificate of Adequacy given the nature of this "test." A property is either in the appropriate service area, in which case it "passes," or it is not, in which case it "fails." This can be "certified" by a simple note on the plan drawings or condition of approval. Staff concurs with the comment regarding access. Additional changes to the water and sewer proposals should be pursued when adequate public facilities are reviewed in further detail following the effective date of the new Zoning Ordinance and Subdivision Regulations. Regarding the correct reference point for Sustainable Growth Tiers (for purposes such as potential future amendments, for example), these tiers can only be amended through the Comprehensive Plan process – e.g. only through an Area Master Plan or Sector Plan, for example. References to the "Sustainable Growth Tier…in the Ten-Year Water and Sewerage Plan" should be revised per this consideration.	Although Clarion Associates may propose an equally effective alternative for the project team's consideration, the team has developed the following recommendations: Revise Sec. 24-3.501 to remove sewer and water from purpose statement B regarding LOS standards. Add a new purpose statement E along the lines of: "Ensure development is adequately served for water and sewerage needs; and." Re-letter current purpose statement E to F. Remove Sewerage and Water from Table 24-3.502. Relocate (in an appropriate location; perhaps as a new 24-3.502.C. or elsewhere) current Sec. 24-3.506. Water and Sewer Adequacy such that water and sewer service would not require a Certificate of Adequacy procedure and that

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				meeting the availability threshold is sufficient to permit approval of preliminary plans or final plats. Adapt Sec. 24-3.506.B. to eliminate the LOS standard and to provide for water and sewerage for subdivisions other than residential. Replace references that suggest the Sustainable Growth Tiers may be set or revised through the *Ten Year Water and Sewerage Plan* with appropriate language that incorporates, instead, Comprehensive Plans such as the General Plan, Area Master Plans, Sector Plans, and applicable functional master plans. Clarion Associates should propose an access provision for emergency vehicles to access water storage tanks or other fire suppression operations.
24-3—15 through 24-3—27 Certificate of Adequacy	The Certificate of Adequacy should be directly linked to specific entitlement/subdivision applications so as to minimize the potential for a developer to continue to apply for certificates and "tie up adequacy."	Planning staff	Staff concurs; it seems that the intent of the Certificate of Adequacy is that it would be associated with a specific application, and language in footnote 98 on page 24-3—15 reinforces this impression. However, it is not as clear as it should be that the Certificate of Adequacy must be associated with a specific application in one of the case types to which the process applies.	Add language that clearly indicates the initial Certificate of Adequacy (and any subsequent application for a new Certificate of Adequacy) shall be granted in connection with a specific underlying application such as the associated Preliminary Plan of Subdivision, Planned Development Basic Plan, and similar case to which the Certificate of Adequacy process applies.
24-3—15 through 24-3—27 Certificate of Adequacy	There are several questions and points of reconciliation that need to be addressed: • Regarding the requirement for a Certificate of Adequacy for a Zoning Map Amendment or Planned Development Basic Plan Approval, on page 24-3—16, is subsection c.ii. supposed to refer to ALL Planned Development zones or just Transit-Oriented/Activity Center zones? • Why does the language regarding building permits for Basic Plans or site plans approved prior to the	Planning staff	The applicability language that determines when a Certificate of Adequacy is required should be reconciled with the language that dictates how long a Certificate of Adequacy is valid. This reconciliation extends to the types of entitlement cases that are included in the Certificate of Adequacy procedure. There should be a one-to-one relationship between these two subsections. Additional clarity is necessary to fully understand and convey the intent of Certificates of Adequacy for Zoning Map Amendments and Planned Development Basic Plan approvals. Staff assumes the reference to "or planned development zone" in Sec. 24-3.503.A.1.c.ii. is supposed to refer to any Planned Development zone, not just Transit-Oriented/Activity Center Planned Development zones.	Revise Sec. 24-3.503.A.1.c. on page 24-3—16 as follows: "c. Zoning Map Amendment or Planned Development Basic Plan approval to a: "i. Non-residential base zone; ~~or~~ "ii. Transit-Oriented/Activity Center base zone; or

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	effective date of the Subdivision Regulations not refer to dwelling units? Does this mean residential units are not captured or meant to be captured? • Additional clarity regarding what may happen if a Certificate of Adequacy is not approved or is no longer valid is desired. • The expiration language on page 24-3—18 refers to site plans, while the applicability language on page 24-3—16 refers instead to building permits associated with site plans. These need to be reconciled. • The expiration language does not contain any provisions speaking to a Zoning Map Amendment or Planned Development Basic Plan approval or building permits, both of which are listed in the applicability language on page 24-3—16. • Other points of clarity were identified and are discussed in the staff analysis.		There appears to be a typo in subsection d. on page 24-3—16. It refers to "a Planned Development Basic Plan…approved at least ten years prior…" to the effective date of the new Subdivision Regulations. These zones do not yet exist. Staff believes the intent is to refer instead to a Comprehensive Design Zone Basic Plan. Additionally, the term "site plan" is not specific enough in this context. Subsection d should also address dwelling units, not just gross floor area, to ensure it incorporates residential development. Finally, in subsection d.ii., there is a typo that should be corrected or missing information provided ("…on the project subject to the or site plan approval…" – to the what?). While Sec. 24-3.503.B.5. speaks to an applicant's ability to withdraw an application and seek a new Certificate or appeal the Planning Director's decision, there is little else to indicate what happens if a Certificate of Adequacy is not approved or is no longer in a valid state. Additional clarity – particularly regarding expired Certificates – is necessary. Additionally, in this subsection, the Planning Director is not attaching a condition to a Certificate as much as issuing a conditional Certificate. This should also be clarified. Sec. 24-3.503.C. does not speak to Zoning Map Amendments or Planned Development Basic Plan approvals. When Certificates of Adequacy are required for these procedures, there must be associated validity periods. These will need to be added to the section. The language of Sec. 24-3.503.C.3. speaks to site plans, while the applicability language speaks more specifically to building permits where a Basic Plan or site plan was approved prior to the effective date of the new Subdivision Regulations. It seems this language is not so much about site plans as building permits, so this should be reconciled, as should the need to incorporate residential dwelling units, which are easier to track for residential development than gross square footage. Staff notes the validity periods listed in this Section will change pursuant to direction elsewhere in this analysis.	"iii. Planned Development zone." Revise Sec. 24-3.503.A.1.d. to read: "Any building permit where a ~~Planned Development~~ Comprehensive Design Zone Basic Plan, Comprehensive Design Plan, Specific Design Plan, Conceptual Site Plan, or Detailed Site Plan ~~or site plan~~ was approved…." Provide appropriate language/guidance that speaks to dwelling units in Sec. 24-3.503.A.1.d. to ensure residential development is included. Revise Sec. 24-3.503.A.1.d.ii. to clarify the intent and eliminate the hanging "to the" language. Revise Sec. 24-3.503.B.3.b.i. to make "the" before "Public Facilities" lowercase. Provide additional clarity as to what happens should a Certificate of Adequacy expire. Revise Sec. 24-3.503.B.5. to read: "If the Planning Director denies a Certificate, issues a conditional Certficiate, ~~attaches a condition,~~ or requires mitigation, the applicant may:" Revise Sec. 24-3.503.C.3. to change the title of the subsection from "Site Plans" to "Building Permits." Revise the first sentence to read: "For a Certificate approved for a building permit where a Comprehensive Design Zone Basic Plan, Comprehensive Design Plan, Specific Design Plan, Conceptual

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				Site Plan, or Detailed Site Plan was approved at least ten years prior to ___ [*insert the effective date of these Subdivision Regulations]*, ~~site plan,~~ the applicant shall:" Refocus the validity threshold to focus on commencement of construction only (delete issuance of a building permit as part of the site plan). Provide for residential development/dwelling units. Add a new provision to Sec. 24-2.503.C. to address Certificates issued pursuant to approval of a Zoning Map Amendment or Planned Development Basic Plan approval.
24-3—15 through 24-3—27 Certificate of Adequacy	Why does each separate element of the Certificate of Adequacy section require an applicability paragraph? It should be standard and part of the process that will be created. Also, the language is not consistent for each separate adequacy item.	Planning staff	Staff concurs. Note that the staff recommendation is based on the broader discussion of adequacy of public facilities on pages 2 and 3 of this analysis of testimony.	Combine the applicability statements for each of the public facility elements that would remain in the Certificate of Adequacy section (transportation and parks and recreation) into one general location at the beginning of the section.
24-3—15 through 24-3—27 Certificate of Adequacy	The proposed Certificate of Adequacy for areas such as Parks and Recreation should not expire in many/most places.	Planning staff	Once land is platted (assuming dedication of land to the Department of Parks and Recreation and/or to an operating agency to accommodate rights-of-way or new facilities) or a fee-in-lieu is paid and recorded, the developer has met their legal responsibility and should not get hit with a "double-dip" and provide anything later in the process. Aspects such as dedication of land for parks and recreation purposes or for a school site are one-time occurrences. This is not the same as transportation adequacy, which is most typically addressed when development begins. This could be years after the final plat is recorded. Additional clarity on the Certificate of Adequacy procedures is necessary to accommodate these nuances.	Clarion Associates needs to revisit the Certificate of Adequacy procedures and provide additional clarity where necessary and appropriate to account for situations where land dedication or an in-lieu fee has been recorded, thereby satisfying the public facility requirement in perpetuity for that particular development.
24-3—15 through 24-3—27 Certificate of Adequacy	Does each public facility require its own Certificate of Adequacy? Or could we put a general statement in the beginning that states Certificate of Adequacy includes the following instead of repeating?	Planning staff	Staff concurs that this aspect is confusing in the current draft language. There is a footnote (number 9 on page 24-3—3) that speaks to this to some degree, but such an important element should be clear in the Subdivision Regulations language itself.	Add language that clearly establishes the intent of the Certificate of Adequacy. Is this one certificate or determination that covers each public facility element? Does each public facility element have to have a separate Certificate of Adequacy? If the former, consolidate language throughout the section that may be superfluous or contribute to the confusion (combining the applicability

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				statements as directed above will help with this aspect).
24-3—15 through 24-3—27 Certificate of Adequacy	The District Council appreciates the Certificate of Adequacy process for public facilities, as well as the "use or lose" capacity concept, but is unsure as to the best amount of time an applicant can "keep" its capacity before it is vested or a new certificate is required. Other parties observed the proposed timeframe is too short for the expiration of Certificates of Adequacy. The City of Greenbelt asked if there was a process to extend the validity period of an approved Certificate of Adequacy. Regarding the broader discussion of transition provisions and grandfathering, key stakeholders expressed concern regarding adequacy of public facilities determinations and how long they may be valid.	Council, Communities, Developers, Business Owners, Prince George's County Public Schools, City of Greenbelt, Municipalities, Lawrence N. Taub and Nathaniel Forman, Planning staff	Staff concurs that the timeframe is too short. As currently proposed, the Certificate of Adequacy would expire for a Preliminary Plan of Subdivision or Final Plat after just one year if at least one lot has not commenced construction, or after two years if at least 25 percent of the lots have not commenced construction. The expiration timeframe for a site plan (refer to prior comments regarding the applicability of Certificates of Adequacy to major or minor site plans) is also as short as one year if a building permit is not issued in that time. Staff notes that Certificates for Adequacy for building permits are not covered by the expiration language despite building permits being subject to the certification process as show on page 24-3—4. One or two years is far too short a timeframe for development to occur in Prince George's County. A more appropriate timeframe is six years, which would align with the County's Capital Improvement Program and provide a more logical link to other public facilities considerations. Providing an option for an applicant to request a longer validity period, subject to Planning Board decision, may be appropriate to accommodate flexibility for longer-term projects. Additional flexibility should also be provided regarding findings of adequacy by the Planning Board for Preliminary Plans of Subdivision approved prior to the effective date of the new Subdivision Regulations. This will require some revision of Sec. 24-3.503.A.1.b. regarding the applicability of the Certificates of Adequacy. The intent is to allow projects that were approved under the current Subdivision Regulations to proceed without the need of a Certificate of Adequacy so long as a validity period (suggested as ten years from the date of the approval of the Preliminary Plan of Subdivision; e.g. if a project was approved on 6/1/13 and the new Subdivision Regulations go into effect on 6/15/18, that project still has nearly five years of validity left) remains in effect. This is different than the current proposal on page 24-3—15, which would require a Certificate of Adequacy prior to final plat for approved Preliminary Plans of Subdivision unless certain development percentages were reached. If an applicant has built all of the adequacy of public facilities mitigation required by their original approval, its adequacy determination becomes permanent and will not have to be retested through a Certificate of Adequacy process. This is addressed through Sec. 24-3.503.A.1.d.iii. on page 24-3—16, which is an applicability clause that is intended to protect development that has become vested.	Revise the expiration timeframes for the Certificate of Adequate to a minimum of six years. An option for the applicant to request a longer validity period (not to exceed 12 years) from the Planning Board should also be added. Finally, prior to expiration of the Certificate of Adequacy, an applicant may seek one or more extensions to the validity period, not to exceed a sum of six years (for a total of up to 18 years of validity). Revise Sec. 24-3.503.A.1.b. (or the appropriate alternative location) regarding applicability to provide for the following circumstance: projects for which the Planning Board made a finding of adequacy under the prior Subdivision Regulations would remain valid for ten years from the date of said determination. After ten years, the project must seek a Certificate of Adequacy under the provisions of the new Subdivision Regulations. Clarify the language on site plans pursuant to other comments regarding the relationship of major or minor site plans to the Certificate of Adequacy process. Assuming the Certificate of Adequacy process applies to building permits pursuant to page 24-3—4, provide language that addresses the expiration of the certificate for building permits.
24-3—19 Certificate of Adequacy	Clarify the provision of Sec. 24-3.504.C.3. that reads: "Building permit reservations are nontransferable from one lot to another."	Department of Permitting, Inspections, and	The language that would prohibit building permit reservation transfer is unnecessary. If and when the District Council may invoke this proposed Section to limit building permits, it can specify reservation transfer rules in its resolution. A broader discussion of the purpose of proposed Sec. 24-3.504.C. is found elsewhere in this analysis.	Delete Sec. 24-3.504.C.3. Make no other change.

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	Assuming that permits are used to police the Certificate of Adequacy, the date of filing should vest a building permit. Then, if that permit is abandoned, it should be allowed to transfer or be removed from its contributions to adequacy. The City of Greenbelt asks: "what happens if there are reservations that expire?"	Enforcement, City of Greenbelt		
24-3—19 24-3—20 Transportation Adequacy	The proposed Subdivision Regulations include trip reduction programs as part of identifying the available capacity of the road network for a development. Sec. 24-3.505.B.3: "Transportation improvements or trip reduction programs that are adequately funded by the applicant or an existing revenue source to alleviate any inadequacy in the adopted LOS standard within the Impact Area;" This indicates that any development that participated in a Transportation Demand Management (TDM) Program (i.e. a trip reduction program), would be able to reduce their expected trips and thus may not have to build additional roadway improvements. However, the areas that would most benefit from TDM programs are those that are closest to transit and these areas are already proposed to be exempt from transportation adequacy determinations. This removes a major incentive to developers to participate in TDM and trip reduction programs.	Planning staff	Similar to the transit, bicycle, and pedestrian offsets, Transportation Demand Management is not explicitly required, but can be used to offset the number of trips for a development. In the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) base and Planned Development zones, the reduced parking standards and the transportation adequacy exemption has generated concern regarding the ability of those areas to accommodate any new growth without substantial traffic congestion impacts. Trip reduction programs can act as the vehicle to alleviate traffic congestion concerns while not expanding roadway infrastructure.	Provide additional information regarding the implementation of Transportation Demand Management (TDM) programs that may be initiated to meet the adopted Level-of-Service standard. Revise the proposed adequacy regulations to require a TDM or trip reduction program in the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) base and Planned Development zones, where development is proposed to be exempt from transportation adeqaucy. At minimum, these regulations should specify the number of trips that will be reduced through the program, contingent upon the size and expected transportation impact of proposed development. These regulations should also specify that the TDM program will be managed by the applicant or paid for through fees from the applicant/multiple applicants and managed by a transportation management association.
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	A new Certificate of Adequacy for transportation should be required for a substantial change to the proposed uses or to the access/circulation of a property.	Planning staff	Staff concurs. Substantial changes to a property that may have received a Certificate of Adequacy based on an initial proposal could have significant negative impacts on the transportation network that were not fully accounted for with the initial Certificate of Adequacy.	Clarion Associates should add language where most appropriate/suitable that indicates a "substantial" change to the proposed uses or the access and circulation layout of a property requires a new Certificate of Adequacy.

