



**Committee:** T&E  
**Committee Review:** N/A  
**Staff:** Keith Levchenko, Senior Legislative Analyst  
**Purpose:** Final action – vote expected  
**Keywords:** Water and Sewer Plan

AGENDA ITEM #14  
July 25, 2023  
**Action**

## SUBJECT

Council Response Letter to the Maryland Department of the Environment (MDE) Actions Regarding the County's Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2022-2031 and Denial of Various Category Change Requests

## EXPECTED ATTENDEES

- Steve Shofar, Chief, Intergovernmental Affairs Division, Department of Environmental Protection (DEP)
- Alan Soukup, Senior Planner, Intergovernmental Affairs Division, DEP
- Nasser Kamazani, Senior Environmental Engineer, Intergovernmental Affairs Division, DEP
- Heidi Benham, Manager, Well and Septic Section, Department of Permitting Services

## DESCRIPTION/ISSUE

- On March 9, 2023, MDE transmitted a letter (see ©59-62) disapproving category change request WSCCR 21-TRV-03A (David Mohebbi), noting that the County's Department of Permitting Services (DPS) had not confirmed that the property's septic system was failing. For more details on this category change request and the Council action, please see the [Council Staff Report from October 25, 2023](#).
- On March 16, 2023, MDE transmitted a letter (see ©1-48) which noted MDE's approval of the County's 2022-2031 Water and Sewer Plan with modifications. Most of the modifications involve technical or clarifying changes with which MDE and DEP staff concur. However, MDE also included disapprovals of several policy changes the Council approved last October. These disapprovals include changes the Council made to the long-standing abutting mains policy and to the newly approved Commercial Sewer Service Policy.
- On March 25, 2023, MDE transmitted a letter (see ©49-58) which noted MDE's disapproval of several category change requests conditionally approved by the Council. These included:
  - WSCCR 20-TRV-14A: Transquest LLC
  - WSCCR 20-TRV-15A: Travilah Oak LLC
  - WSCCR 20-TRV-03A: Ashwani & Janak Arora
  - WSCCR 20-TRV-05A: Ravinder & Rita Kapoor
  - WSCCR 20-TRV-09A: Sami and Siham Ainane

These disapprovals were based on MDE's disapproval actions (as noted in its March 16 letter) regarding the County's Water and Sewer Plan. For more information on each of these requests, please see the [Council Staff Report from October 25, 2023](#).

- Per State law, within six months of receiving the notice of any disapprovals, the County may ask MDE to reconsider its disapprovals.

## T&E COMMITTEE RECOMMENDATION

- The T&E Committee met on June 29 and recommended the following actions:
  - Asked DPS and DEP staff to inspect Mr. Mohebbi’s septic system in early July to confirm the condition of the septic system.

**Update:** DPS staff met with Mr. Mohebbi and inspected his septic system on July 6. DPS’ report from that visit is attached on ©G-H. DPS did not identify any malfunctions or failures but suggested to Mr. Mohebbi that he consider replacing the existing BAT (best available technology) septic tank with a standard septic tank. The BAT unit was required by State law at the time the system was first installed but is no longer required for his property. A standard septic tank would eliminate some ongoing costs and some mechanical components that may require future replacement. **Based on DPS’ assessment that the septic system is not failing, Council Staff does not recommend seeking reconsideration from MDE of its disapproval of this category change action.**

- Concurred with Council Staff to not seek reconsideration of MDE’s revised language for the Abutting Mains Policy involving main extensions, nor the related disapprovals for the following category change requests: 20-TRV-03A Arora and 20-TRV-05A Kapoor.
- **Concurred with Council Staff that the Council President send a letter to MDE seeking reconsideration of the following disapprovals:**
  - **The Abutting Mains Policy Transfer of Abutting Mains Rights**– new language allowing for the transfer of abutting mains rights from one property to another under certain conditions and of the related category change request: 20-TRV-09A (Ainane)
  - **The New Commercial Sewer Service Policy** and the related category change requests: 20-TRV-14A (Transquest LLC), and 20-TRV-15A (Travilah Oak LLC)
- Consistent with the T&E Committee recommendations, a draft letter from the Council President to MDE seeking reconsideration of the above items is attached on ©A-F. The letter responds to issues raised by MDE in its letters of March 16 and March 25 and suggests some clarifying text in the Water and Sewer Plan to address MDE’s concerns. **If the Council is supportive of seeking reconsideration by MDE of the above-noted items, this draft letter will be finalized and transmitted by the Council President to MDE.**

### This report contains:

- Draft Letter to the Maryland Department of the Environment (Pages A-F)
- Department of Permitting Services July 10 Memorandum: Site Visit – 11905 Centurion Way, Potomac, MD (G-H)
- June 29, 2023 T&E Committee Staff Report (1-©69)

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# **Draft Council President Letter to the Maryland Department of the Environment (MDE) Seeking Reconsideration of Some MDE Water and Sewer Plan Actions**

July XX, 2023

D. Lee Currey, Director  
Water and Science Administration  
Maryland Department of the Environment  
1800 Washington Boulevard  
Baltimore, MD 21230

Dear Mr. Currey,

On March 27, the Montgomery County Council received a final action letter from the Maryland Department of the Environment (MDE) approving Montgomery County's 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan (Water and Sewer Plan) with changes.

While the Council has no issues with most of the changes made by MDE, by notice of this letter, the Council formally requests that the Maryland Department of the Environment (MDE) reconsider its disapproval of new language the Council approved in its 2022-2031 Plan in October 2022 regarding the Abutting Mains Policy (transfer of abutting mains rights) and MDE's disapproval of new language the Council approved creating a Commercial Sewer Service Policy for properties outside the planned service area.

Also, on April 6, 2023, the Council received a final action letter from MDE disapproving several category change requests impacted by MDE's disapproval actions noted above. As a result, the Council requests that the following category change disapprovals be reconsidered in tandem with MDE's 2022-2031 Plan actions:

- WSCCR 20-TRV-09A (Sami and Siham Ainane)
- WSCCR 20-TRV-14A: Transquest LLC
- WSCCR 20-TRV-15A: Travilah Oak LLC

## **Abutting Mains Policy – Transfer of Abutting Mains Rights**

This longstanding policy provides an opportunity for properties which are outside the planned water/sewer service area but which abut a water or sewer main to be eligible for a single-connection under certain circumstances.

In March 2021, the Council deferred WSCCR 20-TRV-09A (Sami and Siham Ainane) pending further discussion of whether to revise the abutting mains policy to explicitly allow for the transfer of abutting main connection rights from one property to another under limited

circumstances. The applicant was requesting approval of public sewer to serve an outlot immediately adjacent to another developed property with a single-family detached home also owned by the applicant utilizing a septic system. Both properties abut a sewer main, with the developed lot eligible for a single-connection under the Abutting Mains Policy. The outlot is ineligible to connect, since it was part of a prior subdivision whereby another property was provided the single-hookup rights.

At the time of the Council discussion of the category change request, Executive Staff had noted that if the developed lot and the outlot were to go through a re subdivision process and a portion of the developed lot were to be subsumed into the outlot, then the abutting mains policy in the current 2018 – 2027 Plan could be interpreted as allowing a single connection to either one of the properties. Under that situation, there would be no other specific criteria that would need to be met by the applicant.

The Council ultimately supported allowing for the transfer of abutting mains rights under certain conditions and included the conditions below in the Council's 2022-2031 Plan adopted in October 2022.

- *Both properties must abut the water/sewer main with the donating property confirmed by DEP to be eligible for a single connection via the abutting mains policy.*
- *Both properties must be contiguous (i.e. share a property boundary)*
- *Both properties must be under common ownership*
- *If improved, the property with the existing abutting mains connection right must have a fully functioning septic system that satisfies all current septic system permitting requirements, including an established septic reserve area, under State and County law as verified by the Department of Permitting Services.*
- *The property donating the existing abutting mains connection right will no longer be eligible for public service through the abutting mains policy.*
- *Approval of the connection right transfer will be conditioned upon Planning Board confirmation of the receiving property as a building lot.*

The MDE Final Action letter included the following reasons for disapproving this new policy language. The Council's response to these concerns is noted in bold immediately after each point

- Future failure of the original property's onsite system after the connection "right" has been transferred. It is unclear how the proposed policy 11.G.3.c. will address the emergent public health and safety issue arising from the failed system.

**Council Comments: The failure of the donating property's onsite system is very unlikely given the requirement that an improved property donating the abutting mains right must have a fully functioning septic system that satisfies all current septic system requirements, including established reserve areas.**

**However, if an onsite failure were to occur, since the donating property no longer**

has a connection right under the abutting mains policy, a septic failure would need to be addressed with an on-site solution, if feasible (as determined by the County's Department of Permitting Services). If an on-site solution was determined not to be feasible, then the donating property would be eligible for a single-connection to the abutting main under a different policy in the County's Plan (II.G.2.a (Single Property Onsite Systems Concerns)).

- The timeline associated with the transference of the connection "right". A perpetuity clause was neither included nor addressed, in the event of either property coming under different ownership (MOP).

**Council Comments:** The intent of the transfer policy is that the transfer of the abutting main connection right remains in place even if one or both properties change ownership. To clarify this point, the following language could be added to the policy: *“An approved transfer of abutting mains rights can only be changed through a future transfer request through this policy and must meet the same requirements noted above.”*

- Should such a policy be adopted on a county-wide scale, the development of an accompanying inventory or tracking database should be considered, to prevent confounding issues with future amendments to the CWSP.

**Council Comments:** The policy would apply countywide, but given the conditions noted above, requests are expected to be rare. The County's Department of Environmental Protection (DEP) did an analysis to identify properties which abut existing mains but which are currently ineligible for a sewer connection. Of 14 properties with this sewer service restriction, only two existing cases were identified, including the Ainane case, that could use this new policy. This small number demonstrates the minimal potential for further utilization of this policy, since a contiguous property eligible for a single connection, under the same ownership and with a septic system meeting current requirements would be required as well.

Regarding an inventory or tracking database being needed, DEP currently maintains records in a database regarding water and sewer service area category approvals and restrictions by property. These records note whether a property is eligible for public service and whether any restrictions or conditions apply.

As noted earlier, the Council is concerned that the transfer of abutting mains rights can already occur (with fewer conditions) under the 2018-2027 Plan through a resubdivision process. Given this, the Council suggests the following language be added to this policy: *“A resubdivision process involving an improved property and an unimproved property cannot result in the abutting mains rights being transferred from*

***the improved property to the unimproved property unless DEP determines the preceding requirements are satisfied.***

Given the responses and clarifications noted above, the Council believes the new policy language allowing abutting mains transfers under limited circumstances is reasonable, will not result in excessive new development, and adds important conditions not currently required in the resubdivision process.

### **Commercial Sewer Service Policy**

As part of the 2022-2031 Plan action last fall, the Council approved language allowing, under certain conditions, for water and sewer extensions outside the planned service area to serve commercial properties.