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				The meaning of “substantial” should be defined by Clarion, perhaps in a tabular or scaled format, in accordance with reasonable development or circulation thresholds that may result in significant change to the transportation network.
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	The language in Sec. 24-3.505.C. on page 24-3—20 needs to be revised to reflect a shift away from the ineffective Surplus Capacity Reimbursement Procedure and to incorporate recent District Council guidance on the Brandywine Road Club.	Planning staff	Staff concurs.	Replace Sec. 24-3.505.C.4. with the following language: “4. Fully funded by the applicant, the County, and/or the State government;” Add a new Sec. 24-3.505.C.6. to read: “6. The application is for property located wholly within the Brandywine Road Club and the applicant has entered into a Developer Participation Agreement with the County to share the costs of the improvements before construction of the improvements funded by the Brandywine Road Club.”
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	Members of the Council questioned whether there should be exemptions from the transportation adequacy requirements in the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) Zones, or should there be certain qualifications, and sought staff thoughts on this question.	Council	<u>Discussion</u> Plan 2035 clearly sets forth a Countywide vision where future growth – economic development, new housing, and new employment centers – is concentrated in specific areas of the County that have existing or planned public facilities. This strategy is two-fold; first, concentrating investment encourages urban, transit-friendly, and walkable development that, over time, creates agglomeration economies which generate more revenue and cost less to maintain; and second, focused nodes of development will protect existing communities from the potential demands of new development on infrastructure and scarce public resources. The proposed Zoning Ordinance provides Transit-Oriented/Activity Center base and Planned Development zones to offer the County stronger implementation tools to achieve the goals of Plan 2035. The County’s designated centers – particularly the three Downtowns, other Regional Transit Districts, and the Local Transit Centers – serve as primary destinations and are envisioned to incorporate a street network that balances the needs of people walking, bicycling, taking transit, and driving that will also leverage resources and help accelerate economic activity. It is important to note that places which support concentrated economic and social activities will likely have congestion – while perhaps counter-intuitive, planners, economists, and business owners view congestion as a sign of success.	Continue to exempt the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) zones from the traditional transportation Level-of-Service test for vehicular service, but, as recommended elsewhere in this analysis, ensure these zones are “tested” for transit, bicycle, and pedestrian adequacy and facilities. Should this recommendation not be viewed as acceptable by the District Council, staff recommends reducing the exemption to the core area (only the core area) of these zones.

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			The County's current transportation Adequate Public Facilities (APF) policy was designed to encourage free-flow traffic by requiring developers to provide new transportation infrastructure alongside their building projects. However, this policy does not calibrate to the different contexts of a region – transportation in an urban setting is very different than in a rural or suburban setting. Prince George's County has refined this approach in its *Transportation Review Guidelines*. There are different Level of Service (LOS) standards for each Transportation Service Area (TSA), which equate to the developed, developing, and rural tiers of the previous general plan. However, this is not enough to differentiate between general neighborhoods in the developed tier and the concentrated growth areas of Plan 2035. Although the LOS standard for TSA 1 (formerly the developed tier) is lower than the rest of the County, this standard still does not nurture the higher-density, walkable, transit-supportive urbanism needed to compete in the region. Since transportation capacity is already less available in this TSA, investors are often tempted to seek more distant, less developed areas of the County where transportation capacity is not a concern. In this sense, transportation APF directly undermines the County's goal of concentrated growth in two ways. First, denser downtown development is discouraged in favor of peripheral and "greenfield" development that cannot sustainably support its infrastructure needs. Second, the roadway construction projects needed to meet more stringent APF requirements create a built environment where buildings are physically farther apart, reducing the convenience and comfort of people walking, bicycling, and using transit, further increasing automobile dependence in a kind of continuous cycle. <u>Alternatives</u> Exempting transportation APF requirements from development in the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) zones will help address this shortfall by flipping the equation. Available transportation capacity will no longer be a hurdle for development in the most prioritized areas of the County. This type of exemption is common in jurisdictions that wish to better control *where* development occurs and that wish to ensure their development priorities remain the priorities. As proposed in the draft Subdivision Regulations, there are concerns that exempting the transportation APF may unintentionally create too much automobile traffic congestion. The RTO and LTO zones are urban in character and currently have or will have a full range of transportation infrastructure including walking and bicycling paths, transit facilities, and roadways to support multi-modal transportation. These zones also encourage mixed-use development, which will bring trip origins and destinations closer together, making it more convenient to walk, bike, or use transit for local trips. An exemption to transportation APF is a new tool for Prince George's County to encourage development, and it is likely that members of the public, especially those who traditionally have had no opportunity to conveniently use multiple transportation modes, will oppose the exemption. Planning Staff notes there are alternative recommendations that could be employed instead of a complete exemption to reflect a compromise between removing the exemption and property "calibrating" APF to encourage downtown development. First, each RTO and LTO zone is divided into "core" and "edge" areas. Although the zone is the same, the development and design standards will create a gradual increase in intensity from the surrounding areas into	

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			the center of the Transit-Oriented/Activity Center zone. As now drafted, all proposed developments within the RTO and LTO zones are exempt from transportation APF. Instead of providing the exemption to *all* development in the zone, the regulations could provide the exemption for only the developments in the *core* of these zones, the areas closest to a major transit facility. Conversely, the exemption for transportation APF can be removed in favor of a LOS determination that is less restrictive than the current TSA 1 threshold (set at LOS E). The less restrictive LOS could be set at a level where only the most impactful projects would be required to build automobile transportation improvements. It is important to note that over time, growth will use available capacity and future projects will again be discouraged to develop in the Downtowns, seeking locations with more available capacity. At this point, it may be necessary to revise the LOS determinations again. A third approach could be that transportation APF for the RTO and LTO zones can exempt development from constructing automobile-related infrastructure in favor of additional multimodal improvements in the RTO or LTO zones. This will help make transit, walking, and bicycling the most convenient mode for local trips, which will help reduce the overall automobile traffic in the area.	
24-3—21 Public Facility Adequacy Transportation Adequacy	Table 24-3.505.D describes the three scenarios for mitigations standards at different traffic levels above the adopted Level of Service (LOS) standards. The Department of Permitting, Enforcement, and Inspections recommends the following changes: Scenario 1 – ≥ 25% above LOS: "~~may~~ shall require physical improvements or trip reduction participated in or funded by the applicant that fully abate the impact of all traffic generated by the proposed development in the impact area. Required transportation improvements or funding for the development shall be required up to the cost threshold." Also, "The transportation improvements required for the development shall be based upon the following goal for the development… ~~and implementation of the …mitigation action~~ the total traffic service will be reduced to no higher than 25% above the acceptable peak hour service level threshold…" The rationale for these proposed changes are that requiring reduction of traffic service in the manner recommended is impractical, as developers are typically finished with the project and ready to get off their bonds at this point. Scenario 2 - <25% above LOS:	Department of Permitting, Inspections, and Enforcement	The proposed language assumes a cost threshold will be imposed. Additional consideration of alternative approaches to the transportation adequacy proposals by Clarion Associates is addressed elsewhere in this analysis. This proposed language also shifts away from a hardline regulatory approach to a more generous guideline approach that may not fully address the transportation adequacy needs of the County. Staff agrees that these mitigation standards should be reworded from "may" to "shall."	Revise the three mitigation paths of Table 24-3.505.D. to start each standard with "shall" instead of "may."

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	"~~may~~ shall require physical improvements or trip reduction to be full funded by the applicant to fully abate 150% of all vehicular trips generated by the proposed development in the impact area. Required transportation improvements or funding for the development shall be required up to the cost threshold." Also, "The transportation improvements required for the development shall be based upon the following goal for the development… ~~and implementation of the …mitigation action~~ the total traffic service will be reduced to no higher than 25% above the acceptable peak hour service level threshold…" Scenario 3 – 0-10% above LOS: "~~may~~ shall require applicant to provide pro rata cost of physical improvements necessary to alleviate inadequacy." The Department recommends that a pro rata cost for Scenario 3 should be based on the cost threshold calculation methodology: $15,000 per single family unit or $7.00 per GFA of non-residential development.			
24-3—21 24-3—22 Transportation Adequacy	The proposed Adequate Public Facilities policy recommends using transit, bicycle, and pedestrian improvements as offsets for the number of vehicle trips that a development would generate. Linking these improvements to offsets does not guarantee that they will be built. A developer has the option to choose not to reduce the expected vehicle trips and build the necessary vehicle improvements. Although this may be a valuable strategy to encourage bicycle and pedestrian improvements, the areas that would need the most bicycle and pedestrian improvements are the Transit-Oriented/Activity Center zones which are recommended to be exempt from transportation adequacy requirements. The proposed regulations do not necessitate off-site improvements. Such improvements are valuable for improving transit, bicycle, and pedestrian connections. The current Subdivision Regulations require on- and off-site bicycle and pedestrian improvements as part of	Planning staff	In the current Subdivision Regulations, Sec. 24-124.01 provided a "test" for bicycle and pedestrian adequacy in centers and corridors (similar to the Transit-Oriented/Activity-Center zones of the proposed Subdivision Regulations). A revised test (a revised/expanded version of Sec. 24-124.01) would ensure that new development implements some level of transit, bicycle, and pedestrian improvement through the development process. Staff notes that Sec. 24-124.01 has been adapted into the proposed offsets to allow an applicant to voluntarily reduce the number of vehicle trips generated by the proposed development, but staff believes transit, bike, and pedestrian facilities should be required of new development in the zones where connectivity is paramount – the Transit-Oriented/Activity Center base and Planned Development zones. Further policy guidance is needed in the new Subdivision Regulations for the implementation of transit, bicycle, pedestrian improvements in the highest-intensity Transit-Oriented/Activity Center base and Planned Development zones. If feasible, these facilities should be tested and improvements provided as may be necessary even in the event a development project is otherwise exempt from transportation adequacy analysis (e.g. property located in the Regional Transit-Oriented RTO or Local Transit-Oriented LTO zones, which are recommended to be exempt from transportation adequacy). Clarifying language may be necessary in the proposed Subdivision Regulations. However, staff recognizes that without clear and objective Level-of-Service standards, it is difficult to test transit, bicycle, and pedestrian adequacy and implement new facilities. An additional problem with the current test is that more standards are likely necessary to help further implement the goal of providing off-site improvements to ensure better non-motorized connectivity between adjacent and/or nearby developments.	Revise the transit, bike, and pedestrian facilities language in the proposed Subdivision Regulations as may be necessary to require transit, bicycle, and pedestrian improvements in the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) zones. One way to approach this is to provide language in Table 24-3.502: Summary of Public Facility Adequacy Standards that limits the exemption to the traditional traffic Level-of-Service test but requires testing for transit, bike, and pedestrian service. Other ways are feasible, and staff is open to additional discussion on this recommendation with the Clarion Associates team.

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	an adequacy determination for active transportation (see Sec. 24-124.01). The adequacy test is limited to certain areas of the County – the designated centers of Plan 2035 and the designated corridors of the 2002 General Plan, which, for purposes of bicycle and pedestrian improvements, were carried forward in a transportation service areas transition map. The proposed policies do not "test" for transit, bicycle, and pedestrian transportation. A test would ensure that facilities for transit, bicycle, and pedestrian improvements are built as a part of development projects in the County. Similar to the current transportation adequacy review, the active transportation adequacy should be subject to different Levels of Service for different areas of the County. Development projects would have to meet the following pedestrian and bicycle levels of service in different zones of the County. LOS C, within a 0.5-mile radius of the site in: • All residential zones, except for Reserved Open Space (ROS), Agriculture and Preservation (AG), and Residential Estate (RE) zones. • All nonresidential base zones • All planned development zones LOS B, within a 0.5-mile radius of the site: • All Transit-Oriented/Activity Center base zones. Exempt from the Active Transportation APF test: Reserved Open Space (ROS), Agriculture and Preservation (AG), and Residential Estate (RE) zones.		The methods for measuring motor vehicle Levels-of-Service – calculating the difference between physical capacity and expected trips – are not feasible for transit, bicycle, and pedestrian modes, because they do not reflect the need for unbuilt facilities in an incomplete network. Additionally, capacity metrics do not adequately assess the more-nuanced "levels-of-comfort" needed to encourage people to use transit, bicycle, and pedestrian facilities, e.g. a narrow sidewalk without a buffer along MD 202 may provide adequate capacity for pedestrian travel, but it does not provide the comfort/perceived-safety needs for most people. Furthermore, applicants may not have the technical capacity or data requirements to measure multimodal capacity. The proposed transit, bicycle, and pedestrian improvements offset, in conjunction with the higher transit, bicycle, and pedestrian circulation standards and a strong methodology, will likely lead to more transportation facilities through the development process, at least in zones that are not exempt from an adequacy test. Additionally, the transit, bicycle, and pedestrian offsets will be useful for encouraging non-private vehicle modes of transportation improvement, by reducing the number of trips. Ostensibly, transit, bicycle, and pedestrian improvements will be less expensive than vehicle improvements and thus more likely to be built. Offsets should remain a valid option for developers to pursue in exchange for vehicle trip reduction. In the original *Transportation Review Guidelines*, use of a multi-modal approach was rejected because of data needs and the difficulty of gathering the information within the development review timelines for proposed development. More information is needed regarding the number of trips that can be reduced by each type of transit, bicycle, and pedestrian improvement. Although this information should not be in the final code, it should be included in the *Transportation Review Guidelines*.	Provide a set of standards for transit, bicycle, and pedestrian adequacy, and potential improvements to provide the limits/thresholds for an adequacy "test" for these modes of travel within the RTO and LTO zones. These standards should reflect both on- and off-site improvements/alternatives. Maintain the transit, bicycle, and pedestrian offsets as initially proposed in Section 24-3.505.E for all other zones, including the Neighborhood Activity Center and Town Activity Center base and Planned Development zones (meaning, preserve the offset as an **option** for these zones, rather than a requirement). Clarion Associates should provide the project team with a table that compares the type and quality of transit, bicycle, and pedestrian improvements with the number of trips they would reduce or potentially even replace in an adequacy determination of an applicant pursues these improvements. The improvement types available for offsets should align with those listed in current Sec. 24-124.01. This table should also provide the comparison between the number of trips and off-site improvements, and staff envisions this information will inform future revisions to the *Transportation Review Guidelines.*
24-3—21 24-3—22 Transportation Adequacy	Will the non-motor-vehicle improvements required by the standards and the offsets be too expensive for developers?	Planning staff	It is likely that transit, bicycle, and pedestrian improvements will cost less than roadway improvements. However, there is no clear indication that these improvements are affordable/unaffordable for developers. As proposed, the transit, bicycle, and pedestrian offsets would reduce the number of motor vehicle trips of a proposed development, suggesting that there is a nexus between the improvements and the development.	Clarion Associates should provide the project team with information regarding the overall additional costs of non-motorized transportation improvements and on the appropriate nexus for off-site transit,