This issue arose during the Council's discussions of the Transquest LLC and Travilah Oak LLC category change requests in October 2021. Both requests were deferred "pending consideration of a special service policy in the Water and Sewer Plan to address public service for commercial uses outside the planned public Water/Sewer service areas"

The Council's approved language for this policy is provided below:

*The provisions of this commercial uses service policy (allowances, restrictions, procedural requirements) parallel those established in the Private Institutional Facilities (PIF) policy (see II.G.4, preceding), with the following exceptions:*

- *The commercial uses considered under this policy do not have to qualify as tax-exempt under Section 501 of Title 26 of the United States Code (Internal Revenue Service).*
- *Neither community water nor sewer service shall be used to support existing or proposed commercial uses within the Agricultural Reserve (AR), Rural (R), and Rural Cluster (RC) Zones.*
- *Water and sewer main extensions for these properties are required to stay within public rights of way and avoid sensitive environmental features such as streams and forests.*
- *Properties with residential structures converted or proposed to be converted to a commercial use may be considered for community service.*
- *Properties that have submitted category changer requests for community service for an existing or proposed commercial use prior to the approval of this policy are not required to submit a concept plan for consideration of the Development Review Committee.*

The MDE Final Action letter included the following reasons for disapproving this new policy. The Council's response to these concerns is noted in bold immediately after each point

- This policy is intended to parallel the existing PIF policy. The existing PIF policy has built-in exclusions to limit growth. The proposed 11.G.5. policy undermines the original PIF policy by providing its benefits while ignoring some of its exclusions. This new policy is inherently incongruous with the original PIF policy that it intends to parallel.

**The Commercial Sewer Service Policy is significantly stricter than the PIF Policy in that:**

- **several zones (Agricultural Reserve, Rural, and Rural Cluster zones) are excluded from this policy.**
- **main extensions must follow public rights of way and avoid sensitive environmental features**

**Since non-profit institutions can utilize the PIF Policy, the Commercial Sewer Service Policy does not require that applicants qualify as tax-exempt under Federal Law.**

**The only element which is less strict than the PIF Policy has to do with the potential eligibility of residential structures converted or proposed to be converted to a commercial use. Since all requests under this policy would be reviewed by the Council on a case-by-case basis, the Council would be able to weigh the merits of these requests in the context of the land-use intent of the relevant area Master Plan and the potential community benefits.**

- **Additionally, the proposed policy appears to be lacking the specificity needed to prevent significant but unintended consequences and confusion regarding the potential for category changes that are not supported by the Plan.**

**While the Council feels that the existing language for this new Policy sufficiently addresses MDE's concerns, the Council suggests the following language change to clarify when "proposed" commercial uses may be eligible for consideration under this policy: "Properties eligible for consideration for community service are those with existing ~~or proposed~~ commercial uses as defined in the Montgomery County Zoning Ordinance, or those recommended for an appropriate special exception or conditional use in an applicable master plan.**

- **The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses (MDP). Should a revision of this policy be submitted for approval in the future, a comprehensive list of commercial services to which the policy applies should also be included.**

**The Council feels that the limitations already noted in the Commercial Service Policy and those carried over from the PIF Policy, and the required case-by case review of each request by the Council, adequately protects the County from excessive commercial development occurring as a result of this new policy. The suggested language changes noted above make clear that only commercial uses which are already approved or which are "recommended for an appropriate special exception or conditional use in an applicable master plan" would be eligible.**



**Including language in the policy that restricts eligible commercial uses to a subset of those listed in the County's Zoning Ordinance would put the Council in the impossible position of trying to predict in advance what uses may or may not be appropriate in various areas of the county. The appropriateness of specific commercial uses in certain areas is best determined through the Master Plan and zoning processes with this new policy also requiring the case-by-case review by the Council.**

Thank you for your assistance with this matter. In addition to the comments and clarifications noted above, Council and Executive Staff are available to work with MDE staff to provide any additional information or assistance needed regarding MDE's reconsideration of its 2022-2031 Plan Final Action and MDE's reconsideration of its disapprovals of the category change requests noted earlier.

Sincerely,

Evan Glass, President  
Montgomery County Council

cc: Rebecca L. Flora, AICP, Secretary, Maryland Department of Planning  
Nicolai Francis-Lau, Maryland Department of the Environment



**MEMO TO FILE**

**DATE:** July 10, 2023

**FROM:** Heidi Benham, LEHS  
Manager– Well and Septic Section  
Department of Permitting Services

**SUBJECT:** Site visit - 11905 Centurion Way  
Potomac MD, 20854

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A site visit to 11905 Centurion Way was conducted on Thursday July 6, 2023 at 2:00 pm to observe and discuss the on-site septic system. This visit was in response to a sewer category change request from S-6 to S-3.

Attendees:

- Heidi Benham, DPS
- Kim Beall, DPS
- Kurt Cassell, Fogles Septic Service
- David Mohebbi, Property owner
- Alan Soukup, DEP

Upon arrival we recounted the issues Mr. Mohebbi was experiencing with his septic system. He explained that he had to replace some parts, including a pump in Nov. 2019 shortly after moving in, and again in May 2021. During the time in between, Mr. Mohebbi explained that he had a sewage backup in his basement at least twice. The only company that came during this time was the BAT service provider (Jamie Simons).

Fogles Septic Service was the installer of the sand mound system, including the septic tanks, and completed installation of the system in July 2016. Kurt Cassell attended the visit at the request of DPS, and brought equipment to remove the manhole covers and observation ports caps. We observed the following:

**Control panel** - The panel indicated no alarm or warnings.

**Trash tank (pretreatment chamber)** – The solids level in the tank was nearing capacity. The level was typical based on the last time the owner had the tank pumped. We recommended that the tank be pumped promptly per recommended maintenance measures. No other signs of malfunction or failure.

**Aeration chamber** – The aerators were working properly and the motor was running normally.

**Pump chamber** – The liquid level in the pump was normal, no signs of leakage, and no water lines or indication of a previous back up. The float tree was intact.

**Force main** – We walked the length of the force main (approx. 650') to the top of the sand mound. The ground was dry and the o-port at the 45-degree bend was clear.

**Sand mound** - The observation ports, and the lateral turn ups for the bed were all opened. No indication of ponding or water was observed in the ports. The exterior of the mound appeared to be well maintained, and free of excessive vegetation and any permanent structures.

During the visit, DPS staff and Kurt Cassell explained to Mr. Mohebbi how the system functions from the sewer line exiting the house up to the sand mound. DPS staff also explained that it would be possible to have the Norweco unit removed and replaced with a standard concrete septic tank. This would essentially eliminate the aeration chamber. The BAT unit was required by law during the time that his septic system permit was issued but it is no longer required. Removal of the BAT unit would eliminate additional costs that are required for a service contract with a BAT certified service provider. It would also eliminate the mechanical components, such as the aerators, that potentially need replacing over time. However, the septic system would still require a pump chamber, since all sand mound designs have a pressurized distribution field.

The site visit concluded at approx. 3:15 pm.

T&E Committee #3  
June 29, 2023

**Briefing/Worksession**

**MEMORANDUM**

June 27, 2023

TO: Transportation and Environment Committee

FROM: Keith Levchenko, Senior Legislative Analyst

SUBJECT: **Briefing/Worksession:** Maryland Department of the Environment (MDE) Action Regarding the County's Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2022-2031 and Denial of Various Category Change Requests

PURPOSE: To receive a briefing from DEP and Council Staff and discuss and consider next steps regarding recent MDE disapprovals of policy language in the County's Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2022-2031 and MDE disapproval of several category change requests approved by the Council<sup>1</sup>

**Summary of Major MDE Disapprovals/Changes to Council Approved Policy Changes to the Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2022-2031 and Category Change Amendments**

**MDE Ten-Year Plan Actions**

- Abutting Mains Policy: Main Extensions – **MDE Approved the Policy with Restrictions**
  - Allowing main extensions only in situations to avoid an environmental constraint on the site (such as a stream, a forest stand, etc.).
  - Allowing newly abutting improved properties to connect to the extended main only if they have a documented failing septic system or failing well.
  - Allowing approved building lots to connect only if those properties cannot be developed utilizing a septic system or well.
- Abutting Mains Policy: Transfer of Abutting Mains Rights - **MDE disapproved this policy**
- New Special Policy for the Extension of Sewer to commercial Properties Outside the Planned Sewer Envelope - **MDE disapproved this policy**

**MDE Category Change Amendment Disapprovals**

- MDE has disapproved the following category change requests: 20-TRV-03A (Arora, sewer extension request), 20-TRV-05A (Kapoor), 20-TRV-09A (Ainane), 20-TRV-14A (Transquest LLC), and 20-TRV-15A (Travilah Oak LLC), and 21-TRV-03A (Mohebbi)

**Next Steps: The Council can formally request reconsideration by MDE of its disapprovals via a letter from the Council President. The deadline is six-months from receipt of MDE's actions (or by late September, 2023 for the Ten-Year Plan policies and the related category change requests).**

<sup>1</sup> #WaterandSewerPlan

### Attachments to this Memorandum

- Maryland Department of the Environment (MDE) Letters to the Council
  - March 16, 2023 Letter approving Resolution 19-1423 (2022-2031 Ten-Year Comprehensive Water Supply and Sewerage Systems Plan) with changes (©1-48)
    - Revised Policy Language Markup
      - Abutting Mains Policy – Main Extensions (©12-13)
      - Abutting Mains Policy – Transfer of Abutting Mains Rights (©14)
      - Commercial Sewer Service Policy (©15)
  - March 25, 2023 Letter disapproving Council Resolution 19-1425 (Category Changes Requests for Arora, Kapoor, Ainane, Transquest LLC, and Travilah Oak LLC) (©49-58)
  - March 9, 2023 Letter disapproving Council Resolution 19-1426 (Category Change Request for Mohebbi) (©59-62)
- BBS&G Attorneys: Response to MDE’s Review of the 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan, RE: Community Service for Commercial Land uses Policy (©63-69)

### Expected Participants

#### **Department of Environmental Protection**

- Steve Shofar, Chief, Intergovernmental Affairs Division, Department of Environmental Protection (DEP)
- Alan Soukup, Senior Planner, Intergovernmental Affairs Division, DEP

#### **Planning Department**

- Katherine Nelson, Planner Coordinator, Montgomery County Planning Department

### **Water and Sewer Plan Background and Prior Council Actions**

The purpose of the County’s Ten-Year Comprehensive Water Supply and Sewerage Systems Plan is to “provide an overview of the planning policies, needs, issues and planned infrastructure related to community and individual water and sewerage systems.”

Of most interest to the Council, the Plan serves some key policy functions including:

- Implementing Master Plan recommendations regarding public water and sewer service
- Providing specific water and sewer policies which allow for consideration for the provision of public water and sewer outside the Master Plan’s planned service envelopes under certain circumstances.
- Detailing water supply and sewerage system infrastructure and any ongoing or recommended policy and planning issues requiring review.

State law requires that each governing body review its county plan at least once every three years. All Council-approved changes to the Water and Sewer Plan are subject to review and approval by the Maryland Department of the Environment (MDE).

The prior Council approved a comprehensive update to the Ten-Year Plan on October 25, 2023 (see [Resolution 19-1423](#)). The Ten-Year Plan was then transmitted to MDE for final action.

In tandem with the Ten-Year Plan action, on October 25, 2023 the Council approved [Resolution 19-1425](#), which provided for approval of several individual water/sewer category change requests (Arora, Kapoor, Ainane, Transquest LLC, and Travilah Oak LLC) conditioned upon MDE approval of revised policy language included in the Plan transmitted by the Council. For more information on the requests and the Council action, please see the [Council Action Staff Report](#).

Also on October 25, 2023, the Council approved [Resolution 19-1426](#), which approved another category change request (Mohebbi) to allow the applicant to extend public sewer to his property because of ongoing problems he was experiencing with his septic system. For more information on the request and the Council action, please see the [Council Action Staff Report](#).

These category change actions were transmitted to MDE for final action.

### **Maryland Department of the Environment (MDE) Actions**

On March 9, 2023, MDE transmitted a letter (see ©59-62) disapproving the Mohebbi category change request, noting that the County's Department of Permitting Services (DPS) had not yet confirmed that the property's septic system was failing. For more details on this category change request and the Council action, please see the [Council Staff Report from October 25, 2023](#). **Council Staff suggests that DEP and DPS continue to work with the property owner to document the condition of the septic system, whether it is failing, and whether there are feasible on-site solutions to address the failure. If DPS determines that connecting to public sewer is the best long-term solution, then DEP can consider an administrative approval process for a sewer connection to the property to address the problem.**

On March 16, 2023, MDE transmitted a letter (see ©1-48) which noted MDE's approval of the County's 2022-2031 Water and Sewer Plan with modifications. Most of the modifications involve technical or clarifying changes with which MDE and DEP staff concur. However, MDE also included disapprovals of several policy changes the Council approved last October. These disapprovals include changes the Council made to the long-standing abutting mains policy and to the newly approved Commercial Sewer Service Policy. These disapprovals are discussed in more detail below.

On March 25, 2023, MDE transmitted a letter (see ©49-58) which noted MDE's disapproval of several category change requests conditionally approved by the Council. These disapprovals were based on MDE's disapproval actions (as noted in its March 16 letter) regarding the County's Water and Sewer Plan. These category change requests are also discussed below in the context of the related Plan policy language disapprovals/changes made by MDE.

Per State law, within six months of receiving the notice of any disapprovals, the County may ask MDE to reconsider its disapprovals.<sup>2</sup> However, it is up to MDE whether to choose to

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<sup>2</sup> The Council received the MDE disapproval letter related to the Ten-Year Plan on March 27, 2023 and on the related category change requests on April 6, 2023.

reconsider an action and, unlike its regular approval/disapproval process, there is no timeframe established in State law for reconsideration.

### **Ten-Year Water and Sewer Plan - Abutting Mains Policy**

This longstanding policy provides an opportunity for properties that abut a water or sewer main but which are outside the planned water/sewer service areas to be eligible for a single-hookup. Many of these cases are approved administratively by DEP as allowed for in the Ten-Year Plan. However, issues in specific cases arise from time-to-time which require Council review and action.

#### Allowing Main Extensions via the Abutting Mains Policy Under Certain Conditions

The policy has long assumed that applicants will connect directly to an existing abutting main.

In March, 2021 the Council deferred a category change request for an improved property (Kapoor) seeking such a connection, pending consideration of this extension policy (see Council Worksession Staff Report [here](#)). In the Kapoor case, a neighboring abutting mains request (Arora) had sought approval of a main extension (that would abut the Kapoor property) as part of their abutting mains request. The request was approved but only for the connection to the existing main abutting the property. Arora's request for a main extension that would have abutted the Kapoor property was deferred, pending consideration of new policy language in the Ten-Year Plan update.

As part of the 2022-2031 Ten-Year Plan process, the Executive recommended and the Council approved new language allowing DEP to approve limited main extensions from existing abutting mains for better placement of the service connection (for instance so the service connection would avoid sensitive environmental areas on the subject property or provide a more logical connection to the property). The new policy language prohibits the extension beyond a point where it can "best provide a logical connection to the existing outfall from the building to the septic tank..." Also, no further extensions of the main to additional properties would be allowed except to address properties with on-site system failures.

Under this new language, if an extension were to abut additional improved properties or approved building lots, then those properties would also become eligible for a single-hookup.

After the Council approved the 2022-2031 Plan, the deferred portion of the Arora request (the main extension) and the Kapoor request were both approved (conditioned upon approval by MDE of the new policy language) and transmitted to the State for final action.

**MDE has recommended revised language (see ©12-13) which significantly narrows the main extension provision in the Abutting Mains Policy by:**

- **Allowing main extensions only in situations to avoid an environmental constraint on the site (such as a stream, a forest stand, etc.). In these cases, MDE notes that maps showing the location of the environmental issue and the recommended main extension and on-site connection need to be provided.**
- **Allowing newly abutting improved properties to connect to the extended main only if they have a documented failing septic system or failing well.**

- **Allowing approved building lots to connect only if those properties cannot be developed utilizing a septic system or well.**

This narrowing language is intended to address concerns raised by the Maryland Department of Planning (see ©2 from the March 16 MDE letter) of unintended and uncontrolled extensions that may induce growth and sprawl which MDP found as at odds with the County’s Thrive 2050 Plan.

Based on the above revisions, MDE (see ©49-53) disapproved both the Arora extension request (since no environmental constraint was identified) and the Kapoor request (since this improved property does not have a failing septic system).

After the Council’s conditional approval of the Arora request, Arora withdrew their request for the extension. Given this withdrawal, the Arora and Kapoor requests are now moot.

Also, as discussed during last year’s worksessions on this issue, DEP staff have noted that over the past several decades, it has been rare for applicants to seek a sewer extension under the abutting mains policy.<sup>3</sup> Given this and the withdrawal of the Arora request, **Council Staff recommends the Council not seek MDE reconsideration of MDE’s changes to the Abutting Mains Policy regarding main extensions nor reconsideration of the Arora or Kapoor requests.**

#### Transferring Abutting Mains Rights from One Property to Another

As part of the 2022-2031 Plan, the Council approved language allowing for the transfer of abutting mains rights between properties under limited circumstances.

In March 2021, the Council deferred the Ainane request (see Council Worksession Staff Report [here](#)) pending further discussion of whether to revise the abutting mains policy to allow for the transfer of abutting main connection rights from one property to another under limited circumstances. The applicant was requesting approval of public sewer to serve an outlot (Outlot A) immediately adjacent to another developed property (Lot 2) also owned by the applicant and which uses a septic system. Both properties abut a sewer main, with Lot 2 eligible under the Abutting Mains Policy. However, Outlot A is ineligible to connect (since it was part of a prior subdivision whereby another property was provided the single-hookup rights).

In its Executive Staff Report for this request, DEP staff had noted that if Lot 2 and Outlot A were to go through a re subdivision process and a portion of Lot 2 were to be subsumed into Outlot A, then the abutting mains policy could be interpreted to allow a single connection to either one of the properties.

The Council ultimately supported allowing for the transfer of abutting mains rights under certain conditions:

- *Both properties must abut the water/sewer main with the donating property confirmed by DEP to be eligible for a single connection via the abutting mains policy.*
- *Both properties must be contiguous (i.e. share a property boundary)*
- *Both properties must be under common ownership*

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<sup>3</sup> Extension requests are rare because an existing main that abuts a property may already be in a logical location to connect, and main extension costs are often substantially higher per linear foot than on-site connections.



- *If improved, the property with the existing abutting mains connection right must have a fully functioning septic system that satisfies all current septic system permitting requirements, including an established septic reserve area, under State and County law as verified by the Department of Permitting Services.*
- *The property donating the existing abutting mains connection right will no longer be eligible for public service through the abutting mains policy.*
- *Approval of the connection right transfer will be conditioned upon Planning Board confirmation of the receiving property as a building lot.*

MDE disapproved this policy language (see ©7), expressing the following concerns:

- Future failure of the original property's onsite system after the connection "right" has been transferred. It is unclear how the proposed policy 11.G.3.c. will address the emergent public health and safety issue arising from the failed system. **Council Staff Comments: A septic failure on the donating property without a viable on-site solution is very unlikely given the requirement that an improved property donating the abutting mains right must have a fully functioning septic system that satisfies all current septic system requirements, including established reserve areas.**
- The timeline associated with the transference of the connection "right". A perpetuity clause was neither included nor addressed, in the event of either property coming under different ownership (MOP). **Council Staff Comments: The intent of the transfer policy was that the transfer of the abutting main connection right remains in place even if one or both properties change ownership. Language noting this could be suggested to MDE as part of a reconsideration request.**
- Should such a policy be adopted on a county-wide scale, the development of an accompanying inventory or tracking database should be considered, to prevent confounding issues with future amendments to the CWSP. **Council/DEP Staff Comments: The policy would apply countywide, but given the conditions noted above, requests are expected to be rare. DEP maintains records regarding public water and sewer approvals and restrictions.**

Also, while DEP staff have noted that transfers under this policy would likely be rare given all of the conditions, MDP has expressed some general land-use and growth concerns about this policy (see ©3). If the Council supports asking MDE to reconsider this disapproval, then Council Staff can work with DEP staff to identify similar existing situations meeting the policy circumstances on Page 5. Given that properties can change ownership at any time, this research would not capture all possible circumstances in the future. Research could also be done to see how many, if any, other outlots in the County abut a sewer main and are located adjacent to properties which have an abutting main connection right. This information could be included as part of a reconsideration request.

**Council Staff suggests that the Council seek reconsideration of MDE's disapproval of this action since Council Staff believes MDE's concerns are largely addressed in the conditions noted on Page 5. Also, since the abutting mains transfer in the Ainane request could potentially also be achieved through a resubdivision process, Council Staff believes the Council's new abutting mains transfer right policy language provides specific guardrails not currently in place, if a resubdivision were pursued.**

## **Ten-Year Water and Sewer Plan – Consideration for Extensions Outside the Planned Service Area to Serve Commercial Properties**

As part of the 2022-2031 Plan action last fall, the Council approved language allowing, under certain conditions, for water and sewer extensions outside the planned service area to serve commercial properties.