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	Can off-site improvements for transit, bicycle, and pedestrian connectivity qualify the "nexus" requirements?			bicycle, and pedestrian improvements.
24-3—22 24-3—23 Public Facility Adequacy Water and Sewer Adequacy	Is Clarion suggesting that the Maryland-National Capital Park and Planning Commission (M-NCPPC) review water and sewer adequacy? Sewer adequacy is important, especially for communities in the southern part of the County that have failing treatment plants. These areas should not be developing more until the sewer adequacy is addressed.	Communities, Agencies	No. Following the release of Module 3 (Process and Administration and Subdivision Regulations), staff worked closely with public facilities agencies including the Washington Suburban Sanitary Commission (WSSC). Because of this collaboration, we now recommend deleting water and sewer from the adequacy of public facilities section of the proposed Subdivision Regulations. Water and sewer adequacy is simply a function of whether a developing property is in the correct water and sewer service categories. There is no adequacy test involved.	Refer to the directed change above concerning page 24-3—14, regarding the revision and relocation of the water and sewerage language.
24-3—22 24-3—23 Public Facility Adequacy Water and Sewer Adequacy	There should be more flexibility regarding waivers for the water and sewer adequacy regulations, especially in terms of the Sustainable Growth Tiers. "For example, if there is an existing lot in the Sustainable Growth Tier III that is immediately adjacent to an existing sanitary sewer, it is environmentally preferable to connect the lot to public sewer. While the extension of public service to these rural areas is not the intention, if a facility already exists, the county should have the flexibility to issue waivers in common sense situations." Consider adding the following language to include waiver flexibility: "The County shall have the authority to issue waivers for onsite disposal systems versus public sewer services to lots in the growth tiers, as deemed appropriate for environmental benefit or hardship cases." The regulations for Sustainable Growth Tier IV is unclear. It states that these areas should be served by on-site sewer, but lots in major subdivisions should not be served by on-site sewer. Please clarify.	Department of Permitting, Inspections, and Enforcement	The Sustainable Growth Act controls water and sewerage service throughout the State of Maryland. There is no way to provide for flexibility or waivers for the County short of a change to state law. On a practical level, providing flexibility for extending water and sewer service to potential developments adjacent to existing water and sewer may create inconsistencies regarding which development sites are granted that flexibility and which sites are not granted the flexibility. Moreover, repeatedly extending water and sewer to adjacent development will undermine the purpose of explicitly defined water and sewer service areas. Finally, the cost of extending and maintaining water and sewer services to adjacent developments are unlikely to be absorbed through the revenue of those adjacent developments. Regarding the language for Sustainable Growth Tier IV, staff concurs it is confusing as worded. Major subdivisions are prohibited within Sustainable Growth Tier IV; by deleting this clause, the issue is resolved.	Delete the second sentence of Sec. 24-3.506.B.4 regarding lots in a major subdivision within Sustainable Growth Tier IV.
24-3—25 Parks and Recreation Adequacy	The new language regarding Parks and Recreation Adequacy does not clearly provide for the payment of fees-in-lieu of dedication to satisfy the availability and mitigation provisions.	Planning staff	Staff believes fees-in-lieu should be referenced in this Section to set the stage for the additional discussion/regulations on fees-in-lieu associated with Sec. 24-3.600.	Add a statement speaking to the payment of an in-lieu fee as one of three potential paths for the availability and mitigation from the adopted LOS standard available to an applicant to Sec. 24-3.508.C.
24-3—27 through 24-3—29 Parklands and	Module 3 (Process and Administration and Subdivision Regulations) does not explicitly allow both on- and off-site dedication and improvements for	Department of Parks and Recreation	Comment noted.	Revise the Subdivision Regulations to explicitly allow both on- and off-site improvements or dedication to count toward the adequacy

DIRECTED CHANGES				
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Recreation Facilities Mandatory Dedication of Parkland	the purpose of meeting parks and recreation adequacy requirements. The County currently allows both on- and off-site improvements and dedication, but it is not codified in the Subdivision Regulations.			determination for parks and recreation facilities.
24-3—29 Parklands and Recreation Facilities	For municipalities not within the Metropolitan District, it should be noted that fee-in-lieu payments for recreation facilities need to be paid directly to the municipality. The city also suggested that, should a Public Facilities Financing and Implementation Program including parks and recreation facilities be created for an area including property outside the Metropolitan District, "provision should be made for assignment of funds associated with parks and recreation to those jurisdictions not within the Metropolitan District."	City of Greenbelt	In the review of this comment, staff determined that sub-sections iii. and iv. on page 24-3—29 are unnecessarily prescriptive and that sub-section ii. should be revised for clarity. The proposed Subdivision Regulations, much like the current regulations, do not specify who would receive the in-lieu fee; staff anticipates these fees will be distributed in accordance with standard practice or interjurisdictional agreements.	Revise Sec. 24-3.601.B.4.b.ii. as follows: "The in-lieu fee ~~shall be paid prior to accepting the subdivision. It~~ shall be used for the sole purpose of purchasing or improving land to meet the park and recreation needs of, and benefit the residents of the subdivision." Delete Sections 24-3.601.B.4.b.iii. and iv.
24-2—40 Reservations	Is it possible to reserve land at the time of site plan or at the time of Final Plat? There are cases where master plan conformance would require land reservation, but the development does not have to go through subdivision. The language in Sec. 24-2.505 refers to "public use" and "other public purpose." These terms are not defined. The proposed regulations define "public facilities," which are similar in intent to the public use of the current subdivision regulations regarding reservation. The language in Section 24-2.506.C.5.b maintains the current language "The Planning Board Shall cause to be prepared a final plat of any land reserved…" This language is confusing. Sec. 24-2.505.D discusses the duration of reservation (three years), however there is no opportunity for an applicant to propose a shorter duration at the time of the reservation.	Planning staff	The reservation of land for public use must be done as part of the subdivision process. The Maryland Land Use Article only grants the Planning Board the authority to approve a reservation by approving it on a plat (§ 23-107). Reservation cannot be done at the time of site plan, because there is no authority for the Planning Board to require dedication of roads, other public uses, or even exactions to meet the adequacy of public facilities requirements. This all must happen at the time of subdivision. The Land Use Article as well as Sec. 24-139 in the current Subdivision Regulations use the term "public use." The current regulations also use the term "other public purposes." Although "public facilities" are defined in the proposed regulations, it would be best to keep the terms so that there is continuity with the state Land Use Article. The proposed language in 24-2.506.C.5.b. has been updated following receipt of the initial staff comment. Sec. 24-2-505.C.5.b now reads, "The applicant shall prepare a plat of any land reserved…" The process for reserving land is straightforward. If the criteria set forth in Sec.24-2.505.C is met, the reservation is established. This process should not be changed. However, at the time the Planning Board considers a resolution of a Declaration of Public Reservation, an applicant should be able to request a length of time the reservation of land should be provided.	Provide language to Sec. 24-2.505.C.1. General that would allow the applicant to propose a length of time for which the reservation of land should be provided, subject to the approval by the Planning Board. Clarion Associates should provide the project team with thoughts as to whether "public use" or "other public purpose" should be defined to provide clearer guidance.
24-6—3 through 24-6—15 Definitions	The terms "Commission" and "M-NCPPC" should be defined.	Planning staff	Staff concurs, and notes the current Zoning Ordinance defines "Commission" as: "Unless otherwise specified, the Maryland-National Capital Park and Planning Commission." The term "M-NCPPC" can also simply spell out the name of the organization as the definition.	Define "Commission" and "M-NCPPC" in the definitions section of both the Subdivision Regulations and the Zoning Ordinance.

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24-6—14 Definitions	The definition for “Subdivision, minor” is a legacy definition that needs to be updated.	Planning staff	Staff concurs. This definition reflects language from prior discussions and will need to be fully updated to correctly define a minor subdivision.	Revise the definition of “Subdivision, minor” to reflect the current approach of this procedure.

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Global	More subdivision projects should go through the subdivision review process, and that the process be quicker. Most of these subdivisions should be treated as a minor subdivision, but there are benefits to having more projects go through subdivision, including recording plats, reconciling lot lines, and testing public facilities adequacy. The exemptions from the subdivision process should be limited.	Planning staff	Module 3 (Process and Administration and Subdivision Regulations) categorizes all subdivision applications as minor or major subdivisions, with the differentiation initially proposes at 50 trips (and capped at 7 lots in Sustainable Growth Tier IV). Proposed exemptions from the subdivision process are also laid out in this module. Staff notes that minor subdivisions would not have a Planning Board public hearing, which should reduce the overall review timeline and streamline the process to the extent possible.	Make no change.
Global	What is the difference between a major and minor subdivision? Do they both have public hearings?	Communities	Minor Preliminary Plans of Subdivision are intended for subdivisions with minimal impact. The current Subdivision Regulations identify minor subdivisions as four or fewer lots, except in Tier IV where it is seven lots (State law regulates that no land in Sustainable Growth Tier IV can be subdivided into more than seven lots). The proposed language identifies minor subdivisions as any subdivision with 50 or fewer peak hour trips; this will be changed pursuant to direction elsewhere in this analysis. The Sustainable Growth Tier IV regulations will stay at seven lots maximum. Major Preliminary Plans of Subdivision are subject to public hearings today and are proposed to retain public hearings in the new code. As proposed, Minor Preliminary Plans of Subdivision would not have a public hearing, but would instead be an administrative decision by the Planning Director. Most Minor Preliminary Plans of Subdivision are administrative decisions today.	Make no change.
Global	If existing land has already been subdivided, the relocation of lot lines can be very cumbersome.	Communities	Comment noted. Expansion of the use of Minor Preliminary Plans of Subdivision will help address this concern because it should be easier and faster to seek resubdivision for reasons including lot line relocation.	Make no change.
Global	Is there an administrative process for resubdivision?	Communities	Yes. The proposed Subdivision Regulations recommend integrating resubdivision into the Minor Preliminary Plan of Subdivision and Major Preliminary Plan of Subdivision procedures (and following those same procedures), depending on the number of resubdivided lots. This means that there would be administrative resubdivision if the proposal meets the criteria for a Minor Preliminary Plan of Subdivision.	Make no change.
Global	A fundamental goal for the County is to use existing infrastructure to stop development into natural areas. How does the proposed code support this?	Community	The subdivision process will help address outward expansion of development and infrastructure over unbuilt “green” areas. The proposed design regulations and connectivity standards in the Zoning Ordinance require more access and connections to neighboring developments, which will result in more connected and walkable communities, which limits sprawl. Also, as proposed, the adequate public facilities regulations would allow the highest-intensity Transit-Oriented/Activity Center base and Planned Development zones to be exempt from transportation adequacy tests, which will make it less expensive to build in these areas, while making it more expensive for new greenfield development that would be required to provide more infrastructure improvements to serve the development. This exemption may change due to comments and direction received, but as proposed in Module 3 (Process and Administration and Subdivision Regulations), the exemption would act as an incentive for infill and redevelopment.	Make no change.
Subdivision Regulations – White and Smith Draft (2010) Summary of Findings	Subtitle 24 (from the prior White and Smith draft) has not changed to reflect the policies and objectives of the 2002 General Plan. New tools for plan implementation, changed standards, and final plat expirations are not included.	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings. The new draft for Subtitle 24 has not dramatically changed many of the current Subdivision Regulations procedures. However, the proposed Subtitle 24 does include new subdivision standards which reflect the	Make no change.

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	Final plat exemptions and non-expirations can be further obstacles to realizing a community plan, as they are not subject to the subdivision process and are not subject to adequate public facilities requirements.		current General Plan (Plan Prince George's 2035), and additional standards which are tied to the new design standards in the proposed Subtitle 27. Final plats that have been recorded do not expire. However, as proposed, final plats of a major subdivision shall be signed and sealed by the surveyor and recorded among the land records of the County within 180 days of the plat approval. Furthermore, the adequacy of public facilities is tested at the time of Preliminary Plan of Subdivision and these adequacy determinations are proposed to expire over time if development does not proceed in good faith. The proposed Subdivision Regulations include a list of exemptions from the regulations and procedures of Subtitle 24 (24-1.403). These include exemptions for the division of land for heirs, conveyance of land for public/government use, re-subdivisions to correct errors, among others.	
Subdivision Regulations – White and Smith Draft (2010) Summary of Findings	Subdivision plans that conform to applicable sector/area/master plans should be approved administratively.	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings. The proposed Subdivision Regulations recommend an administrative review process for minor subdivisions. Providing administrative approval for all subdivisions that conform to comprehensive plans would provide an incentive to developers to ensure that their proposed subdivisions met the standards as described in the applicable plan. However, administrative approval for proposed subdivisions may exclude the public from commenting on proposed subdivisions, especially those that are large and likely impactful to the community. The proposed regulations include subdivision standards that reflect the goals of the General plan and require subdivisions to conform to the applicable Area Master Plan or Sector Plan (Sec. 24-3.101.B).	Make no change.
Subdivision Regulations – White and Smith Draft (2010) Summary of Findings	Are there opportunities to streamline the subdivision review process? Can vacations be approved administratively?	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings. By law, the subdivision process is limited to a 70-day initial review timeframe with the option for a single 70-day extension, which helps maintain a consistent review process. The proposed Subdivision Regulations recommend that Preliminary Plans of Minor Subdivision and minor final plats be approved by the Planning Director. This should help streamline the subdivision process. As proposed, minor vacations are done through an administrative process with Planning Director approval; major vacations require a public meeting and Planning Board approval.	Make no change.
Subdivision Regulations – White and Smith Draft (2010) Summary of Findings	The Subdivision Regulations should be made as clear and easy to read as possible.	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings. Staff concurs. The proposed Subdivision Regulations include flow charts for each process, a clear definitions section, and an applicability and exemptions section. Additionally, provisions have been written to provide as much clarity of language as possible. The new format should increase the readability of the document.	Make no change.

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			Further, the new numbering system creates an intuitive organizing structure for the both the public and professional users of the regulations.	
Subdivision Regulations – White and Smith Draft (2010) Summary of Findings	Do the proposed regulations establish reasonable standards of design? The White and Smith draft included design standards that, at points, conflicts with the General Plan vision (such as required lot depths for transit-proximate development) or processes that are detrimental for developers (such as requiring public benefit subdivisions to submit a sketch plan, regardless of size).	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings. Comments noted. The proposed Subdivision Regulations reflect the goals of Plan 2035 and are supportive of the proposed Zoning Ordinance, which is intended to provide a toolbox of tools to implement Plan 2035.	Make no change.
Subdivision Regulations – White and Smith Draft (2010) Summary of Findings	The White and Smith draft allows for disconnected street networks and sprawl development patterns.	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings. The proposed Subdivision Regulations include improved pedestrian and bicyclist access provisions, and incorporate the street connectivity index (included in the proposed Zoning Ordinance) that encourages street connections. There is an increased emphasis on connectivity throughout the new Subdivision Regulations and Zoning Ordinance.	Make no change.
Subdivision Regulations – White and Smith Draft (2010) Summary of Findings	“Additional standards to promote compact, urban development should be included. These would include a revision of the Public Use Easement requirement; revision to lot depth requirements; promotion of connectivity in the street pattern; a preference for north-south orientation of lots and buildings; promotion of the reuse of stormwater; and the local production of fresh vegetables and foods.”	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings. The proposed Subdivision Regulations recommend improved pedestrian and bicycle access, block length limits, street connectivity and other standards that will promote more compact development in the County. The proposed regulations do not revise the public use easement requirement; however, the proposed Landscape Manual indicates a 10-foot minimum easement. Additionally, public utilities have requested 10-foot free and clear public utilities easements on both sides of all streets, and this request is not supported by staff because of the detrimental impact such a requirement would have on compact, urban development. Regarding environmental regulations, the proposed Zoning Ordinance establishes green building requirements to address stormwater among other features. Although a regulation for north-south orientation of buildings could facilitate better energy use in buildings, it is viewed as too specific and would be challenging to enforce. Perhaps more importantly, since the time the White and Smith draft was crafted, the County has made strides toward more urban, transit-oriented development and sustainable development that are part of the current codes and which did not exist in 2010. Lastly, the use table in the proposed Zoning Ordinance lists “community garden” as a permitted use in most zones. Further, greenhouses and household gardens are also allowed accessory uses for many of the residential zones. Additional emphasis on urban agriculture will be incorporated in the Comprehensive Review Draft.	Make no change.
Subdivision Regulations – White and Smith	“The procedures and submittal requirements should consider location within policy areas. There needs to be much more emphasis on administrative reviews.	Planning staff	As part of the pre-planning work for the Zoning Ordinance and Subdivision Regulations Rewrite, staff examined prior efforts and produced a summary of findings incorporating recommendations from the 2010 White and Smith Draft Subdivision Regulations. The comments were included in that summary of findings.	Make no change.