This issue arose during the Council’s discussions of the Transquest LLC and Travilah Oak LLC category change requests in October 2021 (Council Worksession Staff Report available [here](#)). Both requests were deferred “pending consideration of a special service policy in the Water and Sewer Plan to address public service for commercial uses outside the planned public Water/Sewer service areas”

The Council’s approved language for this policy is provided below:

*The provisions of this commercial uses service policy (allowances, restrictions, procedural requirements) parallel those established in the Private Institutional Facilities (PIF) policy (see II.G.4, preceding), with the following exceptions:*

- *The commercial uses considered under this policy do not have to qualify as tax-exempt under Section 501 of Title 26 of the United States Code (Internal Revenue Service).*
- *Neither community water nor sewer service shall be used to support existing or proposed commercial uses within the Agricultural Reserve (AR), Rural (R), and Rural Cluster (RC) Zones.*
- *Water and sewer main extensions for these properties are required to stay within public rights of way and avoid sensitive environmental features such as streams and forests.*
- *Properties with residential structures converted or proposed to be converted to a commercial use may be considered for community service.*

*Properties that have submitted category changer requests for community service for an existing or proposed commercial use prior to the approval of this policy are not required to submit a concept plan for consideration of the Development Review Committee.*

MDE disapproved this policy language (see ©8), expressing the following concerns:

- This policy is intended to parallel the existing PIF policy. The existing PIF policy has built-in exclusions to limit growth. The proposed 11.G.5. policy undermines the original PIF policy by providing its benefits while ignoring some of its exclusions. This new policy is inherently incongruous with the original PIF policy that it intends to parallel.
- Additionally, the proposed policy appears to be lacking the specificity needed to prevent significant but unintended consequences and confusion regarding the potential for category changes that are not supported by the Plan.
- The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses (MDP). Should a revision of

this policy be submitted for approval in the future, a comprehensive list of commercial services to which the policy applies should also be included.

On June 22, the Council received a response to the MDE disapproval of this policy (see ©63-69) from an attorney on behalf of both the Transquest LLC and Travilah Oak LLC applicants. The response takes issue with some of the contentions in the MDE letter that this policy is inconsistent with the County's Thrive 2050 Plan and Water Resources Plan (WRP). The response notes that Thrive 2050 focuses heavily on "15-Minute Living" and "Complete Communities" and that the proposed redevelopments are intended to further those goals. The response also includes some suggested clarifications/revisions to address some of MDE's specific concerns.

**Given the concerns raised by MDE, if the Council is interested in seeking MDE reconsideration of this policy (and the associated category change requests), Council Staff can work with DEP, and Planning Department staff to review MDE's disapproval comments and consider clarifying language and additional changes to the policy to address these concerns as part of the reconsideration process.**

Attachments



March 16, 2023

The Honorable Evan Glass  
County Council President  
Montgomery County Council  
Stella Werner Council Office Building  
100 Maryland Avenue  
Rockville, MD 20850

Dear Council President Glass:

RECEIVED  
2023 MAR 27 AM 8:55:49

The Maryland Department of the Environment (MDE) has completed its review of **Montgomery County's 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan (Plan)**. The Montgomery County Council adopted the Plan on October 25, 2022, through Resolution No. 19-1423. Resolution 19-1423 represents a comprehensive update from the prior Montgomery County Plan.

During MDE's initial review of the Plan, it was determined that more time was required for MDE to complete its final review. The initial review period, set to expire on January 30, 2023, had been extended by an additional 45 days making the new due date March 16, 2023.

#### **Maryland Department of Planning Findings**

Maryland Department of Planning (MDP) has reviewed the following text amendments made to the Plan for consistency with Thrive Montgomery 2050 (Thrive 2050), dated October 25, 2022, and/or the Water Resources Functional Plan (WRP), dated September 2010.

- Chapter 1 - I.E.3.a.: Washington Suburban Sanitary Commission (WSSC Water, WSSC) (Page 1-13)  
Text added to clarify WSSC-Water's role in the category change review process.

MDP has no comment on this clarifying language.

- II.G.3.: Community Service for Properties Abutting Community System Mains  
II.G.3.a.: General Requirements Technical Feasibility of Service Connections Page 1-37  
Text added to clarify which confronting properties, that abut new main extensions, can receive service connections from those mains. The intent is to not allow these main extensions to promote unapproved development.

MDP is concerned that the new language will allow an extension of a main such that new properties can be served, specifically, those properties that confront the new main extension. MDP is concerned because the text amendment may cause unintended consequences of mains being extended in a prolific manner throughout the county. Additionally, the language of the text amendment seems to say that once an extension is made for a confronting property it cannot be extended any further, yet this seems to be an unenforceable provision and inequitable to other homeowners when a failed septic or public health issue arises.

Prior to this text amendment, the Plan's abutting mains policy allowed a limited number of properties to take advantage of water and sewer mains that are available for those properties. Several limitations were built into the policy to ensure that it would not result in uncontrolled and unintended public service in areas using on-site systems. MDP suggests that this proposal to allow new main extensions should only be allowed if there is evidence of a failed septic confirmed by the health department and with confirmation there is no feasibility of repair or new septic system to be placed on the subject property.

The new language under Section II.G.3, Technical Feasibility of Service Connections allows for liberal main extensions. The language is confusing and may be difficult to interpret and/or enforce. The abutting mains policy is intended to only serve abutting properties from existing mains, but the new language for confronting properties may contribute to the extension of mains in the right-of-way that may induce growth or sprawl, a term used extensively throughout Thrive 2050, which speaks strongly against sprawl.

Amendments to the Plan's text should be preceded by an analysis included in the county's general plan, specifically the water resources element. MDP was unable to find any reference to the proposed amendment language in the policies of the newly approved and adopted Thrive 2050. Likewise, there is no mention in the WRP. The properties included in County Council Resolution No. 19-1425 are located within the approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the properties prior to the adoption of Thrive 2050) and there is no such policy mentioned there either. There is no information provided that indicates how this amendment might affect or induce growth or impact land use patterns throughout the county, such as the quantity of properties eligible for extending a main to create a confronting property situation, and its impact on the public sewer system. Therefore, MDP finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

- II.G.3.: Community Service for Properties Abutting Community System Mains  
II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification  
(Page 1-40)

A new policy added at the direction of the T&E Committee to allow a "connection

right” under the abutting mains policy to transfer from a qualifying property to an adjacent, co-owned property that does not qualify for an abutting mains connection.

Comment: This amendment to the Plan Section II.G.3 is directly derived from specific properties currently under review by MDE associated with County Council Resolution No. 19-1425 (previously deferred under CR 19-748), and concurrently adopted on October 25, 2022, specifically WSCCR 220-TV-09A: Samians Siham Ainane. In this case, the applicant is the owner of two adjoining properties as identified in the State Department of Assessments and Taxation (SDAT) database: a single-family home on a recorded lot and the abutting outlot recorded as Lot 2 and Outlot “A,” Block D, Piney Glen Farms, as recorded in July or 2004. The owner is asking that because the existing home is serviced by a septic system, the applicant would like to transfer the “right” to the abutting main from Lot 2 to Outlot “A.” In doing so, the applicant is most likely seeking to achieve another buildable lot under Division 50.7, Main Subdivision Section 7.1, Applicability B. Conversion of an outlot into a lot. The problem with the allowance to transfer the “right” of a connection to an abutting main from one lot to an outlot is that the existing lot that has been built upon may need a connection upon future septic system failure. In that case, the record lot has an existing house on the property that was built in 1961, according to SDAT records. If the septic system on that property fails and there is an attempt to connect to the abutting main, how will the county respond to the need to address the issue of public health and safety? Another question relates to the future transfer of either of the properties to others, as the same ownership clause does not say it is in perpetuity. How is notice intended to be given to a new purchaser of either the existing lot or the current outlot, which appears to be a proposal to convert it to a buildable lot? It should not be expected that a home buyer could possibly understand this amendment.

Prior to this text amendment, the Plan’s abutting mains policy allows a limited number of properties to take advantage of water and sewer mains that are available for those properties. Several limitations were built into the policy to ensure that it would not result in uncontrolled and unintended public service in areas using on-site systems. Furthermore, from a planning perspective, MDP was unable to find any reference to this amendment language in Thrive 2050, the WRP, or the underlying approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the property prior to the adoption of Thrive 2050). There is no information provided that indicates how this amendment might induce growth or impact land use patterns throughout the county, such as how many properties could be converted from outlots to buildable lots and its impact on the public sewer system. Therefore, MDP finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

- II.G.5.: Community Service for Commercial Land Uses ((Page 1-45))

A new policy added at the direction of the T&E Committee to allow for the limited

provision of community service for properties with commercial uses located outside the planned community service envelopes.

Comment: This amendment derives directly from specific properties currently under review by MDE associated with County Council resolution No. 19-1425, adopted on October 25, 2022, specifically WSCCR 20-TVR-14A: Transquest and WSCCR 20-TRV: Travilah Oak LLC. The proposal to allow for the provision of community water and sewer systems for commercial land uses outside of the planned community service envelope as described in Section II.G.5 is found on page 1-45 of the Plan. The new language is confusing and may be difficult to interpret by those tasked with implementing it. It states that the new policy parallels the Private Institutional Facilities (PIF) policy, which is largely based on the concept of allowing tax exempt non-profit entities to utilize the exemption. PIF also includes a discussion of the relationship of the policy to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) (page 1-41). But there are many questions that this amendment leaves unanswered.

The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses and may result in any commercial use being eligible for service outside the envelopes (page 1-45) except for expansion into the Agricultural Reserve, Rural, and Rural Cluster zones. It also allows for the conversion of residential structures to commercial uses and to be considered for main extensions for service. This text amendment is not well defined, is very broad, and was not addressed in the recent approval of Thrive 2050, the approved and adopted WRP, or the underlying approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the property prior to the adoption of Thrive 2050). There is no information provided that indicates how this amendment might induce growth or impact land use patterns throughout the county, such as how many properties, including existing commercial or future residential conversion throughout the county could be become eligible, and its impact on the public sewer system. Therefore, MDP finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

- IV.A.: Washington Suburban Sanitary District IV.A.2.: Local Service Extension Programs IV.A.2.c.: Efforts to Address Underserved and Unserved Communities (Pages 1-67 – 1-68) Unserved and Underserved Subgroup of the Bi-County Infrastructure Financing Committee (underscored as in the text, not added language) A revision to update the status of the program since the preparation of the Executive draft Plan.

Comment: This is an update to the current text and is included in the Plan text for informative purposes. MDP has no comment on this update.

- V.D: Review and Consideration of Plan Amendments (Page 1-73)

Text added to clarify the roles of the reviewing agencies in the category change request review process.

Comment: Added text that expands the discussion of the primary reviewing agencies for service area category change requests and those agencies' responsibilities in the process. MDP has no comment on this update.

- Chapter 2 - II.E. Water Resources: II.E.5. Water Quality Programs: (Pages 2-16 - 2-17)

Updated the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit Program (AKA the MS4 Permit Program).

Comment: This updating language relates to the MS-4 permitting process. MDP has no comment on this amendment.

- Chapter 3 - II.C: Water Supply Sources Programs and Policies: II.C.2: Regional Drought Operations: (Pages 3-14 – 3-15)

Updated the text to reflect revised operations rules and procedures for reducing the impacts of severe droughts in the Potomac River for the Washington Metropolitan Area Water Supplier.

Comment: This amendment is related to Regional Drought Operations and intended to inform the reader that federal legislation may make the Metropolitan Washington region eligible for funding for a feasibility study under the Water Resource Development Act 7001. This update is for informational purposes. MDP has no comment on this informative additional language and anticipates that if the federal legislation is reviewed and passed, then the Plan will be updated further.

- Plan Recommendation: Potential Use of Travilah Quarry for Additional Raw Water Storage ((Page 3-19))

Updated language on Plan Recommendation for Potential Use of Travilah Quarry for Additional Raw Water Storage

Comment: This amendment is supported by Thrive 2050 and is explained on page 116, as it has been studied for a long period of time by the "Interstate Commission on the Potomac River Basin, the Washington Suburban Sanitary Commission, the Metropolitan Washington Council of Governments, DC Water, and the Washington Aqueduct to use the open pit as an emergency water supply reservoir." Therefore, MDP finds that this amendment **appears to be consistent** with Thrive 2050.

- Appendix C - II.N. Riverwood Drive (Pages C-18 – C-19 & Figure C-F14)

The area proposed for removal from the restricted sewer service area was revised at the recommendation of County Council staff. This left most of the Potomac Manor



Section 2 subdivision in the restricted sewer service area in addition to the other two subdivisions.

Comment: This amendment seems to address a specific Restricted Sewer Service Area known as Riverwood Drive per an earlier Council Resolution (13-1205 in 1998) by deleting language that is no longer applicable. MDP has no comment on this amendment (see enclosed MDP comments and contact information).

### **MDE Review and Action**

1. A draft for this Plan was never received by MDE for review, as required by COMAR 26.03.01.03. The County is reminded to send in drafts for review.
2. Wetlands and Waterways Protection Program (WWPP)
  - There are mapped/wetlands hydric soils or streams and 100-year floodplains in the vicinity of the Riverwood Drive area. The applicant is encouraged to consult with the WWPP to verify the presence of wetlands, their buffers, stream, and its 100-year floodplain in relation to any activities which are planned for the property. Activities in these water resources may be subject to regulatory requirements from the MDE's WWPP.
  - Early coordination with the WWPP for new major or replacement lines is recommended in advance of submitting applications and to discuss any new requirements related to restoration of wetlands after temporary impacts.
  - The plan mentions new extensions for water and sewer lines, storage facilities, and/or treatment plants. Where practicable, locations of the utility lines and facilities should support protection measures from future development in wetlands, waterways, or floodplains, as well as avoiding and minimizing impacts from the line, treatment facility, and supporting utility infrastructure. Suggested for consideration include:
    - a prohibition on new subdivision lots in wetlands;
    - avoidance and minimization requirements;
    - site plan considerations over multiple parcels that provide for contiguous wetland and stream corridors to be maintained, with minimum fragmentation from roads, buildings, or other structures; and
    - location of new or replacement lines in existing utility or road rights-of-way.
  - Coordination with MDE is highly recommended for the review of proposals to use Travilah Quarry for water supply (see enclosed WWPP comments and contact information).

In accordance with §9-507(a) of the Environment Article, Annotated Code of Maryland, the Department hereby **approves Montgomery County's 2022-2031 Comprehensive Water**

**Supply and Sewerage Systems Plan in part, modifies in part, and disapproves the 2022-2031 Plan in part (see enclosed modifications).**

**Please be advised that in accordance with Environment Article 9-508(b), at any time up to six months after receiving this disapproval, the County may request the Secretary of the Department to reconsider the disapproval.**

**The Department modifies and disapproves the following portions of the 2018 Plan, as set forth below (see enclosed modifications):**

- **Executive Summary**

The Department is **modifying** the Executive Summary to incorporate information regarding the Public Hearing held for this Plan and the Engineering Aspects throughout the Plan.

- **Chapter 1 - II. Policies For The Provision Of Water And Sewerage Service - II.G.3.a.: General Requirements**

The Department is **modifying** II.G.3.a.: General Requirements to incorporate changes deemed necessary regarding concerns from MDE and MDP.

- **Chapter 1 - II. Policies For The Provision Of Water And Sewerage Service - II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification**

The Department is **disapproving** II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification because the proposed policy is silent on the potential for significant but unintended consequences related to the transferring of an abutting mains service connection "right", including but not limited to:

- Future failure of the original property's onsite system after the connection "right" has been transferred. It is unclear how the proposed policy II.G.3.c. will address the emergent public health and safety issue arising from the failed system.
- The timeline associated with the transference of the connection "right". A perpetuity clause was neither included nor addressed, in the event of either property coming under different ownership (MDP).
- Should such a policy be adopted on a county-wide scale, the development of an accompanying inventory or tracking database should be considered, to prevent confounding issues with future amendments to the CWSP.

**Chapter 1 - II. Policies For The Provision Of Water And Sewerage Service -**

### **II.G.5.: Community Service for Commercial Land Uses**

The Department is **disapproving** II.G.5.: Community Service for Commercial Land Uses for the following reasons:

- This policy is intended to parallel the existing PIF policy. The existing PIF policy has built-in exclusions to limit growth. The proposed II.G.5. policy undermines the original PIF policy by providing its benefits while ignoring some of its exclusions. This new policy is inherently incongruous with the original PIF policy that it intends to parallel.
- Additionally, the proposed policy appears to be lacking the specificity needed to prevent significant but unintended consequences and confusion regarding the potential for category changes that are not supported by the Plan.
- The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses (MDP). Should a revision of this policy be submitted for approval in the future, a comprehensive list of commercial services to which the policy applies should also be included.

- **Chapter 3 - III. Rockville Service Area**

The Department is **modifying** Chapter 3 - III. Rockville Service Area to incorporate information regarding the Maryland Water Conservation Plumbing Fixtures Act for the Rockville Service Area and the Town of Poolesville.

- **Chapter 4 - Introduction and Background**

The Department is **modifying** Chapter 4 - Introduction and Background to incorporate information regarding how the conformance of existing and programmed sewerage facilities meets or will meet the effluent limitations specified in COMAR 26.08.03.01.

- **Chapter 4 - I.C.1.B.i. Blue Plains Service Area Projected Wastewater Treatment Needs**

The Department is **modifying** Chapter 4 - I.C.1.B.i. Blue Plains Service Area Projected Wastewater Treatment Needs to incorporate information regarding long-term flow projections (2040) based on projected household, employment, and population increases.

- **Chapter 4 - I.C.2.A. Collection and Conveyance Systems**

The Department is **modifying** Chapter 4 - II.C.2.A. Collection and Conveyance Systems to add Table 4-15 - Seneca Service Area - Projected Wastewater Flow and delete Table 4-T15 - Future Wastewater Flows from the Seneca Creek Basin.

- **Chapter 4 - I.C.2.B. Seneca Treatment Facilities**

The Department is **modifying** Chapter 4 - I.C.2.B. Seneca Treatment Facilities to incorporate more information regarding the Seneca Water Resource Recovery Facility.

- **Chapter 4 - I.C.3.B. Damascus Treatment Facilities**

The Department is **modifying** Chapter 4 - I.C.3.B. Damascus Treatment Facilities to incorporate more information regarding the Damascus Water Resource Recovery Facility and to add the Table - Damascus Service Area - Projected Wastewater Flow.

- **Chapter 4 - I.C.4.B. Treatment Facility**

The Department is **modifying** Chapter 4 - I.C.4.B. Treatment Facility to incorporate more information regarding the Hyattstown Water Resource Recovery Facility.

- **Chapter 4 - III.E. Treatment Facilities**

The Department is **modifying** Chapter 4 - I.C.4.B. Treatment Facility to incorporate more information regarding the Poolesville Wastewater Treatment Plant.

- **Chapter 4: Sewerage Systems**

The Department is **modifying** Chapter 4: Sewerage Systems to add the Poolesville Wastewater Treatment Capacity Management Plan.

- **Appendix B: Multiuse Water and Sewer Facilities**

The Department is **modifying** Appendix B: Multiuse Water and Sewer Facilities to revise NIH Animal Farm's Address and Design Capacity.

- **Appendix E: County's Major Public Facilities and Institutions**

The Department is **modifying** Appendix E: County's Major Public Facilities and Institutions to incorporate a statement that WSSC Water no longer uses population to calculate demand and that is why the listing of the County's Major Public Facilities does not contain the existing and forecasted populations. In addition, to add a new map displaying Montgomery County's Major Public Facilities and Institutions.

The Honorable Evan Glass

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This completes MDE's review, as required by §9-507 of the Environment Article, Annotated Code of Maryland. If you need further assistance on these matters, please contact Heather Barthel, Deputy Director, at (410) 537-3512, toll-free at (800) 633-6101, or by e-mail at [heather.barthel@maryland.gov](mailto:heather.barthel@maryland.gov).

Sincerely,



D. Lee Currey, Director  
Water and Science Administration

Enclosure

cc: Keith Levchenko, Senior Legislative Analyst, Montgomery County Council  
Adriana Hochberg, Acting Director, Montgomery County DEP  
Alan Soukup, Senior Planner, Montgomery County DEP  
George Dizelos, Environmental Planner, Montgomery County DEP  
Charles Boyd, Director, Planning Coordination, MDP  
Les Knapp, Senior Policy Advisor, MDE  
Heather Barthel, Deputy Director, Water and Science Administration, MDE

**Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
County Council Approved 2022-2031 Plan

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Executive Summary Modification Effective March 16, 2023**

## ***EXECUTIVE SUMMARY***

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As required under the Annotated Code of Maryland, Environment, Title 9, Section 9-503, the 2022 - 2031 Ten-Year Comprehensive Water Supply and Sewerage Systems Plan (Water and Sewer Plan or 2022 Plan) provides a comprehensive update to the 2018 – 2027 Water and Sewer Plan based on the latest available data and information. It includes updated information on County policies and plans.

This comprehensive update was subject to a public hearing conducted by the County Council on Tuesday, July 12, 2022, as required under Section 9-503. The Council transmitted a public notice for this hearing to the Montgomery County Planning Board, the Washington Suburban Sanitary Commission (WSSC Water), and the State of Maryland on Tuesday, June 7, 2022, 45 days prior to the hearing. In accordance with Section 9-515 the Council also had a notice of the hearing published in *The Daily Record* on Friday, June 17, 2022, 25 days prior to the hearing.