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Draft (2010) Summary of Findings	The current system of exemptions, along with the fact that platted lots are never re-reviewed at any time, needs to be revised to ensure that new development on all properties conforms to plans and to current laws"		The proposed Subdivision Regulations recommend expanding the number of minor subdivision proposals. This would increase the number of subdivision applications that are approved administratively. The exemptions listed in the proposed Subdivision Regulations reflect many of the exemptions from current Sec. 24-108, but have been revised for clarity and to remove obsolete exemptions or those that are counter to the overall push in the proposed Subdivision Regulations to provide for more Minor Preliminary Plans of Subdivision and adequacy testing and retesting to facilitate accurate record-keeping and plat making and to ensure adequacy of the County's public facilities.	
Module 2 (Development Regulations)	"Adequate public facilities regulation does not address mandatory dedication of parkland."	City of Greenbelt	This comment was initially received with the city's comments on Module 2 (Development Regulations), which contained adequacy of public facilities recommendations from Clarion Associates. That portion of Module 2 was subsequently embedded in the full Subdivision Regulations proposal, and is now addressed in a comprehensive manner in this analysis. This full proposal also includes mandatory dedication of parkland.	Make no change.
Module 2 (Development Regulations)	The proposed adequacy of public facilities "regulations do not recognize the independent authority of the City of Greenbelt, nor does it discuss the impact of the Metropolitan District in planning for parks and recreation."	City of Greenbelt	This comment was initially received with the city's comments on Module 2 (Development Regulations), which contained adequacy of public facilities recommendations from Clarion Associates. That portion of Module 2 (Development Regulations) was subsequently embedded in the full Subdivision Regulations proposal, and is now addressed in a comprehensive manner in this analysis. Specific comments offered by the City of Greenbelt that build on this general observation are addressed elsewhere in this analysis.	Make no additional change.
Adequacy of Public Facilities	During discussion with County public agencies, it emerged that significant changes were desired regarding the adequacy thresholds established in the Subdivision Regulations: • The Police Department wishes to retain/reinstate the current adequacy test (which has been suspended since 2006). • The Fire/EMS Department wants a Fire/EMS adequacy test restored and have suggested that subdivision approval should not be granted if a development cannot pass the test. The department is very concerned that the current Subdivision Regulations, let alone the proposed, ignore staffing and facilities difficulties faced by the department. • Prince George's County Public Schools has proposed a substantially lower threshold for school adequacy (95 percent capacity per school cluster instead of the current threshold of 105 percent capacity), and there was some desire for payments in-kind to offset mitigation fees. Prince George's County Public Schools staff refer to a 100 percent capacity policy target contained in the adopted Educational Facilities Master Plan as part of the basis for this recommended change. • The Department of the Environment recommended removal of the water and sewer	Agencies, City of Greenbelt	While staff appreciates the viewpoints represented by our partner public agencies and the City of Greenbelt, the scale of the requested changes is beyond what can be accommodated in the Zoning Ordinance and Subdivision Regulations Rewrite and is not part of the scope of services with the Clarion Associates team. Each of the proposed changes to the adequacy thresholds has substantial potential impact on Prince George's County, and none of the public agencies have conducted the level of analysis necessary to support their recommendations. At minimum, each public agency would need to conduct extensive analysis to determine the potential impact of their proposal to provide the policy makers – namely, the District Council – with sufficient information with which to make an informed decision. For example, reinstating the adequacy test for Police and Fire/EMS service, which the District Council suspended in 2006, could have a detrimental impact on the County's tax base by halting development where staffing or response times may not be fully met. A more impactful example would be a shift to a 95 percent capacity threshold for school adequacy: the current 105 percent threshold test (by cluster) has little overall effect in the County, but the current school clusters suggest that a large portion of the County would be negatively affected because this area falls between 95 and 105 percent capacity by cluster. Further, the overall school system has capacity, but the cluster approach may result in areas that would not permit development to proceed. Such a major change in the adequacy threshold may effectively halt development in more than a quarter of Prince George's County – including two of the three Plan 2035-designated Downtowns where the policy decision has been made to focus development efforts. Pursuant to direction from the District Council during their annual retreat in January 2017, revisions to the current adequacy of public facilities requirements will be limited, since many potential revisions require significant additional analysis and the timing does not readily accommodate the timeframe of the Subdivision Regulations rewrite. Staff expects public facilities to receive more focus immediately following the effective date of the new Zoning Ordinance and Subdivision Regulations.	Make no additional change.

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	adequacy test. This is addressed as a separate recommendation elsewhere in this analysis. • The Department of Parks and Recreation envisions several potential changes that may range from changes to the current mitigation approaches to implementation of new surcharges in place of dedication of parkland. They also desire Parks and Recreation approaches to extend to nonresidential development, since employees need such services also (the current tests are based on residential development only). Additionally, the City of Greenbelt suggested that if new guidelines are to be established for determination of the adequacy of parks and recreation facilities, the city should be consulted and consideration given to adopting specific standards unique to Greenbelt.		As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities. Additionally, some small-scale changes are recommended for the two types of facilities proposed to be "tested" at the time of Preliminary Plan of Subdivision (transportation, and parks and recreation), primarily for clarity purposes.	
Adequacy of Public Facilities	What's the difference between APF (Adequate Public Facilities) and a funding mechanism?	Agencies	The County's current approach to the adequacy of public facilities generally requires some dedication of land. There is also an issue that one developer should not be required to pay for all of the services that benefit another development. Impact fees as a funding mechanism may well be more flexible. The funds can be used as the agency sees fit. Initially, agencies saw land as an equivalent for money. However, now that more development is infill development, land is no longer as readily available.	Make no change.
Adequacy of Public Facilities	The Department of Parks and Recreation is most interested in the following objectives from the Formula 2040: A Functional Master Plan for Parks, Recreation, and Open Space plan: • "Develop an Adequate Public Facilities Test that Integrates Parks with Other Public Facilities Needs Generated by New Development," • "Provide Guidance for Integrating Parks into Prince George's County's Urban Environment." • "Update the Parkland Dedication Ordinances to Improve Outcomes and Reduce Uncertainty in the Land Development Process," and • "Formalize a More Transparent Process for Evaluating and Prioritizing Lands for Acquisition."	Department of Parks and Recreation	The first objective regarding the adequate public facilities test and the third objective regarding dedication pertain to the Subdivision Regulations rewrite. Aspects touching on urban parks is contained in the proposed Open Space Set-Asides requirements of Module 2 (Development Regulations) of the Zoning Ordinance. As indicated elsewhere in this analysis, the rewrite itself cannot deal with revised public facilities adequacy tests, but staff supports taking up this effort following the effective date of the new Zoning Ordinance and Subdivision Regulations. Staff recommends deferring any changes to the mandatory dedication procedures to this point also. The other objectives that were listed are best addressed through revisions to the internal procedures used by the Department of Parks and Recreation regarding parkland acquisition and the identification/purchase/dedication, maintenance, and operation of urban park facilities.	Make no change.
Transportation Adequacy	Regarding changing the adequate public facilities regulations and allowing some areas to be exempt: when you increase density, you increase traffic. Most of US 1 is zoned for more than what is already here. There needs to be a safeguard.	City of College Park	Comment noted.	Make no change.
Schools Adequacy	"In general, we see the rewriting of the subdivision regulations as a welcome opportunity to refine how the county addresses the balance between	Prince George's	Comments noted. Pursuant to direction from the District Council during their annual retreat in January 2017, revisions to the current adequacy of public facilities requirements will be limited, since many potential revisions require significant additional analysis and the timing does not readily accommodate the timeframe	Make no change.

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	development activity and the need for public facilities. We strongly endorse the concept of a Certificate of Adequacy which expires if construction is not substantially complete after a fixed period of time and which is applied to incomplete legacy developments. "We also see an opportunity to establish a schools LOS [Level-of-Service] review which more closely parallels the standards and remedies applicable to fire, police and transportation services. The definition of school clusters while directly addressed in Module 2 is also of significant interest to use. The current clusters are overly large and may mask the need for school facilities particularly in the northern part of the county. We also believe that PGCPS should have a more direct role with the Planning Department in defining the clusters. This is an area where we would welcome further discussion." Several specific recommended edits were provided by Prince George's County Public Schools for consideration.	County Public Schools	of the Subdivision Regulations rewrite. As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities in the immediate term, and expects public facilities to receive more focus immediately following the effective date of the new Zoning Ordinance and Subdivision Regulations.	
Fire/EMS Adequacy	The proposed subdivision regulations do not include any adequacy test for Fire and Emergency Medical Services (EMS). The current standards for adequate public facilities is based on 2005 staffing levels which is not in line with best practices. Level of Service standards and mitigation requirements should be updated and included in the adequacy section of the subdivision regulations and the County Fire Code. The City of College Park offered the following comment: "APF [adequacy of public facilities] is not just transportation. It also includes schools, fire, sewer, etc. And we just learned that there are not adequate fire facilities in this area."	Prince George's County Fire/EMS Department, City of College Park	The proposed Subdivision Regulations do not include adequacy tests for Fire/EMS, because Fire/EMS facilities are funded at a countywide level and it is difficult to determine the nexus between a single development and their impact for Fire/EMS facilities. Additionally, the existing fire/EMS facilities surcharge is the only operative fire and EMS provision, since adequacy testing was suspended by CR-69-2006. It is a policy decision by the Council when or if to reinstate the adequacy test for fire/EMS services. An argument could be made that the real issue regarding Fire/EMS facilities is a funding issue. The County has limited funds to maintain and expand the Fire/EMS network. Impact fees could be a better approach for Prince George's County. This project does not extend to include potential revisions to the fire code.	Make no change.
Stormwater Management	How will you meet or plan for state stormwater management requirements in high activity zones?	Agencies	The language referencing stormwater management in the Subdivision Regulations is deliberately general in nature because Subtitle 32: Water Resources Protection and Grading Code of the Prince George's County Code deals with the details of stormwater management. This project will not result in substantive changes to Subtitle 32.	Make no change.
Orders of Approvals	An order of approvals section may be necessary to help all stakeholders understand when a particular	Planning staff	The current Zoning Ordinance contains an order of approvals in Sec. 27-270.	Clarion Associates should provide their thoughts on the utility and

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	type of entitlement case falls within a progression of needed approvals prior to development.			desirability of an order of approvals section to the project team.
24-2—44 through 24-2—47 Vacation (Minor and Major)	"If a public street or public ROW [right-of-way] is being vacated, WSSC needs to be contacted to ensure necessary WSSC easements are in place before the vacation is made. "The proposed code requires that 'consents have been provided by the Washington Suburban Sanitary Commission, the County Department of Public Works and Transportation, and the elected officials of any incorporated municipality within which the subdivision is located.' "Although this is good to include, there is no guarantee that it will be followed."	Washington Suburban Sanitary Commission	Consent is a required decision standard for approving a vacation; such consent explicitly incorporates the Washington Suburban Sanitary Commission. Staff is unsure why the Washington Suburban Sanitary Commission believes "there is no guarantee" that the consent requirement will be followed. The proposed Subdivision Regulations are clear that vacation shall not occur unless such consent has been provided by the appropriate agency/municipality. Vacation applications are referred out by the Planning Department. WSSSC needs to respond to those referrals.	Make no change.
24-3—2 Planning and Design Lot Standards	Regarding Sec. 24-3.102, "this section states that lots must be a minimum of 100 feet and that adequate protection and screening must be provided in accordance with the Landscape Manual. "This section does not include any regulation regarding to the building setback. WSSC recommends that buildings must be set back 15 or 25 feet from water and sewer lines depending on the size of the lines."	Washington Suburban Sanitary Commission	Setbacks from water and sewer lines are reviewed by the Washington Suburban Sanitary Commission through the County's referral process at the time an application is under review. Staff does not recommend codifying the internal practices of the Commission through the Subdivision Regulations.	Make no change.
24-3—5 24-3—6 Transportation, Pedestrian, Bikeway, Circulation Standards General Street Design Standards	"Section 24-3.201.B lists the standards that all proposed streets should comply with. "WSSC recommends that a 10 foot PUE [public utilities easement] on both sides of public and private street ROW is included. "Five foot PUEs are not adequate for dry utilities to share the same PUE."	Washington Suburban Sanitary Commission	Comments noted. There are philosophical differences between agencies regarding the location and configuration of public utility easements (PUEs), particularly in urbanized locations and servicing transit-oriented development. Staff does not agree that ten-foot PUEs should be provided on both sides of all streets, as the County is shifting to a more urban approach at key locations such as transit centers, where such a suburban PUE requirement is not appropriate.	Make no change.
24-3—6 through 24-3—9 Transportation, Pedestrian, Bikeway, Circulation Standards	"Private streets should be discouraged. If private streets are proposed, WSSC will push for private water and sewer in those private streets if the applicant cannot provide all of the utility separation requirements as stated in the WSSC pipeline design manual. "Private streets should have 10 foot PUEs on both sides. HOA documents for private streets should not	Washington Suburban Sanitary Commission	Comments noted. Generally, private streets are not desirable in most situations. They are, however, unavoidable.	Make no change.

COMMENTS AND QUESTIONS FOR FURTHER EVALUATION AND RESPONSE				
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Private Streets and Easements 24-3—29 through 24-3—40 Conservation Subdivision Standards	have blanket easements for dry utilities if public water and sewer lines are being provided." "As proposed, private streets are allowed in Conservation Subdivisions. "Private streets should be discouraged. In general, development uses private streets as an approach to cut corners, which create additional problems for other agencies to meet their requirements."			
24-3—6 through 24-3—9 Transportation, Pedestrian, Bikeway, Circulation Standards Private Streets and Easements	"There is an exemption for AL, AR, RE, RPD-L, and RPD zones, which states that 'Private streets shall have a minimum pavement width equal to the standard street width for secondary residential streets or primary residential streets, as appropriate.' "Private streets should have private water and sewer unless otherwise approved by WSSC."	Washington Suburban Sanitary Commission	Comment noted.	Make no change.
24-3—6 through 24-3—9 Transportation, Pedestrian, Bikeway, Circulation Standards Private Streets and Easements	"Section 24-3.204.B.1.e.i states 'the right of way or easement shall have a minimum right of way width of 22 feet connecting the lots to a public street.' "However, 30 feet is required for public water and sewer lines. Maryland state MDE follows the 10 State Standard which specifies the separation requirements between water, sewer, and other utilities. WSSC complies with the 10 State Standard and cannot deviate unless state law is changed."	Washington Suburban Sanitary Commission	Comment noted. Staff recommends no change because the proposed language reflects the current regulation and there is no prohibition against larger rights-of-way when needed by the Washington Suburban Sanitary Commission or other agencies, and staff note that the 30-foot requirement is only applicable when both water and sewer lines are in the same right-of-way. There is no prohibition against separating water and sewer lines in separate rights-of-way and seek other innovative design solutions.	Make no change.
24-3—11 24-3—12 Environmental Standards Stream, Wetland, and Water Quality Protection and Stormwater Management	"This section states 'Subdivisions shall be designed to minimize the effects of development on land, streams and wetlands, to assist in the attainment and maintenance of water quality standards, and to preserve and enhance the environmental quality of stream valley.' "WSSC notes that sewer outfalls naturally follow stream channels. MDE considers impacts from sewer outfalls or crossings as temporary impacts. MNCPPC and Parks needs to allow for sewer outfalls to follow stream channels on and off park land property."	Washington Suburban Sanitary Commission	The Subdivision review process allows applicants to justify necessary impacts for sewer connections. The language "shall be designed to minimize" does not prohibit such necessary sewer outfall connections.	Make no change.
24-3—11 24-3—12	"This section [Sec. 24-3.303.B] states 'A preliminary plan of subdivision shall not be approved until evidence is submitted that a stormwater management concept plan has been approved by DPIE or the	Washington Suburban Sanitary Commission	The broader question of Hydraulic Planning Analysis submittal is addressed elsewhere in this analysis of comments.	Make no additional change.

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Environmental Standards Stream, Wetland, and Water Quality Protection and Stormwater Management 24-3—13 through 24-3—27 Public Facility Adequacy Water and Sewer Adequacy	municipality having approval authority. Submittal materials shall include evidence that the applicable stormwater management concept plan has been approved.' "WSSC wants to add this new requirement: Preliminary Plans of subdivisions shall not be accepted for processing by MNCPPC until evidence is provided that a WSSC Hydraulic Planning Analysis (HPA) has been submitted to WSSC and accepted for review." "This section [Sec. 24-3.506] should include the requirement that prior to acceptance of the preliminary plan for processing by MNCPPC, evidence must be provided that an HPA has been submitted to WSSC and accepted for processing."			
24-3—12 Public Facility Standards	"Section 24-3.401 states that 'When utility easements are required by a public utility company, the subdivider shall include the following statement in the dedication documents "Utility easements are granted pursuant to the declaration recorded among the County Land Records in Liber 3703 at Folio 748.' "However, blanket public utility easements should not be allowed in private streets. Utility easement corridors need to be established and shown on the plans to demonstrate adequate separation between utilities (including water and sewer) can be met."	Washington Suburban Sanitary Commission	This requirement does not specify the details of a public utility easement, but is instead just a blanket statement that such easements shall be recorded.	Make no change.
24-3—13 Public Facility Adequacy	The language on page 24-3—13 should be clarified; the District Council current reviewed the adequacy of public facilities when considering Zoning Map Amendments for certain zones (such as the M-X-T Zone) and would like to retain this authority.	Council	If a property has been previously rezoned by the District Council via a Zoning Map Amendment (ZMA), and the Council attached conditions of approval (adequacy of public facilities conditions or any other type of condition), the continued validity of those conditions depends on whether the applicant elects to develop under the old zone or the new zone. The transition provisions of the new Zoning Ordinance allow an applicant to develop under the zone it had before the new ordinance took effect, so long as the property has some type of valid development approval (such as subdivision approval, CSP or CDP). If the applicant proceeds under the old zone, the conditions attached to the ZMA remain in full force and effect. After the new Zoning Ordinance takes effect, an applicant may elect to proceed under the new ordinance instead, and under the new zone the property has received via the Countywide Map Amendment. It is the applicant's choice. If the applicant proceeds under the new zone and the new ordinance, the prior conditions are no longer relevant, because the ZMA has been superseded by the comprehensive zoning applied via the Countywide Map Amendment. However, the applicant will now have to obtain a Certificate of Adequacy under the rules of the new Zoning Ordinance and Subdivision Regulations, and will have to meet all of the standards of the new codes. These standards are likely to be as strong (or stronger) than conditions that were attached to the prior ZMA.	Make no change.