This 2022 Plan includes the adopted policies and plans contained in the prior Plan and in subsequent adopted Plan amendments, while removing outdated or no longer relevant material. The Department of Environmental Protection (DEP) has added updated information from several sources that reflect new information from both technical sources and related County plans. This information has been reorganized in the Plan's text, figures, and maps with the intention of making it easier to understand and follow. Technical information has been summarized and presented on both a watershed and planning area basis to allow interested parties the opportunity to focus on issues that are organized by geographic area.

This Plan does not present specific engineering aspects of the water and sewerage facilities owned and operated by WSSC Water and the municipalities within the county. Therefore, the Plan does not include professional engineer's certifications by WSSC Water, the City of Rockville, nor the Town of Poolesville.

The purpose of the Comprehensive Water Supply and Sewerage Systems Plan is to provide an overview of the planning policies, needs, issues and planned infrastructure related to community and individual water and sewerage systems. The plan considers public health, environmental protection, and land-use issues as they relate to water and sewerage systems in Montgomery County. It is intended to provide both background information and a planning basis for the evaluation of water supply and sewerage system needs in the county. It is also expected to allow a more thorough context for developing, analyzing, and evaluating the issues related to the review and implementation of the WSSC Water Capital Improvement Program (CIP), including the timing and funding of identified projects. It seeks to achieve this purpose by:

- ❖ Outlining planning principles and policies that relate to land-use planning, infrastructure development, public health, and environmental protection;
- ❖ Describing current conditions of the water supply and sewerage systems relative to condition, capacity, availability, and related issues;
- ❖ Identifying and prioritizing community needs for improved water supply and sewerage infrastructure;
- ❖ Identifying planning and infrastructure projects needed to address existing or projected needs.

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 1 – II.G.3.a. General Requirements**  
**Modification Effective March 16, 2023**

Montgomery County Comprehensive Water Supply and Sewerage Systems Plan  
*Chapter 1: Objectives and Policies* County Council Approved 2022-2031 Plan

**II.G.3.a.: General Requirements**

The provision of community service under this policy requires that the property, or a structure on the property, must have been established prior to the extension of the abutting water or sewer main. Residential, institutional, and commercial uses qualify as existing structures; barns, garages, or other types of outbuildings do not qualify. Satisfaction of this requirement qualifies the property for a single public service hookup. Neither the construction of a building on an unimproved property, nor the addition to or replacement of an existing structure, invalidates the application of this policy. The provision of community service under this policy shall not be used as justification or the connection of nearby lots or parcels if they would not otherwise be entitled to connect to community systems.

Technical Feasibility of Service Connections

The provision of community service under this policy also requires that service from the abutting main must be technically feasible. Major water and sewer transmission mains and sewer force mains cannot support individual service connections and hookups, and therefore do not qualify abutting properties for community service under this policy. Service from low-pressure, small-diameter sewer mains may also be restricted, depending on the type or number of users proposed. WSSC Water's current pump/pressure system policies do not permit both residential and non-residential (commercial/institutional) uses to connect to the same low- pressure main, requiring instead separate, dedicated mains for each separate non-residential use.

A property owner may request DEP's approval of a new water or sewer main extension to the existing abutting main to position the main ~~directly aligned with the building on the property.~~ perpendicular to the proposed service main on the property. ~~This can allow for a shorter onsite service utility between the main and the structure or serve to avoid affecting~~ This new main extension must be used to avoid an environmental constraint on the site (stream, forest stand, etc.) that would preclude an onsite service utility connection as described in II.A.Fig. 1-F5 of the approved CWSP. The new main extension cannot extend past the point where it can best provide a logical connection to the existing ~~outfall from the building to the septic tank.~~ service main or in a manner consistent with Section II.A. of the CWSP (See figure 1-F7, following.) DEP, DPS, and WSSC-Water will confer on these cases and determine the allowed length of the additional main extension. Any properties involved in requesting the new main extension under this policy are required to connect once public water or sewer service is available. Any additional improved properties with documented failing onsite systems or wells are eligible for connection thereafter.

When submitting a Water and Sewer Plan Amendment to MDE that uses this policy, the following information should be displayed on maps:

- The location of the environmental issue(s).
- Length and route from the existing abutting main to its proposed connection point such that it can provide a logical connection to the existing outfall.
- The length and route of the new main extension from the existing abutting main.
- The length and route of the secondary connection from the extended main to its connection to the onsite system.
- The location of the septic system outfall or point of connection to the structure.

The requested main extension may offer abutting mains connections to other confronting properties provided that they are only improved properties with documented failing septic systems (for a sewer connection) or failing well (for a water connection) or recorded building lots that the County has determined cannot be developed using a septic system or a well. ~~If connecting,~~ These confronting properties must be served from the extended main; no additional extensions are allowed. DEP may grant an exception to this limitation in cases where an additional main extension is needed for the relief of a documented failed onsite system or well. In cases where a service area category change is needed for a confronting property, the category change is not suitable for an advance action (see Section II.G.3.e.). The confronting properties will carry a notice that disallows any similar, additional main extensions. As with the general provisions of this abutting mains policy, a property newly abutting a new main extension is limited to a single service connection from the new main if the property has a documented failing

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 1 – II.G.3.a. General Requirements**  
**Modification Effective March 16, 2023**

onsite system or well. Further, in such cases, the additional subdivision of the newly abutting property based on the provision of an abutting service connection is not allowed. Service connections from the extended main to other newly abutting properties with documented failing systems or wells must be direct connections from the main. Non-abutting service connections are not allowed in these cases.



**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
**In accordance with Environment Article 9-507(a)(4), MDE hereby disapproves Chapter 1 – II.G.3.c Transfer of an Abutting Mains Single Service Connection Qualification Modification Effective March 16, 2023**

those qualifying properties of the pending category change request amendment and of the Council's hearing for that amendment.

Single Community Service Connections in Proposed Subdivisions

Some properties that qualify for a single community service connection under this policy will also be proposed for new subdivisions. In these cases, this policy may allow for a new lot using community service in addition to those lots approved using individual, onsite systems. Qualifying projects will need to satisfy the following conditions:

- The original property had to satisfy the general policy requirements for a single community service connection under Section II.G.3.a, preceding.
- The property in the subdivision receiving the single community service connection must receive service by either a direct connection or non-abutting connection to the water or sewer main. The conditions for the use of a non-abutting connection apply as explained in Section II.G.3.a., preceding.
- Final approval of a category change under this condition will require the Planning Board's approval of a preliminary plan that specifies the lot receiving the allowed community water and/or sewer connection.

Properties located within the Piney Branch Restricted Sewer Access Area and the Glen Hills Study Area do not qualify for this subdivision provision of the abutting mains policy concerning sewer connections. The policy is not intended to promote the creation of additional subdivision lots in these areas. A single sewer connection may be provided in a subdivision to one qualifying lot that could be served by an individual septic system.

**~~II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification~~**

~~The transfer of an available abutting mains service connection "right" from a qualifying property to another property that does not qualify for a connection right may be considered under this policy on a case-by-case basis. The approval of such a transfer of a service connection right will require that DEP make the following findings during a category change review process:~~

- ~~• Both properties must abut the water or sewer main with the donating property confirmed by DEP to be eligible for a single connection via the abutting mains policy.~~
- ~~• Both properties must be contiguous (i.e. share a property boundary).~~
- ~~• Both properties must be under common ownership.~~
- ~~• If improved, the property with the existing abutting mains connection right must have a fully functioning septic system that satisfies all current septic system permitting requirements, including an established septic reserve area, under State and County law as verified by the Department of Permitting Services.~~
- ~~• The property donating the existing abutting mains connection right will no longer be eligible for public service through the abutting mains policy.~~
- ~~• Approval of the connection right transfer will be conditioned upon Planning Board confirmation of the receiving property as a building lot.~~

~~Provided that DEP determines that preceding requirements are satisfied, a service area category change may be approved through the administrative delegation process.~~

**II.G.3. d: Multiple Abutting Community Service Connections**

In order to limit the effects of development supported by community systems in areas intended to use individual, on-site well and septic systems, the preceding "abutting mains" policies limit service to a single service connection. However, situations may arise where a reasonable accommodation can be made for more than one service connection for a subdivision site that abuts an existing or approved water or sewer main. The use of community service, particularly sewer service, may allow for an improved lot layout over that required using

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
**In accordance with Environment Article 9-507(a)(4), MDE hereby disapproves Chapter 1 – II.G.5. Community Service for Commercial Land Uses**  
**Modification Effective March 16, 2023**

Montgomery County Comprehensive Water Supply and Sewerage Systems Plan  
*Chapter 1: Objectives and Policies* County Council Approved 2022-2031 Plan

**II.G.4. f.: County Council Reconsideration of PIF Concept Plan Changes**

The discussion of the review of PIF policy cases (Section II.G.4.b) explains the Council's consideration of a concept development plan for the proposed PIF use, which in part is the basis for a category change approval action. However, if the PIF user makes significant changes (prior to service being provided to the approved PIF use) to the development plan from the plan considered at the time of the Council's action, the County will require reconsideration of the original approval action by the County Council. This shall also apply for cases where the proposed PIF user changes from the original user. The M-NCPPC Planning Department will evaluate the revised concept plan with respect to the original plan and report its findings to DEP and the Council concerning significant changes that would warrant the Council's reconsideration.

~~**II.G.5. : Community Service for Commercial Land Uses**~~

~~This policy addresses the provision of community water and sewer service for commercial land uses located outside the planned community service envelopes. This is to help support commercial service (such as grocery and convenience stores, medical offices, and day care facilities) in lower density areas of the county where residents may otherwise have to travel many miles to avail themselves of these services. Properties eligible for consideration for community service are those with existing or proposed commercial uses as defined in the Montgomery County Zoning Ordinance.~~

~~The provisions of this commercial uses service policy (allowances, restrictions, procedural requirements) parallel those established in the Private Institutional Facilities (PIF) policy (see II.G.4, preceding), with the following exceptions:~~

- ~~• The commercial uses considered under this policy do not have to qualify as tax exempt under Section 501 of Title 26 of the United States Code (Internal Revenue Service).~~
- ~~• Neither community water nor sewer service shall be used to support existing or proposed commercial uses within the Agricultural Reserve (AR), Rural (R), and Rural Cluster (RC) Zones.~~
- ~~• Water and sewer main extensions for these properties are required to stay within public rights of way and avoid sensitive environmental features such as streams and forests.~~
- ~~• Properties with residential structures converted or proposed to be converted to a commercial use may be considered for community service.~~

~~Properties that have submitted category changer requests for community service for an existing or proposed commercial use prior to the approval of this policy are not required to submit a concept plan for consideration by the Development Review Committee.~~

**II.G.6. : Community Service for Public Facilities**

Public facilities are defined as government-owned buildings or facilities; this includes facilities for municipal, county, state, state-chartered, and federal government agencies. Service area changes needed for community water and sewer service to serve those public facilities sited within the planned community service envelopes through the administrative delegation process (Section V.D.2.a: Consistent with Existing Plans). For locations outside the planned community service envelopes, DEP may act to approve service area changes for existing and proposed public facilities through the administrative delegation process, Section V.D.2.a: Public Facilities. The provision of community service under this policy shall not be used as justification for the connection of intervening or nearby lots or parcels if they would not otherwise be entitled to connect to community systems.

**II.G.7. : Community Service for Properties Affected by Public Improvements**

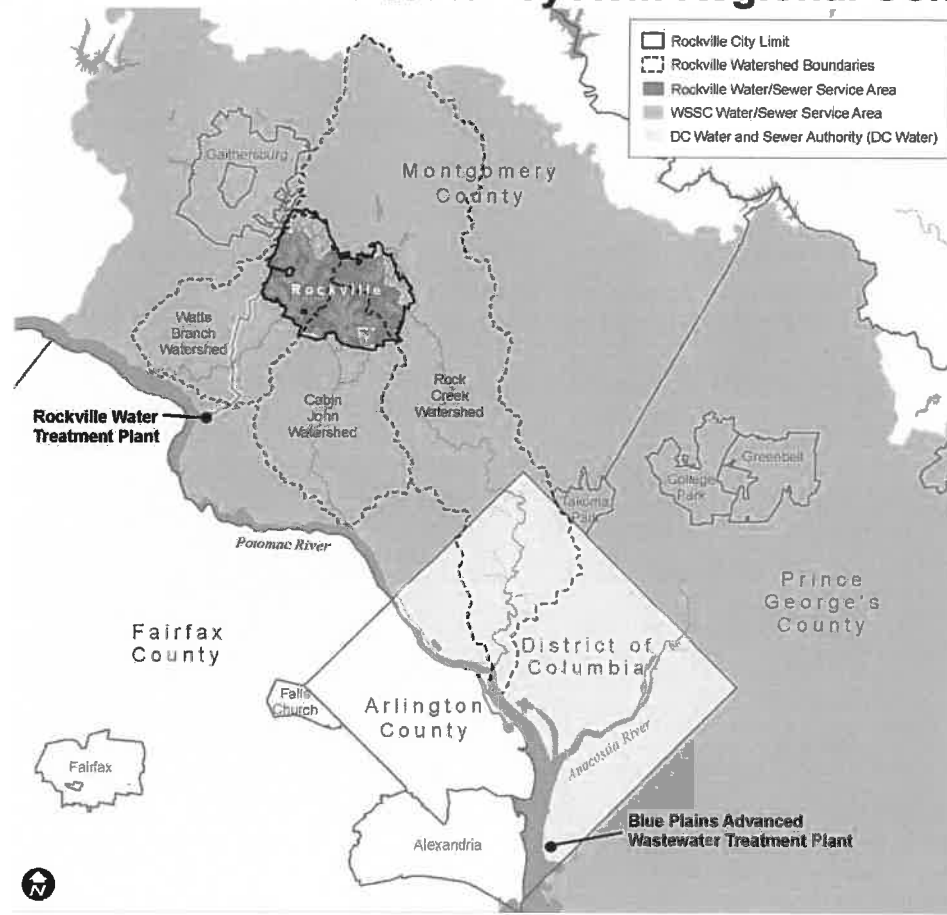
Community water and/or sewer service may be approved for a property where public infrastructure improvements such as road construction will directly remove, damage, or otherwise adversely affect that

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies**  
**Chapter 3 - III: Rockville Service Area**  
**Modification Effective March 16, 2023**

**III: ROCKVILLE SERVICE AREA**

The City of Rockville (Rockville) owns and operates its own water supply system, separate from the WSSC Water community system, from source water to distribution. Rockville provides community water service to an area located within the corporate limits of Rockville and outside the designated limits of the Washington Suburban Sanitary District (WSSD). Properties located within the Rockville’s maximum expansion limit (MEL) and outside the WSSD are eligible to receive water service from Rockville upon annexation into corporate City limits of Rockville. The City of Rockville’s Community Planning and Development Services (CPDS), Permits & Inspections Division is responsible for enforcing compliance with Maryland Water Conservation Plumbing Fixtures Act (MWCPFA). CPDS administers and enforces Article XI (Plumbing Code), Chapter 5 (Buildings and Building Regulations) of the Rockville City Code, including the issuance of Plumbing Permits. The International Plumbing Code (IPC), 2018 Edition, is adopted as the City’s current Plumbing Code and is in compliance with MWCPFA. The approximate boundaries of the Rockville Service Area are shown in Figures 3-F7 and 3-F8

**Figure 3-F7: Rockville Water System Regional Context**



**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply  
and Sewerage Systems Plan  
In accordance with Environment Article 9-507(a)(4), MDE hereby modifies  
Chapter 3 - III: Rockville Service Area  
Modification Effective March 16, 2023**

**IV: TOWN OF POOLESVILLE:**

The Town of Poolesville, located in western Montgomery County (see Figure 3-F1), has operated its own community water supply, storage, and distribution system since 1964. It is the only community water supply system in the County which relies on groundwater for its source water supply. Poolesville's water supply system serves only residences, businesses, and institutions within the town, forming a sanitary district concurrent with the Town's corporate limits and exclusive from the WSSD.

It should be noted that even though the Town of Poolesville administers its own Plumbing permits, the town has adopted and implements all plumbing codes and standards compliance with Maryland Water Conservation Plumbing Fixtures Act (MWCPFA) employed by WSSC Water. WSSC Water also conducts the final Plumbing inspection for the Town of Poolesville.

**IV.A: Water Supply Source:**

The Town presently has 10 municipal groundwater wells in operation, which have a combined total average constant sustainable yield per day of 728 gallons per minute (gpm), or 1,048,320 gpd (assumes 24 hours pumping).

All of Poolesville's wells are equipped with flow regulating valves and have been set to specific pumping rates to ensure that each wells' major water bearings zones are not dewatered. These rates were determined by continuous 30-day pumping of individual wells during drought conditions and do not take into account any interference that may occur between wells if they were pumped simultaneously for 30 days.

Poolesville's groundwater quality is very good and requires minimal treatment. All wells are treated with chlorine, as mandated by the Safe Water Drinking Act. In addition, well #2 utilizes a cartridge filtration unit due to signs of possibly being under the direct influence of surface water. Well #7 & 9 are tied together for one point of entry and are equipped for radon and uranium removal.

The Town is currently in the process of developing Well 14 and combining with Well 4. All permits are being reviewed by Montgomery County Department of Permitting Services and Maryland Department of the Environment has approved the plans and specification for the project. It is anticipated that Wells 4 & 14 shall be online by the end of 2022. All of these wells are part of the built-in place redundancy policy adopted by the Town in the early 2000's. All new wells will also be equipped with radon removal systems, although no Federal standards exist for drinking water.

The Town currently withdraws groundwater from the New Oxford Formation aquifer and has four watersheds within its corporate boundaries: Horsepen Branch, Broad Run, Dry Seneca Creek, and Russell Branch. In 2008, MDE issued the Town new Water Appropriation and Use (WAU) permits for the Horsepen Branch, Dry Seneca Creek, Broad Run and Russell Branch watersheds. The total of the four watershed appropriation permits is 650,000 gpd for an annual daily average and 910,000 gpd for the daily average of the month of maximum use.

According to MDE, on a yearly basis the Town has a total daily average of 651,000 gpd (452 gpm) of groundwater theoretically available within the corporate boundaries. The permitted groundwater yields for both the Horsepen and Russell Branch watersheds are essentially "tapped out." The Dry Seneca Creek and Broad Run watersheds have an additional 52,500 gpd (36 gpm) and 92,500 gpd (64 gpm) of available groundwater supply on a daily average basis, respectively.

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 4: Introduction and Background**

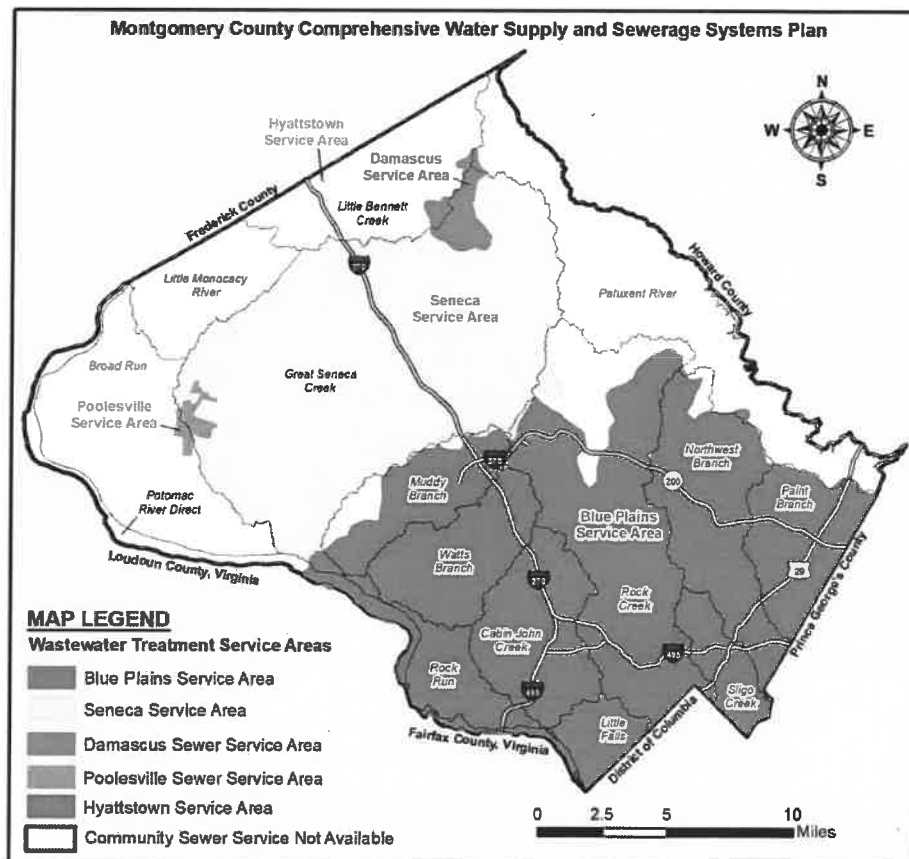
**Modification Effective March 16, 2023**

There are four publicly owned sewerage facilities (WWTP) in Montgomery County. One is operated and maintained by the Town of Poolesville and effluent limitations are met through its NPDES Permit. The other three facilities are operated and maintained by WSSC Water and referred to as Water Resource Recovery Facility (WRRF) and have achieved 100% National Pollutant Discharge Elimination System (NPDES) permit compliance for many years. Through 2022, the Seneca WRRF has achieved 100% compliance for 17 consecutive years, the Damascus WRRF has achieved 100% compliance for 23 consecutive years, and the Hyattstown WRRF has achieved 100% compliance for 12 consecutive years. The Seneca WRRF and Damascus WRRF have qualified for Chesapeake Bay Restoration Fund operation and maintenance grants every year since beginning Enhanced Nutrient Removal (ENR) operation (Hyattstown is not required to remove nutrients). All three WRRFs were designed for full permit compliance at current design flows and are not expected to reach design flows through 2045.