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24-3—13 through 24-3—27 Public Facility Adequacy	"According to a recent report on Adequate Public Facilities Ordinances (APFOs) in six Maryland jurisdictions by the Maryland-National Capital Building Industry Association (MNCBIA), an effective APFO should include the following elements: 1. An APF determination required at the earliest level of review so that a developer may decide whether and/or when to proceed with project development before incurring substantial expenses. 2. An APFO should allow the developer to mitigate for capacity shortfalls by constructing improvements or paying fees-in-lieu. 3. An established mechanism to reimburse developers who pay for improvements that expand capacity in excess of the proportional requirements of the proposed development. 4. In the event of a determination of inadequacy, a specific period of time for mitigation measures should be outlined so that developers know if and when they can proceed with the project."	Planning staff	The proposed Subdivision Regulations recommend testing for adequacy at the time of preliminary plan for all proposed developments submitted after the effective date of the proposed Subdivision Regulations. Subdivision is an early enough level of review to test for adequacy because it generally occurs before the detailed designs have been made, but after enough time that a full understanding of the size and scope of the project has been developed. The proposed Subdivision Regulations allow the applicant to mitigate for capacity shortfalls through trip reduction programs, built transportation improvements, incorporating a mix of uses, transit, bicycle, and pedestrian offsets, and proffered mitigation for a development's expected trips. The proposed Subdivision Regulations do not stipulate a fee structure for fee-in-lieu for transportation improvements. Should fees-in-lieu be considered at a future time, the Department of Public Works and Transportation and Maryland State Highway Administration may propose a fee structure for transportation improvements. The proposed Subdivision Regulations include mechanisms for reimbursement of extra capacity. Proposed Sec. 24-3.505.C, Availability, provides applicants the opportunity to fund larger improvements based on participation in a Public Facilities Financing and Implementation Program or the opportunity to participate in the Surplus Capacity Reimbursement Procedure. As noted elsewhere in this analysis, the Surplus Capacity Reimbursement Procedure has proven ineffective and will be removed. If a Certificate of Adequacy is not approved for a development, the applicant can proffer transportation improvements for a conditional certificate of adequacy or re-apply for a certificate at a future time.	Make no changes.
24-3—13 through 24-3—27 Public Facility Adequacy	The best practice Adequate Public Facility Ordinances (APFOs) for urbanizing jurisdictions must find a balance between requiring new infrastructure and revitalizing the existing built environment. The APFOs seek to collect fees to maximize existing transportation infrastructure, including support of mass transit as an alternative to the automobile. Additionally, these policies seek to emphasize a multi-pronged, public-private approach to build network wide infrastructure, with less emphasis on having each development solve its own infrastructure problems.	Planning staff	The proposed transportation adequacy policies recommend using a tiered approach for the transportation levels of service that would be required at the time of subdivision. These tiers reflect the Transportation Service Areas established with Plan Prince George's 2035, and align with the former Developed, Developing, and Rural Tiers of the County. However, there has been additional discussion to differentiate transportation adequacy by zone and location in the County with respect to the Capital Beltway. Furthermore, the proposed policies recommend exempting the transportation adequacy requirements from the Transit-Oriented/Activity Center base and Planned Development zones, which introduces another level to differentiate the developed and the downtown "center" areas of the County. Additionally, the proposed policies suggest using transit, bicycle, and pedestrian infrastructure as offsets to reduce the needs of additional roadway infrastructure. The recommended Subdivision Regulations do not recommend using fees for transportation adequacy. Should fees be considered at a future time, the Department of Public Works and Transportation and Maryland State Highway Administration may propose a fee structure for transportation improvements.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	The City of Greenbelt commented that the review of public facilities adequacy is to become an administrative process. "This will deprive the public of a critical opportunity to participate in and be aware of the impact of new development on the community. Exclusion of the public from the development review	City of Greenbelt, Planning Staff	The determination of whether a proposal meets the public facility adequacy is a technical function (the proposal either passes or it does not pass) and, according to Clarion Associates, almost no jurisdiction subjects adequacy determinations to public hearings due to this technical nature. Proposed Sec. 24-3.503.B.3 describes the process for which the Planning Director shall make the determination and issue the Certificate of Adequacy. There are three basic outcomes: 1) The existing facilities are adequate to meet the needs of the proposed development; 2) The existing facilities are not	Make no change.

COMMENTS AND QUESTIONS FOR FURTHER EVALUATION AND RESPONSE				
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	process is not the way to ensure quality development and to protect neighborhoods." Planning staff commented that the Certificate of Adequacy would be submitted to and approved by the Planning Director and is required before the Preliminary Plan of Subdivision goes to the Planning Board. This process may remove the Planning Board, and specifically the public hearing, from reviewing requirements and conditions related to the adequacy of public facilities.		adequate to meet the needs of the proposed development and the applicant has agreed to make the necessary improvements to meet the adequacy requirements; and 3) the existing facilities are not adequate and the applicant does not agree to make the improvements. In the first case, Planning Board involvement is unnecessary, as the facilities already exist. In the second case, the Planning Director would issue a Conditional Certificate of Adequacy with the associated conditions/mitigation requirements and the applicant could appeal to the Planning Board. In the third case, where the Certificate of Adequacy is denied, the applicant may also appeal to the Planning Board. In these cases, the public can participate in the Planning Board hearing in the event an applicant does not want to build an improvement pertaining to adequacy.	
24-3—13 through 24-3—27 Public Facility Adequacy	Have you encountered jurisdictions with both adequate public facilities testing and fees?	Council	Clarion Associates replied: No. Typically a jurisdiction will do one or the other. Fire and Rescue typically only have a fee. Prince George's County is unusual to have both a fee structure and an adequacy of public facilities test.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	Social services and healthcare have been left out of the adequacy of public facility factors. Not convinced that the list of facilities is broad enough to cover these elements.	City of Greenbelt, Municipalities	Public facility determinations are typically made with regard to brick and mortar impacts – police or fire stations, schools, roadway paving, etc. Social services are not something that can fully be addressed through Subdivision Regulations.	Clarion Associates should provide information regarding emerging public facilities that jurisdictions may be addressing, such as healthcare facilities.
24-3—13 through 24-3—27 Public Facility Adequacy	The adequacy of public facilities (APF) test for schools is through an impact fee. APF for police, fire, and EMS is through surcharges. Does this mean that Clarion Associates is recommending a change to the surcharge system?	Communities, Developers	No, Clarion Associates proposed Module 3 (Process and Administration and Subdivision Regulations) does not recommend a change to the surcharge system in place in Prince George's County. However, staff notes that Clarion Associates recommend not testing fire/EMS service as an adequacy of public facilities (APF) test because most jurisdictions do not use APF for fire/EMS because they are countywide systems that cannot be appropriately funded or constructed by individual developers. The County may choose to more broadly address the issue of surcharges and adequacy determinations as a result of this process, but surcharges are not part of the Zoning Ordinance or Subdivision Regulations and will not be changed by this project.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	The adequacy of public facilities "regulations ignore municipal police in both the evaluation of adequacy and the mitigation of impacts."	City of Greenbelt	While staff is sensitive to the city's concern and have been recommending clarifying language for the proposed codes to appropriately reflect municipal roles in the development process, it is important to understand that the State enabling laws provide for the County to establish adequacy of public facilities regulations and simultaneously provide for municipal delegation. However, these two do not "cross." There is no clear authorization to defer or convey adequacy determinations to a municipal corporation in Prince George's County. Lacking such authorization, it is not appropriate to reference municipal police departments in the determination of meeting County public facilities requirements. Staff notes that, this being the case today, coordination at a staff level with municipalities is not only essential today but will be essential for the new codes. Referrals for municipal comment and coordination with municipalities is the expectation today and moving forward.	Make no change.
24-3—13 through 24-3—27	There need to be more transparent guidelines for scoping analysis, and the "impact area" for determination of the adequacy of public facilities needs to be defined	Communities, City of Greenbelt	Scoping guidelines and the impact areas for transportation analysis and other public facilities analysis are typically included in the pertinent guidelines document, such as the *Transportation Review Guidelines.* It is not appropriate to codify scoping guidelines or impact areas, which may need to change from time to time and are often subject to the regulations of the operating agencies.	Make no change.

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Public Facility Adequacy				
24-3—13 through 24-3—27 Public Facility Adequacy	How did you come up with ten years for the timeframe of an adequate public facilities determination?	Planning Board	Clarion Associates answered that economic cycles tend to run in seven-year timeframes, so ten years gives developers parts of separate economic cycles to finalize their project	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	The test for public safety adequacy focuses today on a seven-minute travel time, with a longer travel time for rural areas. What is a best practice approach for rural areas?	Planning staff	Clarion Associates addressed this question in staff-level discussions after presenting Module 2 (Development Regulations). Adequacy of public facilities tests for public safety – both fire/EMS and police service – at the time of subdivision review is a very uncommon practice in general. Therefore, there really are no best practices.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	Would the adequacy of public facilities rationale be the same for police service as for Fire/EMS as a Countywide system? It seems that adequacy of public facilities is really an issue of planning ahead. We can show that development generates enough revenue to support new facilities, and need to be able to quantify this. Adequacy determinations seem more like a Band-Aid solution. Why do we even call it adequacy of public facilities? It seems more appropriate to call it something like “public facility impact regulations.” “Adequacy” seems to involve a threshold.	Council, Communities	As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities. However, staff offers the following discussion on these comments. Clarion Associates indicated that police service is similar to Fire/EMS when it comes to adequacy testing through subdivision applications, but also stated Fire/EMS service is more countywide in nature, whereas police service is more district based or local, with responses often originating in the field. Adding police stations does not necessarily add police service. The District Council could decide, as a policy decision, to remove police from the Subdivision Regulations, add back Fire/EMS, or pursue other alternatives. Since they are similar, it may be best to treat them the same. Clarion Associates indicate that the key to providing adequacy of public facilities is good planning for capital facilities and funding on a collective basis. Their broader experience is that communities have more success with this approach, and that adequacy testing at the time of individual subdivision applications should be supplemental rather than the primary approach. Clarion Associates has extensive experience with many adequacy of public facility standards, and indicated that one typically does not see Fire or EMS standards apply since they are usually addressed through fees or other approaches that are better suited for countywide services.	Make no additional change.
24-3—13 through 24-3—27 Public Facility Adequacy	Final plats of subdivision are always a requirement in completing the subdivision process; remove “when specifically required in this section” from Sec. 24-3.502.A.2. If the plat isn’t recorded, the Preliminary Plan of Subdivision expires.	Planning staff	This appears to be a misunderstanding of the intent of the applicability statement in question. The Certificate of Adequacy process may be invoked for properties that had a recorded final plat but did not proceed directly to development, under certain circumstances. Reading these sections (24-3.502.A.2 and 24-3.503.A.1) in combination simply indicates that the public facility adequacy test and Certificate of Adequacy process may be required for properties that recorded a final plat prior to the effective date of the new Subdivision Regulations, unless some level of development has occurred on the property or a determination is made that the applicant has certain vested or contractual rights in place.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	What process would be used when changes are made to existing standards? A Council Bill?	Planning staff	Yes. Any change to the Subdivision Regulations require the District Council to pass a bill. Amendments to the Subdivision Regulations require the joint signature of the County Executive.	Make no change.

COMMENTS AND QUESTIONS FOR FURTHER EVALUATION AND RESPONSE				
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24-3—13 through 24-3—27 Public Facility Adequacy	The proposed APF regulations are straightforward and not wholly different from the current practice. A consultant will prepare a transportation, environmental, or infrastructure report, the Planning Staff will review the report and make their own recommendations, and then Planning Board will decide. Usually, the Planning Board agrees with the staff recommendation. Adequacy determination and mitigation is a negotiation between the applicant and the Planning Board and staff. The proposed regulations will not likely change this process substantially.	Maryland Building Industry Association	While staff agrees the proposed language would not substantially alter the process for determining and mitigating the adequacy of public facilities, as discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities. It is very important to understand that substantive changes to the adequacy thresholds are not proposed at this juncture but, pursuant to District Council direction during their annual retreat in January 2017, the County will likely revisit the adequacy "tests" and thresholds following the effective date of the new Zoning Ordinance and Subdivision Regulations. More substantive changes are quite possible at that point in time, but since the focus would purely be on the adequacy of public facilities, more dedicated time and attention can be paid to these important elements.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	Why are public facilities adequacy tested at the time of Preliminary Plan of Subdivision? Why not later or earlier in the review process? The earlier that an applicant knows that additional infrastructure will be needed to meet the adequacy needs, the better.	Maryland Building Industry Association	Generally, adequacy is tested at the time of Preliminary Plan of Subdivision because it is at this point that developments will dedicate land (land dedication is authorized by the state through the subdivision process). Adequacy testing provides an idea as to the amount of additional land that may need to be dedicated for utility rights-of-ways, transportation rights-of-ways, County facilities, etc. Preliminary Plan of Subdivision is, typically, early enough in the development process that additional expenses and needs will be known. Unless a project seeks rezoning, there may not be many earlier steps in the development process than subdivision.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	The proposed changes in adequacy of public facilities testing and the proposed Certificate of Adequacy may discourage larger developments in the County and force developers to build smaller projects to avoid triggering adequacy of public facilities requirements. A new Zoning Ordinance will likely result in new types of projects.	Maryland Building Industry Association	Comment noted. New projects in the County is not necessarily a negative result.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	"Other dry utility companies need to be brought into the process earlier. "Currently, PEPCO will not do design layout until water and sewer plans are approved. This is too late in the process. All utilities need to be considered at the time of preliminary plan of subdivision."	Washington Suburban Sanitary Commission	Staff supports early and regular coordination with and between all utilities providers and public agencies involved in the development process. All utilities providers (and key public agencies) are part of the County's referral process when applications are accepted, and have opportunity to comment on development proposals such as Preliminary Plans of Subdivision.	Make no change.
24-3—13 through 24-3—27 Public Facility Adequacy	"Sewerage adequacy level of service requires all residential subdivisions to be met by public sewer, except minor subdivisions in some cases can be served by on-site disposal systems. "It is important to note here that there is a difference between individual lots and subdivisions. Subdivisions will need to be served with public water and sewer, but the individual lots will not. Private water and sewer will be required if all WSSC	Washington Suburban Sanitary Commission	Comment noted.	Make no change.

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	separation requirements in the Pipeline Design Manual cannot be met (these requirements conform to MDE requirements)."			
24-3—14 Public Facility Adequacy	"DPIE is in agreement with the proposed levels of service for the various Transportation Service Areas."	Department of Permitting, Inspections, and Enforcement	Comment noted.	Make no change.
24-3—14 Summary of Public Facility Adequacy Standards – Transportation	The proposed Level-of-Service standards for Transportation Adequate Public Facilities are based on the 2002 General Plan. Although the current Transportation Service Areas align with the 2002 General Plan's Developed, Developing, and Rural tiers, these distinctions do not provide enough nuance to accommodate the different transportation needs within each Transportation Service Area. A Level-of-Service approach that differentiates between zones would be more effective that using the Transportation Service Areas approach.	Planning staff	While staff generally concurs that additional nuance in the transportation adequacy determinations would be beneficial, the level of consideration toward a potentially significant shift from the current Levels-of-Service approach to a new approach (perhaps one based on zoning instead of Transportation Service Areas, or based on access) is beyond what can be accommodated in the timeframe of the Zoning Ordinance and Subdivision Regulations Rewrite. The current approach, as revised by Clarion Associates in the proposed Subdivision Regulations to exempt the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) zones and expanded to include modes of travel besides the automobile, will remain effective for addressing the transportation adequacy needs of the County. As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities, and expects public facilities to receive more focus immediately following the effective date of the new Zoning Ordinance and Subdivision Regulations. This may include a new, more nuanced approach to transportation adequacy.	Make no change.
24-3—14 Adequate Public Facilities	The Maryland Building Industry Association agrees with exempting the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) zones from the transportation adequacy test. Planning staff endorse this exemption provided the RTO and LTO zones are in the vicinity of an existing or proposed transit station.	Maryland Building Industry Association, Planning staff	Comment noted.	Make no change.
24-3—14 Summary of Public Facility Adequacy Standards	"In general, the City supports the proposed revisions that establish new or revised level of service standards for public facilities including the requirement to obtain a Certification of Adequacy prior to subdivision approval." The City also supports "the proposed revisions that establish new or revised level of service standards for water and sewer, police, parks and recreation and schools." "In regard to transportation adequacy, the City supports the inclusion of offsets for transit, bike and pedestrian facilities in the determination of trip generation and the provision of these facilities to mitigate traffic impacts." However, "the City has major concerns with the proposed change that would	City of College Park, Town of University Park	Comments noted. Offsets for transit, bicycle, and pedestrian modes of travel are discussed elsewhere in this analysis. Alternative approaches such as impact fees may be part of the conversation of changing adequacy determinations and thresholds following the effective date of the Zoning Ordinance and Subdivision Regulations. According to information maintained by the State Highway Administration (SHA) in the form of annually-released estimated traffic counts (http://www.roads.maryland.gov/Index.aspx?PageId=792), the traffic counts along US 1 in College Park are dramatically down over the last decade. The Annual Average Daily Traffic counts at two locations along US 1 in both 2006 and 2016 are shown below. This drop, particularly south of MD 193, is indicative of a number of factors including increased transit service and alternative routes to the University of Maryland (per SHA signage directing traffic away from US 1 and onto Campus Drive/Paint Branch Parkway and Adelphi Road, for example). It is important to note SHA does real counts every 3 or 6 years and uses estimates based on permanent traffic count stations in the other years, so these figures are estimated. The multimodal approaches to transportation envisioned for the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) zones are envisioned to have a similar positive impact in terms of helping reduce	Make no change.

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<tr><th colspan="5">COMMENTS AND QUESTIONS FOR FURTHER EVALUATION AND RESPONSE</th></tr>
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<tr><td></td><td>exempt development in the RTO and LTO zones (likely to be most of College Park) from the requirement to meet adequate transportation facilities. This is purported to be based on policy guidance in the Approved 2035 General Plan [sic] that seeks to encourage development in transit locations. The College Park Metro Station area is designated as a Regional Transit District in the General Plan but Route 1 is not, nor is it directly served by Metro, and should not be treated the same as a Metro Station area.”

“It appears that no traffic study whatsoever would be required nor would any mitigation or transportation demand management. While the current process of determining adequacy based primarily on an Applicant-prepared traffic study is flawed, this recommendation seems irresponsible. Route 1, in particular, is challenged by heavy traffic that cannot just be ignored. Urbanizing cities like College Park have infrastructure needs and require congestion management. Additional best practice research on this issue should be reported on and discussed to ensure that the livability of communities is not negatively impacted by this provision.”

“Impact fees or assessments that require new development to pay its pro-rata share of the costs of needed improvements should be considered. These improvements could include such things as roadway modifications, traffic signals, bike lanes or trails, bike share, sidewalks, transit enhancements such as better headways and weekend service, bus shelters and operating expenses for transportation demand management implementation.”

The wording from the Town of University Park is almost identical to that from College Park.</td><td></td><td>vehicular traffic – though granted, perhaps not to the degree experienced just north of Campus Drive – and contribute to the rationale offered by Clarion Associates for exempting these zones from transportation adequacy testing.

Annual Average Daily Traffic on US 1 in College Park:<table><tr><th>Location</th><th>2006</th><th>2016</th></tr><tr><td>US 1 North of MD 193</td><td>49,852</td><td>46,690</td></tr><tr><td>US 1 North of Campus Drive</td><td>55,611</td><td>36,850</td></tr></table></td><td></td></tr>
<tr><td>24-3—14

Public Facility Adequacy</td><td>The proposed Subdivision Regulations recommend response times of 25 minutes for non-emergency and 10 minutes for emergency in each police district.

Is there a map that shows police districts and response times?</td><td>Department of Permitting, Inspections, and Enforcement</td><td>Comments noted. Pursuant to direction from the District Council during their annual retreat in January 2017, revisions to the current adequacy of public facilities requirements will be limited, since many potential revisions require significant additional analysis and the timing does not readily accommodate the timeframe of the Subdivision Regulations rewrite. As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities, and expects public facilities to receive more focus immediately following the effective date of the new Zoning Ordinance and Subdivision Regulations.</td><td>Make no change.</td></tr>
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	What is the recourse for districts that are failing? Are police/fire/EMS fees sufficient to approve permits?		Regarding the police districts map and response times, a map is available on request from the Prince George's County Planning Department, as are response times (dated December 2015). These have been provided to the Department of Permitting, Inspections, and Enforcement.	
24-3—14 Public Facility Adequacy	The proposed level of service for parks recommends 2.5 acres of park facilities per 1,000 residents for Transit-Oriented and Activity Center Zones and 15 acres per 1,000 residents in all other zones. How does this compare to current standards of park dedication?	Department of Permitting, Inspections, and Enforcement	The Prince George's County Formula 2040: Functional Master Plan for Parks, Recreation, and Open Space establishes a goal of providing "15 acres /1,000 residents of local parkland and 20 acres/1,000 residents of regional parkland. The 35 acres/1,000 residents is both the DPR LOS standards and the State of Maryland goal." Further, Formula 2040 also recognizes the need for a new urban parks standard. Staff concur with Clarion Associate's recommendation of 2.5 acres of park facilities per 1,000 residents within the more urban locations of the County.	Make no change.
24-3—14 Public Facility Adequacy	The proposed ordinance recommends that the number of students will not exceed 105 percent of capacity for each school cluster. Is there a map that shows school clusters and capacity levels? What is the recourse for school clusters that are beyond 105 percent? Is payment of a school fee adequate to approve development permits?	Department of Permitting, Inspections, and Enforcement	Comments noted. Pursuant to direction from the District Council during their annual retreat in January 2017, revisions to the current adequacy of public facilities requirements will be limited, since many potential revisions require significant additional analysis and the timing does not readily accommodate the timeframe of the Subdivision Regulations rewrite. As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities and expects public facilities to receive more focus immediately following the effective date of the new Zoning Ordinance and Subdivision Regulations. The school clusters map, which shows capacity levels, is included in the approved 2017 Educational Facilities Master Plan produced by Prince George's County Public Schools and has been provided to the Department of Permitting, Inspections, and Enforcement. The recourse for school cluster failure under the current regulations include improvements (such as modular units) budgeted through the County's Capital Improvement Program or school boundary changes.	Make no change.
24-3—14 Public Facility Adequacy	If there is no test for transportation in the core areas of the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) zones, you'll need a variety of tools in the toolbox. Consider using a Transportation Demand Management District, for example.	Hyattsville Planning Committee	Tools such as transportation demand management approaches are included in the recommendations made by Clarion Associates. Additionally, Subtitle 20A of the County Code deals with transportation demand management districts.	Make no change.
24-3—14 Public Facility Adequacy	The public facility adequacy standards summary table is based on the Plan Prince George's 2035 General Plan. What happens when it is superseded?	Planning staff	This comment refers to the transportation standards. Staff notes that Plan 2035 carried forward the exact same level-of-service thresholds that were initially set by the 2002 General Plan; therefore, these level-of-service thresholds have not changed in 14 years. Clarion Associates have recommended that properties in the Regional Transit-Oriented (RTO) and Local Transit-Oriented (LTO) zones should be exempt from the transportation level-of-service determination, but this is not directly linked to the General Plan policy areas. Should a future policy document (such as a new General Plan or perhaps revised *Transportation Review Guidelines*) adjust the level-of-service thresholds, then the table should be revised accordingly.	Make no change.
24-3—14 Public Facility Adequacy	Is the Transportation Service Area going to be identified on PGAtlas (the Planning Department's online mapping tool)?	Planning staff	This is an internal policy question. Until such time as the Transportation Service Areas may be identified as an online mapping level, they can be found as transitional maps accompanying the Plan Prince George's 2035 General Plan.	Make no change.
24-3—15 through 24-3—27 Certificate of Adequacy	If the Certificate of Adequacy is reviewed concurrently with a Preliminary Plan of Subdivision, it is necessary that the traffic impact statement is submitted as part of the application.	Planning staff	Comment noted; the submittal requirements for Preliminary Plans of Subdivision and Certificates of Adequacy would be part of the Applications Manual.	Make no change.

COMMENTS AND QUESTIONS FOR FURTHER EVALUATION AND RESPONSE				
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24-3—15 through 24-3—27 Certificate of Adequacy	Council staff asked what happens to the capacity that is "freed up" once a certificate expires. Will there be some type of "waiting list" for projects that were subsequently denied due to background development that will no longer be allowed to proceed? Will there be some type of reimbursement for subsequent approvals that had to make some payment as a result of the first approval that is now expired?	Council staff	There will be no waiting list: the capacity will be reviewed and approved on a first-come, first-served basis with a new "use it or lose it" validity expiration. The question of reimbursement only arises if the exaction is a fee, not a tax. The County surcharges that are currently in place are in the nature of a tax; in other words, they are for the purpose of generating revenue for public facilities, not to pay for a particular service or enterprise fund (like an application or review fee).	Make no change.
24-3—15 through 24-3—27 Certificate of Adequacy	Are expirations proposed for the determination a project meets the adequacy of public facilities tests?	Communities	Yes. Clarion Associates propose a Certificate of Adequacy that would expire after a set period of time. This does not currently exist in Prince George's County and will take some getting used to should the District Council choose to adopt such a recommendation.	Make no change.
24-3—15 through 24-3—27 Certificate of Adequacy	Prince George's County Public Schools "strongly endorse the concept of a Certificate of Adequacy which expires if construction is not substantially complete after a fixed period of time and which is applied to incomplete legacy developments."	Prince George's County Public Schools	Comment noted.	Make no change.
24-3—15 through 24-3—27 Certificate of Adequacy	Regarding the proposed Certificate of Adequacy process, why is this being added to the subdivision process? What is there to gain? In the case where the plat is recorded, and the adequacy test expires, are the owners being taxed on property they cannot develop?	Planning staff	Staff views the Certificate of Adequacy process as a potential tool of great value. It could help streamline public facility adequacy review and it provides for re-testing for adequacy (and along with re-testing, the ability to ensure that public facility impact mitigation is current and appropriate) for sites and/or developments that have not moved forward for many years, something the current law does not permit. It also sets the stage for easier tracking and verification of public facility adequacy conformance. No, property owners would not be "taxed" on property that cannot develop. A new Certificate of Adequacy and public facilities testing would be required if the prior certificate expires before the development can proceed. This is not a tax.	Make no change.
24-3—15 through 24-3—27 Certificate of Adequacy	Why can't the Certificate of Adequacy be part of the submittal of the case?	Planning staff	It can. Sec. 24-3.503.B.1 states an application for a Certificate of Adequacy "shall be initiated by submitting an application to the Planning Director in a form established by the Planning Director in the Procedures Manual…." Staff expects this form would simply be part of the submittal of the subdivision application. It is important to note that since the Certificate of Adequacy would extend to other case types, there must be a standardized procedure and form. There is nothing that prevents such forms from being submitted as part of any individual case or application.	Make no change.
24-3—15 through 24-3—27 Certificate of Adequacy	The proposed Certificate of Adequacy procedure and its expiration represents a substantial "loss of protection" to applicants. What benefits will applicants receive in exchange for an adequacy certificate that expires?	Maryland Building Industry Association	In general, the Zoning Ordinance and Subdivision Regulations Rewrite will make the development review process more predictable in regards to what improvements will be recommended, what procedures will be necessary to realize development, streamlined timeframes, more certainty of outcomes and expectations, etc. Further, by allowing the Certificate of Adequacy to expire, potential developments that are near unbuilt projects with claimed facilities will not have to accommodate those impacts as well (in other words, they will not have to account for as much "background" information such as traffic as development does under the current regulations). Staff notes the Certificate of Adequacy would only expire should development not progress in a timely manner, particularly with the direction elsewhere in this analysis to extend the initial validity period to six years.	Make no change.

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			Finally, staff notes that Prince George's County is the only regional jurisdiction that does not currently incorporate expirations to the adequacy determinations.	
24-3—15 through 24-3—27 Certificate of Adequacy	"The proposal differs from the current code in that the Certificate of Adequacy (COA) test will be administered at the time of Preliminary Plan of Subdivision (PPS) (as per current practice), but also at the time of final plan if the PPS was approved prior to a certain date (the cut-off date is left blank at this time) and also at the time of building permit for developments approved 10 years prior to the yet to be determined cut-off date. This is a significant departure from current requirements. What is the proposed date? DPIE is unclear on this requirement, with the blanks in the document it is difficult to understand. Please clarify." Requiring that final plats and building permits would have to go obtain a Certificate of Adequacy after such a short period of time (1-2 years) may result in a significant hardship for property owners who already have an approved PPS. "Projects can take 1 to 3 years to get the first building permit, even with a developer that is aggressively pursuing the remaining site plans, special exceptions, record plats, and engineering approvals and permits! Other agency permits (wetland permits, offsite sewer, and offsite transportation), for example, can 2 to 3 years [sic] after site plans and engineering plans have been prepared." Will all the requirement for final plats to re-test for adequacy only be exercised for old PPSs approved before the new ordinance, or will future PPSs have a "life" and be subject to re-testing for adequacy?	Department of Permitting, Inspections, and Enforcement	The proposed Certificate of Adequacy procedures are designed to reduce the number of existing unbuilt developments from using completed adequacy tests that no longer reflect the current conditions of the site. The blanks refer to the effective date of the Subdivision Regulations – this would most likely be at least six months after the County approves the proposed Zoning Ordinance and Subdivision Regulations. Final plats that are approved after the effective date of the proposed regulations would indeed be subject to re-testing for adequacy should they not meet the established timeframes (as may be determined by the District Council in the final approval of the proposed Subdivision Regulations). Staff concur the proposed one- to two-year timeframe for Certificate of Adequacy validity is far too short, and have recommended an initial validity period of six years. Building permits may also be subject to re-testing for adequacy if their site plan was approved ten years before the effective date of the proposed Subdivision Regulations. This circumstance is intended to deal with "grandfathered" approvals that had not proceeded in a timely manner and which may be in locations where the existing and proposed public facilities situation has changed over time. In both cases, if a certain percentage of the project has been completed, or plats recorded, they may be exempt from re-testing. This is designed to ensure that ongoing development would not be required to re-test adequacy, but non-active developments would be required to re-test. Re-testing for adequacy will be subject to plats for old Preliminary Plans of Subdivision that are approved within a specified time frame before or after the effective date of the Subdivision Regulations. The Certificate of Adequacy for preliminary plans that are approved after the time window (and after the code's effective date) can expire if construction/recording of final plats/obtaining building permits does not begun. Should the development meet the established timeframes, for example if they exceed a permit requirement after X years, they will be deemed to have met their Certificate of Adequacy requirements and would not have to re-test. Additional analysis and staff recommendations on the Certificate of Adequacy procedures are located elsewhere in this document.	Make no additional change.
24-3—15 through 24-3—27 Certificate of Adequacy	"In general, the COA test, and the measuring of thresholds required to determine if the project has to be retested is far too complicated. The continuous measurement of number of permits issued, number of permits effective, gross floor area constructed, etc. is very time consuming to measure and tally, especially since the tally has to be continuously updated. The County permitting agency does not have the staff or mechanisms to easily or automatically generate this information. Please clarify if M-NCPPC will be responsible for measuring and enforcing these new requirements."	Department of Permitting, Inspections, and Enforcement	Comment noted. Staff believes the Certificate of Adequacy procedure (as may be modified prior to final approval) is extremely helpful in dealing with numerous adequacy issues that have been identified over the years, but we have no strong opinions regarding staffing or database systems and tracking. We recognize the need for all parties to adapt and get used to new procedures. Regarding the suggestion to impose a level of permanency of the Certificate of Adequacy upon recordation of plats, this is very similar to how the County currently approaches adequacy testing. Once a preliminary plan of subdivision "passes" its adequacy tests, the test is valid forever. This approach is not supported by staff, as it has proven problematic for the County. One example of why the current approach does not work deals with transportation adequacy. A project may receive transportation approval 30 years before it builds out, at which time the current conditions are quite different. Today's Subdivision Regulations do not provide a way in which to re-test that project/site under current conditions. Another example comes with regard to planning for future public facilities or transportation networks. Approved projects become part of the	Clarion Associates should provide the project team with information on how jurisdictions using approaches similar to the Certificate of Adequacy proposal track compliance and trigger-points/thresholds for re-testing.

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	"DPIE recommends that the COA be tied only to the recordation of plats and not to permits" and "that COAs are permanent once plats are recorded."		background situation (e.g. traffic), even if they have not been built or may never be built. This results in inflated networks and public facilities based on "ghost" approvals. Staff defer to Clarion Associates for additional input regarding how Certificate of Adequacy requirements may be best tracked or measured.	
24-3—15 through 24-3—27 Certificate of Adequacy	Are minor subdivisions subject to the Certificate of Adequacy?	Department of Permitting, Inspections, and Enforcement	Yes. All subdivisions that impact the Level of Service in an area are subject to the Certificate of Adequacy process. In many cases, minor subdivisions may have such a small impact that the existing infrastructure would be adequate.	Make no change.
24-3—15 through 24-3—27 Certificate of Adequacy	Who decides how long the Certificates of Adequacy are valid? How long should they be valid? The current proposal expires far too quickly. Can a Certificate of Adequacy easily be revised?	Maryland Building Industry Association	The District Council will approve the new Subdivision Regulations and the validity period for Certificates of Adequacy. Staff have directed Clarion Associates to extend the initial validity period to six years elsewhere in this analysis. The proposed Subdivision Regulations do not include a process to revise a Certificate of Adequacy. The certificate is issued when a potential development passes the appropriate adequacy tests; this is a technical assessment of the existing infrastructure and level of service. Either a proposed development does or does not meet the adequate levels of service. If an applicant wants to change a certificate – presumably because of not passing an adequacy test or due to a needed change that was identified in subsequent stages of the development process, the applicant can withdraw and resubmit the Certificate of Adequacy. Since the certificate is proposed as an administrative process approved by the Planning Director, resubmittals and reissuance can be accommodated about as quickly as a revision process. Should the Certificate of Adequacy process no longer be an administrative process, staff would likely recommend the addition of a revision path for approved certificates, since the potential timing for resubmittal and reissuance would most likely increase.	Make no additional change to the validity period for Certificates of Adequacy. Clarion Associates should provide additional information to the project team as to the circumstances in which a revision procedure for the Certificate of Adequacy may be advisable and how such a procedure may most effectively be implemented.
24-3—15 through 24-3—27 Certificate of Adequacy	What is the public's concern regarding the adequacy of public facilities?	Maryland Building Industry Association	In general, public feedback regarding the adequacy of public facilities proposals is positive. The public supports new development providing additional improvements so that there is not reduction in the Level of Service for public facilities. There is also substantial public support for the proposed Certificate of Adequacy procedures, most particularly, for the proposed re-testing of adequacy should development not proceed in a timely manner. Since the staff recommended alternative to adequacy of public facilities testing found on pages 2 and 3 of this analysis is new, it will be highlighted at the time of public release of the Comprehensive Review Draft to provide for robust public discussion.	Make no change.
24-3—15 through 24-3—27 Certificate of Adequacy	"The proposed code will exempt for projects from needing adequacy review. However, it should be noted that adequate capacity of water and sewer in areas of re-development may not be adequate for higher densities. These areas may be exempt from the MNCPPC adequacy testing."	Washington Suburban Sanitary Commission	There is no proposed adequacy "test" for water and sewerage service; the current "test" has been carried forward and will be adapted pursuant to direction elsewhere in this analysis. Essentially, the only requirement regarding water and sewerage service is that the property is located in the appropriate service category. Should WSSC desire a more robust "adequacy" test for water and sewerage service, one should be proposed and discussed. The most appropriate time for such discussion is in the anticipated follow-up effort to revisit the adequacy of public facilities tests and thresholds after the effective date of the Zoning Ordinance and Subdivision Regulations.	Make no change.

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24-3—16 Certificate of Adequacy	Table 24-3.503 on page 24-3—16 describes which ongoing preliminary plan of subdivisions would be exempt from the Certificate of Adequacy review. There are three variables: the percentage of final plats recorded for the subdivision, the percentage completed for construction single or two family dwelling units, or the percentage completed for construction of gross floor area for nonresidential and multifamily uses. Does development have to meet any one of these requirements or all three? "DPIE believes that policing this at time of building permit is not practical and will be problematic for development in this County." The Department of Permitting, Inspections, and Enforcement recommend that, should County leadership disagree with tying Certificates of Adequacy to recordation of plats rather than permits, that the timeframe for construction of 25 percent of lots be increased to 10 years. "DPIE also recommends that the '25% of lots' be further defined – this is okay for a simple single family subdivision but what about mixed use, commercial, and other use types…..DPIE recommends that commercial/industrial development have more beneficial standards with regard to COA's [sic] – recommend no expiration of COA for commercial/industrial."	Department of Permitting, Inspections, and Enforcement	Comment noted. As proposed, Table 24-3.503 requires each preliminary plan to meet all three criteria (as may be appropriate; for example, if a subdivision does not have nonresidential or multifamily components, they would not have to meet that criterion). Staff is open to suggestions on how the monitoring of compliance with the thresholds that may be established would best be achieved. Staff does not agree with exempting nonresidential development from expirations associated with Certificates of Adequacy. However, nonresidential uses also have an impact on the surrounding infrastructure. Exempting such development would erode the purposes of the proposed procedures to help "free up" capacity for future development if older approvals do not move forward, reduce the issues associated with master planning public facilities systems based on "ghost" trips or other conditions that are unlikely to be realized, and provide opportunities to reevaluate adequacy needs should projects not proceed on a timely basis.	Make no change.
24-3—19 Certificate of Adequacy	The Council requested additional information regarding the proposed building permit reservation process on page 24-3—19.	Council	Sec. 24-3.504.C of Clarion's draft Subdivision Regulations provides enabling authority for the District Council to slow down the pace of development in areas of the County that lack adequate public facilities. The provision allows the District Council, by resolution, to place an annual limit on the number of building permits to be issued in a specified geographic area. Given the history of adequate public facilities policy in this County, we expect the District Council would use this power only in extreme circumstances. For example, if an area of the County was facing severe school overcrowding, the District Council might declare that no more than 250 building permits for dwelling units could be issued in that area each year, and that no single subdivision could obtain more than 50 of those permits. When those limits are reached, applications for additional building permits would be held until the start of the next year. Other counties in Maryland have used similar provisions to slow the rate of growth until infrastructure catches up, and in fact the proposal by Clarion Associates is based on Carroll County. This approach is sometimes referred to us a "rolling moratorium." As drafted, the limits on building permits could not remain in place for more than six years.	Make no change.
24-3—19 through 24-3—22	Is it possible to have an easier test for transportation adequacy? There is concern regarding no parking minimums and no transportation test.	Council	*Clarion responds:* "Before elaborating more on the answer to the two questions, let us first say that the recommendation for no minimum parking for most uses in the Activity Center/Transit-Oriented Development Zones was made because it has been used successfully in some development codes to catalyze	Make no change.

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Public Facility Adequacy Transportation Adequacy			economic development, while at the same time not creating off-street parking problems. Remember, if there is no minimum requirement, market demands will dictate the amount of parking. Investors/developers do not build office, retail, or residential development without adequate off-street parking available to accommodate tenants or buyers (the properties will not sell otherwise). With respect to the exemption from transportation adequate public facilities (APF) requirements, it likewise is recommended because it has been used by some communities in the most urban and highest intensity places because these are the areas where traffic congestion is most acceptable, the use of other forms of mobility should be most supported (e.g., transit, walking, and biking), and the application of traditional types of transportation APF standards are many times counterproductive. (In fact, in the 1990s, the Florida Legislature, at the urging of many of the urban counties and cities in the state, modified the state APF legislation to allow for "concurrency exemption areas" in these most urban places). "With respect to the questions, is it possible to have reduced off-street parking standards in these areas, as well as an 'easier transportation APF test' to incentivize investment but still have a test, the answer is 'yes' to both questions. While some communities completely exempt specific geographic areas from parking requirements (e.g., areas within a Downtown or areas within a certain distance of transit), other communities reduce the minimum parking standards (e.g., only require 50 percent or 25 percent of the minimum standard). The County could certainly do that. Establishing an 'easier test' for transportation APF instead of an exemption could also be done, and has been done by some communities. It is typically accomplished in one of several ways: (1) by reducing the LOS standard, or (2) changing the method used for determining whether an APF standard is met (e.g., allowing averaging over an area versus measuring street segments and intersections)." Staff notes that adequacy of public facilities certification/testing, especially for transportation facilities, will likely be one of the key decisions facing the District Council with this project.	
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	Referencing the US 1 corridor, a Councilmember indicated they did not want to see us considering a project waived from an adequacy test that is not providing connected streets and multimodal connections. Another Councilmember indicated they did not want to see any exemptions in any zone for transportation adequacy testing. Staff indicated we should not exempt the transportation adequacy determination in transit-oriented areas. Instead of looking at a Level-of-Service threshold for vehicles, consider other adequacy findings and mitigation measures. How else do you offset failing intersections? The Council asked if we were looking at more of a global way of testing the adequacy of transportation. Right now it's a fairly localized traffic test. What about looking at projects more collectively?	Council, Planning staff	Jurisdictions across the country have chosen to exempt their most transit-served locations from roadway public facility requirements to encourage investment and take advantage of the transit service that is available. This is one alternative the County could pursue, and is recommended by Clarion Associates. This approach strongly encourages multi-modal planning to occur concurrently with development to address any outstanding traffic issues. Typically, where jurisdictions look at transportation adequacy collectively (rather than at individual projects), they apply a collective approach selectively to targeted communities where they feel there are specific approaches or issues that need to be addressed. This is one of the reasons Clarion Associates suggest exempting the highest density transit locations. Florida adopted concurrency standards in 1985, and by 1990 the larger urban communities went back to the state legislature and told them the concurrency standards were not working and were counter-productive. Clarion Associates recommends that if Prince George's County does not want to completely exempt the highest-density/most urban areas, at least consider making their tests looser than anywhere else. Another approach could be to change the metrics for measuring the roadway Level-of-Service to make it a much more flexible standard in these transit-oriented areas than what would otherwise be the norm. A third approach, which was implemented in Montgomery County, could be to eliminate the transportation adequacy determination in favor of a fee that all development would pay.	Make no change.

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	The recommendation not to require a transportation adequacy standard in dense urban zones is too relaxed. This may cause apprehension or angst within the community.		Ultimately, this question is a policy decision that should be made by the District Council.	
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	The Department of Permitting, Inspections, and Enforcement speaks to the current method of achieving transportation adequacy and how it is viewed as "problematic and cumbersome, in that each development often plays a waiting game, and in many instances the development that proceeds forward is overburdened, whereas the development that waits gets off 'scot free.'" The Department suggests a new approach consisting of scoping offsite roadway improvements, pegging improvements to timing of building permit issuance, establishing developer cost thresholds, and allowing fees-in-lieu, alternative mitigation, or Surplus Capacity Reimbursement Procedures.	Department of Permitting, Inspections, and Enforcement	Comments noted. Additional consideration of alternative approaches to the transportation adequacy proposals by Clarion Associates is addressed elsewhere in this analysis.	Make no additional change.
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	Can we make the Maryland State Highway Administration follow the new adequacy of public facilities process?	Agencies	No. The State Highway Administration (SHA) is exempt from the County's Zoning Ordinance and Subdivision Regulations, and would rarely be a developer in any event – SHA primarily builds and maintains roads, only occasionally needing to construct a facility such as a service yard, district office, or salt dome.	Make no change.
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	What is it we're looking for under the new transportation adequacy standard? Need to update the transportation review guidelines.	Municipalities	The transportation adequacy recommendations look at the adopted level-of-service standard for vehicular traffic and include offsets for alternate modes of travel (such as transit, bike, and pedestrian facilities). Staff concurs the *Transportation Review Guidelines* will need to be updated following the approval of new Subdivision Regulations. This would be an internal Planning Department effort, as with any update to the *Transportation Review Guidelines*.	Make no change.
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	Do any other jurisdictions use adequacy of public facilities as a method to improve connectivity to schools? Can the legislation that required bicycle and pedestrian adequacy for Centers and Corridors (under the prior 2002 General Plan) be expanded in the Subdivision Regulations? Bicycle and pedestrian adequacy is addressed using a trip credit approach instead of a separate element of transportation adequacy. This constitutes a change from current practice, and is one that may have	Planning staff	Prince George's County's bicycle and pedestrian adequacy requirements are unique. Most other communities do not use adequacy of public facilities requirements to improve connectivity to schools. The proposed Subdivision Regulations incorporate bicycle and pedestrian adequacy into the general transportation adequacy; this allows bicycle and pedestrian infrastructure to count for some of the trips, thereby reducing the overall generated trips of a development and a likely reduction to the amount of new transportation infrastructure built. While the proposed adequacy standards for bicyclists and pedestrians are a good start, there may need to be additional refinement and reconciliation with some of the goals of the current regulations. More specific comments on this issue are contained in this analysis, and Planning staff will continue to consider this question, and may propose additional changes before the new Subdivision Regulations proceed to legislation.	Make no change.

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	financial implications on the County's Department of Public Works and Transportation.			
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	Will the proposed on-site bicycle and pedestrian requirements cost more than before? Will more facilities be built through the new standards?	Planning staff	Yes, the regulations proposed by Clarion Associates will likely result in more pedestrian and bicycle infrastructure being built through the development process. Connectivity to adjacent developments, direct walking and bicycle paths, and bicycle parking are now required. The additional infrastructure will likely cost more. While much of this cost would be borne by the developers, some may be borne by the County.	Make no change.
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	The proposed Certificate of Adequacy is an administrative (Planning Director) process. This gives the Planning Director substantial oversight regarding developments, which could be interesting given the varied opinions regarding background traffic, traffic volume projections, and other technical elements. This may be construed as a reduction in the public process. Although the proposed code requires a pre-application neighborhood meeting, this meeting will likely take place before any traffic assessments are completed.	Planning staff	It is important to understand that transportation adequacy determinations are a highly technical process that are based in large part on widely-accepted factors (traffic level-of-service, critical lane volumes, etc.) that are referenced by the County's current *Transportation Review Guidelines*. While the Planning Board has the opportunity to weigh in on the findings and the discretion to make changes today, the findings themselves are the result of technical analysis at the staff level. Clarion Associates have indicated it is extremely uncommon for a discretionary body to weigh in on adequacy determinations due to their technical nature.	Make no change.
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	There is some concern that the consultant team may be "biased" toward creating a code that lessens adequacy in favor of providing more certainty. Perhaps there should be a "traffic adequacy session" to discuss industry standards for adequacy of public facilities, and how these standards are best adapted for the region? It may be beneficial to host a traffic adequacy session with four to five local traffic consultants to discuss industry standards.	Planning staff	Comment noted.	Clarion Associates should re-evaluate their recommendations regarding transportation adequacy and let the project team know if additional changes may be necessary to better tailor these regulations for the region. Planning staff should reach out to on-call transportation consultant firms to discuss the broader questions raised by this topic.
24-3—19 through 24-3—22 Public Facility Adequacy Transportation Adequacy	There are many "ghost roads" in the County. These are roads that are in the official Capital Improvement Project (CIP), but have not been built. Developers are allowed to apply trips to these roads.	Communities	The proposed adequacy of public facilities (APF) regulations indicate that facilities including in the state Consolidated Transportation Program (CTP) or County Capital Improvement Program (CIP) can be included as available capacity. This approach carries forward current practice from the Subdivision Regulations and is a best practice approach that allows development to occur when it may not be feasible to construct a needed roadway facility in the immediate term. Roads that are included in a CIP but never built are not something that can be addressed by the Zoning Ordinance or Subdivision Regulations. Operating agencies will need to better assess the capacity to build roads that are listed in the CIP.	Make no change.
24-3—21 Public Facilities Adequacy	"The addition of [Offsets for Transit, Bike, and Pedestrian Facilities] criteria, allowing vehicular trips to be reduced due to alternative trip capture is an excellent addition to the methodology of	Department of Permitting, Inspections,	Staff concurs.	Make no change.

COMMENTS AND QUESTIONS FOR FURTHER EVALUATION AND RESPONSE				
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Transportation Adequacy	transportation adequacy. Good to see this as an incentive….”	and Enforcement		
24-3—22 Public Facility Adequacy Transportation Adequacy	The timing for transit, bike, and pedestrian facility construction as alternative trip capture should be established before the first building permit.	Department of Permitting, Inspections, and Enforcement	Section 24-3.505.E.3 on page 24-3—22 indicates that proposed alternative trip capture improvements need to be built or have full financial assurances prior to the first building permit. Requiring construction for pedestrian and bicycle facilities prior to the first building permit can be problematic because these facilities will be adversely impacted over the course of construction.	Make no change.
24-3—23 24-3—24 Public Facility Adequacy Police Facility Adequacy	The current requirements for police adequacy is that the developer must pay a fee for each building permit. “This is a simple and straightforward mechanism to collect the funds needed to construct the facilities.” The proposed code recommends establishing a Public Facilities Financing and Implementation Program (PFFIP) for Police. This is impractical, the current process is better. The Department notes that the current and proposed “test” language for police adequacy “is a cumbersome method of solving Police adequacy. DPIE recommends retaining the current method of paying predictable set fees per building permit in areas where police service is inadequate. The County is in the best position to plan for and construct new police stations. Expecting developers to establish PFFIP’s for Police Stations is impractical.”	Department of Permitting, Inspections, and Enforcement	As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities. A discussion of the comments received on police adequacy is provided below. Regarding the Department of Permitting, Inspections, and Enforcement’s observation that police adequacy is mitigated through a fee for each building permit, this is inaccurate. CR-78-2005 established guidelines to mitigate public safety infrastructure with three potential paths should police of fire/EMS service be found to be inadequate: 1. Payment of a mitigation fee, 2. In-kind services, or 3. Pooling of resources. The PFFIP procedure already exists in the current Subdivision Regulations; it has simply been carried forward as an option. To date, only one PFFIP has been established in the County (Westphalia). Staff notes the Subdivision Regulations (both current and proposed) institute a police adequacy test, but that the current test was suspended by CR-69-2006. It is a policy decision by the Council when or if to reinstate the adequacy test for police services. Staff concurs with the general comment that the County is in the best position to plan for and construct new police stations and notes this is essentially the same rationale offered by Clarion Associates as to why they recommend not continuing with a Fire/EMS test at the time of subdivision. One of the larger policy decisions facing the District Council regarding adequacy of public facilities is whether or not to shift to a surcharge system exclusively in lieu of adequacy testing at the time of subdivision review. This decision will arise when the Council decides to revisit adequacy testing and determinations subsequent to the effective date of the new Zoning Ordinance and Subdivision Regulations.	Make no additional change.
24-3—24 24-3—25 Public Facility Adequacy Parks and Recreation Adequacy	Concern was expressed about the proposed level-of-service standard for parks and recreation facilities shifting from 15 acres to 2.5 acres per 1,000 residents in urban centers. In a targeted area where there may not be much park land nearby, would this recommendation be different?	Council	Clarion Associates indicated that, while the County’s Formula 2040 Parks and Recreation Functional Master Plan recommends 15 acres of parkland for every 1,000 residents as a rule of thumb, the best practice for urban areas is much closer to 2 acres of parkland for every 1,000 residents. Creating walkable urbanism is going to naturally include mixed-use development, but the park space that is required needs to be much more compact in these locations. Staff discussions with the Department of Parks and Recreation (DPR) indicate that DPR staff concur with the proposed shift to a 2.5-acre standard. Clarion Associates indicated they would not change the recommendation in the event there is little parkland near a targeted growth location. They have worked with contextual standards in the past, so it could be something to explore if desired.	Make no change.
24-3—24 24-3—25	Are there communities that have already met the adequacy of public facility standards for parks? How is parkland adequacy demonstrated?	Communities	The recommended requirement for meeting parks and recreation adequacy is to provide an equivalent of 2.5 acres per every 1,000 residents in the Transit-Oriented/Activity Center zones and 15 acres per 1,000 residents in the rest of the County. The Department of Parks and Recreation is conducting additional work to identify appropriate modern approaches to meet parks and recreation adequacy which may result in a	The Department of Parks and Recreation will conduct additional investigation to inform the parks and recreation adequacy

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Public Facility Adequacy Parks and Recreation Adequacy			different approach in the near future (following the effective date of the new Zoning Ordinance and Subdivision Regulations).	requirements of the new Subdivision Regulations.
24-3—24 24-3—25 Public Facility Adequacy Parks and Recreation Adequacy	Is the Department of Parks and Recreation wedded to the existing park service areas? Are there projects within each of the service areas that are also included in the County's Capital Improvement Program (CIP)? Would these service areas be appropriate for "holding areas" for adequacy purposes?	Planning staff, Department of Parks and Recreation	The Department of Parks and Recreation will continue to use the nine service areas outlined by the Formula 2040 Functional Master Plan. These areas are tied to the multi-generational centers, and may be appropriate as "holding areas" should the Department of Parks and Recreation decide this concept makes sense for Prince George's County. If the projects within each park service area is in the County's Capital Improvement Program (CIP), it is possible for applicants to make a pro-rata contribution to the project. Similar applicant contributions have been made to other CIP projects.	Make no change.
24-3—24 24-3—25 Public Facility Adequacy Parks and Recreation Adequacy	The fundamental decision point regarding the adequacy of parks and recreation facilities is whether the Department of Parks and Recreation should continue the mandatory dedication route or move to a fee-based approach. Further, it will be necessary to outline what development can be exempt from fees/dedication that would have de minimus impacts.	Department of Parks and Recreation	Comment noted.	The Department of Parks and Recreation will conduct additional investigation to inform the parks and recreation adequacy requirements of the new Subdivision Regulations.
24-3—24 24-3—25 Public Facility Adequacy Parks and Recreation Adequacy	How do the new Zoning Ordinance and Subdivision Regulations address the maintenance of private park facilities in public spaces?	Department of Parks and Recreation	Currently, park facilities can be private facilities, as long as they serve residents. The ownership question is not directly addressed by either the Zoning Ordinance or the Subdivision Regulations and is best left to the Department of Parks and Recreation to address, since they will need to decide how to best maintain private facilities – especially for urban sites, such as plazas/squares.	The Department of Parks and Recreation will conduct additional investigation to inform the parks and recreation adequacy requirements of the new Subdivision Regulations.
24-3—24 24-3—25 Public Facility Adequacy Parks and Recreation Adequacy	Parks and recreation adequacy should also apply to nonresidential development as well as residential development	Department of Parks and Recreation	Comment noted.	The Department of Parks and Recreation will conduct additional investigation to inform the parks and recreation adequacy requirements of the new Subdivision Regulations.
24-3—24 24-3—25 Public Facility Adequacy Parks and Recreation Adequacy	How does parks and recreation adequacy determinations fit into the big picture?	Department of Parks and Recreation	The proposed adequacy of public facilities regulations provide a framework indicating that a determination needs to be made and at what point of the process. The proposed Subdivision Regulations do not provide the formulas and thresholds to determine how much parkland/surcharge should be provided per development.	The Department of Parks and Recreation will conduct additional investigation to inform the parks and recreation adequacy requirements of the new Subdivision Regulations.
24-3—24 24-3—25	The Formula 2040 Functional Master Plan for Parks divided the County into service areas. The Department of Parks and Recreation will need to conduct the	Department of Parks and Recreation	Comment noted.	The Department of Parks and Recreation will conduct additional investigation to inform the parks and recreation adequacy

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Public Facility Adequacy Parks and Recreation Adequacy	formal analyses to assess the need/adequacy for each area.			requirements of the new Subdivision Regulations.
24-3—24 through 24-3—27 Public Facility Adequacy Parks and Recreation Adequacy Schools Adequacy	Sections 24-3.508 and 24-3.509 should be switched so that the Parks and Recreation adequacy regulations lead more naturally into the following Sec. 24-3.600, which deals with parkland and recreation facilities.	Planning staff	This comment is superseded by the new approach to adequacy of public facilities recommended on pages 2 and 3 of this analysis.	Make no additional change.
24-3—25 through 24-3—27 Public Facility Adequacy Schools Adequacy	The Department of Permitting, Inspections, and Enforcement is "in support of the new criteria for applicability and exemptions provided for redevelopment, elderly housing, three (3) lots or less and transit oriented developments." "Is the 'adequate school facility fee' the same as the 'school facility surcharge fee'? Is the school facility surcharge fee waived for this case? If yes, this is an excellent change of policy that will stimulate much needed redevelopment of old housing and apartments in this county." Regarding the requirement that states that "whenever an adequacy school facility fee is charged in conjunction with a building permit, it shall be reduced by the full amount of the school facilities surcharge imposed on that same permit," the Department seeks clarification.	Department of Permitting, Inspections, and Enforcement	These comments are superseded by the new approach to adequacy of public facilities recommended on pages 2 and 3 of this analysis. That said, staff does wish to respond to the specific comments. While staff appreciates the support for applicability and exemptions, we note the exemption language for schools adequacy is not new; it exists (in slightly different wording) in the current Subdivision Regulations. The "school facility surcharge fee" is a fee that is applied to all residential development or redevelopment projects and is charged per residential unit. The amount is determined by a development's location in the County and whether it is a single-family or multifamily dwelling unit. This fee is paid regardless of the current school's level of service. The "adequate school facility fee" would be an additional fee to ensure that a development's school cluster is providing an adequate level of service. The "adequate school facility fee" will not replace the "school facility surcharge fee." In the event where a surcharge fee has been paid, the "adequate school facility fee" will be reduced by that amount. This will ensure that the full adequate school facility fee is paid, assuming the school facilities surcharge is the lower cost of the two payments. More clarification is needed in the event the adequate school facility fee is less than the surcharge. This language exists in the current Subdivision Regulations (see Sec. 24-122.02(c)), but could use additional clarity.	Make no additional change.
24-3—25 through 24-3—27 Public Facility Adequacy School Adequacy	Prince George's County Public Schools would like to establish level-of-service standards for schools that would modernize and update the current adequacy of public facilities standards. Some specific language was proposed to replace the current standards, including a proposed shift to a 95 percent capacity threshold (from the current 105 percent capacity).	Prince George's County Public Schools	Comments noted. Pursuant to direction from the District Council during their annual retreat in January 2017, revisions to the current adequacy of public facilities requirements will be limited, since many potential revisions require significant analysis and the timing does not readily accommodate the timeframe of the Subdivision Regulations rewrite. As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities and expects public facilities to receive more focus immediately following the effective date of the new Zoning Ordinance and Subdivision Regulations.	Make no change.
24-3—26 Public Facility Adequacy School Adequacy	The City of Greenbelt recommends that redevelopment projects only be exempt from school adequacy testing "if the unit replacement is on a one to one basis," that that subdivisions located within a	City of Greenbelt	Staff does not concur with the requests, as both of these exemptions from the school facilities "test" are intended to incentivize the kind of redevelopment and new development opportunities the County is most interested in securing. That said, pursuant to direction from the District Council during their annual retreat in January 2017, revisions to the current adequacy of public facilities requirements will be limited, since many potential	Make no change.

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	Transit-Oriented/Activity Center Zone should not be exempt from testing if they contain residences.		revisions require significant additional analysis and the timing does not readily accommodate the timeframe of the Subdivision Regulations rewrite. As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities and expects public facilities to receive more focus immediately following the effective date of the new Zoning Ordinance and Subdivision Regulations.	
24-3—26 Public Facility Adequacy School Adequacy	With regard to school adequacy, there may be a need to discuss the information required in 24-3.509.B.4.c (which deals with enrollment and calculation of adequacy).	Agencies	Comment noted.	Make no change at this time.
24-3—26 Public Facility Adequacy School Adequacy	The Council believes the County should continue to impose the school facility surcharge for new residential development and not revert back to the 105 percent cluster capacity test for school adequacy.	Council	Current state law requires the County Council of Prince George's County to impose adequate public facilities standards and requirements with respect to schools. The state does not mandate the form in which these standards and requirements should take, but they do need to be contained in the Subdivision Regulations. See §23-106 of the state land use article. The Council has elected to suspend the determination in favor of surcharges imposed elsewhere in the County Code, but staff believe language still needs to appear in the Subdivision Regulations. The inclusion of this language does not mean the Council could not continue to impose the surcharge and not enforce the cluster capacity. As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities. This will provide enabling procedures that staff believe will satisfy the requirement of state law.	Make no change.
24-3—27 through 24-3—29 Parklands and Recreation Facilities Mandatory Dedication of Parkland	The amount of land required as mandatory dedication for parks and recreation is not reflective of what is actually needed. In some instances, it would be too high, while in other instances it would be too low.	Communities	Comment noted. Pursuant to direction from the District Council during their annual retreat in January 2017, revisions to the current adequacy of public facilities requirements will be limited, since many potential revisions require significant additional analysis and the timing does not readily accommodate the timeframe of the Subdivision Regulations rewrite. As discussed on pages 2 and 3 of this analysis, staff now recommend a different approach to addressing the adequacy of public facilities and expects public facilities to receive more focus immediately following the effective date of the new Zoning Ordinance and Subdivision Regulations.	Make no change at this time.
24-3—29 through 24-3—40 Conservation Subdivision Standards	The City of Bowie supports including a Conservation and Development Plan for the review of conservation subdivisions, "as the new process will improve the process for identifying and ensuring protection of high priority areas early in the review process."	City of Bowie	Comment noted.	Make no change.
24-3—29 through 24-3—40 Conservation Subdivision Standards	"In the site analysis map [required by Sec. 24-3.703], it should be noted that water and sewer easements cannot be counted toward tree conservation."	Washington Suburban Sanitary Commission	The restriction against counting woodland preservation in water and sewer easements as credit to meet the woodland conservation requirement is contained elsewhere in the County code and in the *Environmental Technical Manual* and does not need to be incorporated in the Subdivision Regulations. It should also be noted that any woodland within these easements must be counted as cleared.	Make no change.
24-3—29 through 24-3—40	"Include in this section that the location of ESD [environmental site design] with respect to public water and sewer lines and service connection lines must comply with WSSC separation requirements."	Washington Suburban Sanitary Commission	Coordination with WSSC is a natural part of any proposed development, particularly at the time of Preliminary Plan of Subdivision when major utilities are laid out. It is not a best practice to codify agency practices, which may change over time and with little notice, in County laws.	Make no change.

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Conservation Subdivision Standards				
24-3—39 24-3—40 Zero Lot Line Development	"Even with zero lot line development, adequate space should be provided for water and sewer lines as well as other public utilities. "PUEs [public utilities easements] should be required for zero lot line development	Washington Suburban Sanitary Commission	Zero Lot Line development is a design solution for subdivisions, and is intended "to take advantage of natural features, and to create energy efficiency and environmentally-sensitive, attractively designed communities." Minimized setbacks, yards, and street frontages are possible under this development approach. To the extent that public utilities easements may be required through the Subdivision Regulations, they would also be required in a Zero Lot Line development; in fact, the fourth required finding for approval is that "easements and covenants adequately provide for the maintenance needs and privacy of individual lot owners."	Make no change.
24-6—3 through 24-6—15 Definitions	"Add: "WSSC/Washington Suburban Sanitation Commission "HPA/Hydraulic Planning Analysis"	Washington Suburban Sanitary Commission	Staff does not believe we should define every agency that may have a role in the subdivision and development process in the new codes. Additionally, the Hydraulic Planning Analysis is an internal procedure to the Washington Suburban Sanitary Commission and should not be defined in the County's laws.	Make no change.

TYPOGRAPHIC AND EDITORIAL COMMENTS				
Page Number	**Comment**	**Source**	**Staff Analysis**	**Staff Recommendation**
24-2—35 Variation	There is a typo in Sec. 24-2.503.B.	Planning staff	The typo should be corrected.	Revise Sec. 24-2.503.B. to read: "The ~~variance~~ variation application shall be reviewed concurrently with the minor or major preliminary plan application."
24-3—14 Summary of Public Facilities Adequacy Standards Table	There are two typos in Table 24-3.502.	Planning staff	The first typo should be corrected. The second typo deals with school clusters, which would no longer appear in this table pursuant to direction elsewhere in this analysis.	Revise the Area of Applicability language for Transportation Service Area 1 to eliminate the misplaced "(Pl" before "*Plan Prince George's….)"*
24-3—15 Certificate of Adequacy	There is a typo in Sec. 24-3.503.A.1.a.	Planning staff	The typo should be corrected.	Revise Sec. 24-3.503.A.1.a. to read: "A preliminary plan ~~for~~ of subdivision;"
24-3—18 Public Facility Adequacy	Sec. 24-3.504.A.4. is unclear as to who is able to include Planned Capacity in decision-making.	City of Greenbelt	Staff concurs. The body should be the Planning Director, since this is the proposed decision-maker for the Certificate of Adequacy process.	Revise Sec. 24-3.504.A.4. to read: "…at the time of the proposed development, the ~~County~~ Planning Director may include Planned Capacity in making the determination of adequacy (for each individual type of Public Facility)."