The wastewater generated from the City of Rockville is discharged and treated outside of Montgomery County at the Blue Plains Wastewater Treatment Plant in the District of Columbia.

It should also be noted that the Rockville Service Area (RSA) is located within the Blue Plains service area. Figure 4-F3 shows the areas served by each of these five wastewater treatment service areas. (Note: Not shown in the map is a golf course receiving community sewer service through the Mill Bottom WWTP located in Frederick County near Interstate 70. The golf course operated by the Montgomery County Revenue Authority and is located at the northernmost tip of the County, directly north of Damascus. No other properties in Montgomery County in the vicinity of the golf course are eligible to receive community sewer service.)

**Figure 4-F3: Community Wastewater Treatment Service Areas**



**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 4 – I.C.1.B.i. Blue Plains Service Area Projected Wastewater Treatment Needs Modification Effective March 16, 2023**

**I.C.1.B.i. Blue Plains Service Area Projected Wastewater Treatment Needs:**

Projected flows based on forecasted population and other flow factors for Blue Plains service area are summarized in Table 4-T14. This data, produced by WSSC, is based on COG's Round 9.1 Cooperative demographic forecasts and WSSC Water's latest wastewater flow factors. As shown in this table, the County's projected wastewater treatment needs within the Blue Plains service area will be met well beyond the year 2040.

**Table 4-T14: Projected Flows and Available Treatment Capacity in the Blue Plains Service Area**

Sewer Basin	Projected Average Flows (mgd) <sup>1</sup>			
	2025	2030	2035	2040
Anacostia <sup>2</sup>	65.1	67.3	70.1	71.8
Cabin John <sup>3</sup>	14.8	15.1	15.4	15.8
Little Falls	5.32	5.58	5.68	5.73
Muddy Branch	7.52	7.82	8.22	8.98
Rock Creek <sup>3</sup>	32.4	34.7	35.8	37.3
Rock Run	1.09	1.09	1.11	1.11
Watts Branch <sup>3</sup>	4.66	4.87	5.08	5.21
Other Prince George's County Flows <sup>4</sup>	7.43	7.60	7.79	8.05
<b>TOTAL <sup>5</sup></b>	<b>138.3</b>	<b>144.1</b>	<b>149.1</b>	<b>153.9</b>
<b>Blue Plains WWTP</b>	<b>WSSC Water Allocated Treatment Capacity (mgd)</b>			
	<b>169.6</b>	<b>169.6</b>	<b>169.6</b>	<b>169.6</b>
	<b>WSSC Water Available Treatment Capacity (mgd)</b>			
	<b>31.3</b>	<b>25.5</b>	<b>20.5</b>	<b>15.7</b>

1 - Projected Average Flows based on WSSC Water sanitary sewer model and MWGOG Round 9.1 Demographic Projections

2 - Anacostia Flows include flows from Prince George's County

3 - Includes flows from the City of Rockville

4 - Includes flow from Oxon Run sewer basin

5 - Does not include flows from smaller basins directly connected to the Potomac Interceptor

Note: The above flow projections are based on MWCOC Round 9.1 Demographic Projections. The latest long term flow projections (2040) based on projected Household, Employment, and population increases shown below.

**Wastewater Flow Projection – Projected Increase in Household, Employment, and Population**

Year	Projected Increase From Year 2020			Flow (MGD)
	Household	Employment	Population	
2020	Baseline			<b>133.1</b>
2025	14,048	35,540	30,996	<b>138.3</b>
2030	32,407	64,139	67,149	<b>144.1</b>
2035	47,954	90,129	102,140	<b>149.1</b>
2040	61,970	119,076	133,731	<b>153.9</b>

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 4 – I.C.2.A. Collection and Conveyance Systems**  
**Modification Effective March 16, 2023**

Add Table 4-15 and delete Table 4-T15.

<b>Table 4-15 - Seneca Service Area - Projected Wastewater Flow</b>					
<b>Projected Increase in Household, Employment, and Population</b>					
<b>Year</b>	<b>Projected Increase From Year 2015</b>			<b>Projected Flow (MGD)</b>	<b>Available Capacity (MGD)</b>
	<b>Household</b>	<b>Employment</b>	<b>Population</b>		
2015	Baseline			14.89	20
2045	14,380	34,045	37,314	20.45	26

<b>Table 4-T15: Future Wastewater Flows from the Seneca Creek Basin</b>	
<b>Year</b>	<b>Annual Average Flow (MGD)</b>
<del>2015</del>	<del>14.89</del>
<del>2045</del>	<del>20.45</del>

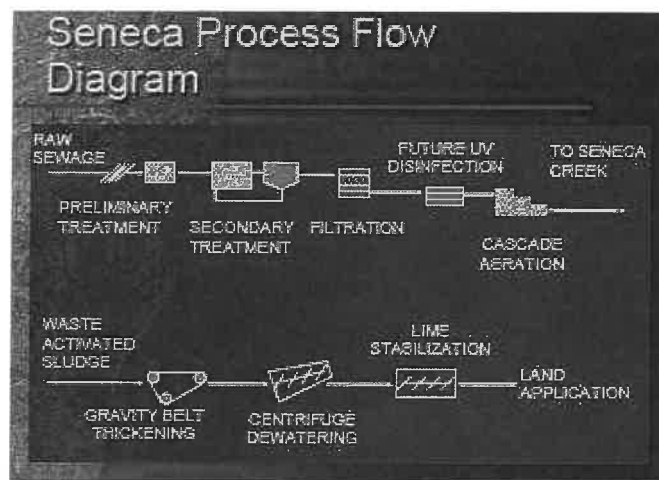
**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**  
**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 4 – I.C.2.B. Seneca Treatment Facilities**  
**Modification Effective March 16, 2023**

**I.C.2.B. Seneca Treatment Facilities:**

Seneca WRRF owned by WSSC Water with NPDES Permit No. MDR000120, located at 12600 Great Seneca Hwy, Germantown MD 20874 (Coordinates: 39°8'26"N 77°16'33"W), effluent discharging through Outfall 001 to Great Seneca Creek.

Since January 2015, the Seneca WRRF is now designed as an ENR (Enhanced Nutrient Removal) Facility with a 26 MGD ultimate capacity employing the following unit processes:

- Preliminary treatment: Course bar screening at the Influent Pumping Facility (IPF), and fine bar screening and grit removal at the Preliminary Treatment Facility (PTF)
- Advanced treatment: ENR (enhanced nutrient removal) utilizing the Bardenpho process with Methanol Addition (External Carbon) for Nitrification/De-Nitrification (5 basins). Phosphorus removal by chemical addition of Aluminum Sulfate (Alum).
- Final Clarification (4 clarifiers). Dual media (sand and gravel) gravity filtration (20 filters). Post aeration of final effluent
- Disinfection: Provided by Ultraviolet Light (UV) system (added in 2007 replacing chlorination/de-chlorination)
- Chemical Addition: Methanol for Nitrogen removal. Aluminum Sulfate for Phosphorus removal.
- Alkalinity adjustment and pH control if needed (acid and caustic addition)
- Solids Conditioning: Gravity Belt thickeners & centrifuge dewatering (both with polymer addition). Stabilization by mixing with Lime (Calcium Oxide).
- Solids Disposal: Land application by contractor of approximately 1700 wet tons per month average.



**Plan Recommendation: Limit Pumpovers from Other Basins into Seneca to Preserve the Projected Treatment Capacity at the Seneca WRRF**

Unlike some other major sewersheds in the County such as Rock Creek or Northwest Branch, the Seneca Creek Basin does not receive significant inflows of wastewater pumped in from other watersheds. In order to preserve projected treatment at the Seneca WRRF for proposed development within the basin, this plan proposes to continue this policy. However, small-scale pumpovers which do not significantly or cumulatively affect treatment capacity, such as the Redland Park project, may occur. This policy would be reevaluated as part of any future analysis of County's long-term wastewater treatment needs.



**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 4 – I.C.3.B. Damascus Treatment Facilities Modification Effective March 16, 2023**

generated in the Little Bennett Creek watershed on the west side of Damascus. The Damascus Center WWPS pumps flows generated in the Patuxent River watershed to the north of the Damascus commercial area. The Watkins Road WWPS pumps flows generated in the Wildcat Branch sub-watershed of Great Seneca Creek to the Damascus WRRF. Based on current and future flows and other factors, WSSC Water regularly evaluates and categorizes all of its pump stations to allow for proper planning to handle expected wastewater flows. The latest WSSC Water’s evaluation conducted in 2020, the Spring Gardens Estates and Damascus Center pump stations have been classified under category “B”. Category “B” pump stations have either been recently modified or are planned to be modified. The other pump station (Watkins Road pump station) diverting flows to the Damascus sewerage systems has been classified under category “A-”. Category A includes pump stations with the following conditions:

- Projected future peak flows are less than the tested safe pumping capacity
- The pump run time is less than 15 hours over the three year period
- Capacity related overflows do not occur.

Category “A-” pump stations have estimated peak flows less than the safe capacity.

The current estimated flows and safe and maximum pumping capacities for all the three pump stations are listed below.

<b>Wastewater Pump Station</b>	<b>Average Dry Weather Flow (MGD)<sup>1</sup></b>	<b>Safe Capacity (MGD)<sup>3</sup></b>	<b>Maximum Capacity (MGD)<sup>3</sup></b>
<b>Damascus Center</b>	0.032	0.31	0.442
<b>Spring Gardens Estates</b>	0.071	0.550	0.68
<b>Watkins Road</b>	0.018	0.134	0.169

1: The average dry weather flows are estimated from pump station flow data (2017 to 2019)

2: The estimated peak flows are based on the Maryland Peak Flow Curve

3: The Safe and Maximum capacities are based on pump tests conducted in 2019.

The Damascus service area is currently identified as an Adequate Capacity Basin. Due to capacity concerns, the existing Spring Gardens Estates Wastewater Pumping Station and associated force main will be replaced. Once site selection for the pumping station is complete, preliminary design for the pumping station and force main will be completed. Also, preliminary design for the replacement of the existing Damascus Center WWPS and force main is underway. The existing pump station and force main were acquired and modified by WSSC Water some years ago after original implementation as an on-site system for the Damascus Shopping Center. The existing pump station and force main will be relocated and replaced. WSSC Water is also utilizing its Standard Procedure REG-IFSM-EC-2016-007 to evaluate the impact of new development on the system. These system evaluations utilize the base system conditions at the time of the WSSC Water’s sewer model development and reevaluation as well as future system conditions.

**I.C.3.B. Damascus Treatment Facilities:**

Damascus WRRF owned by WSSC Water with NPDES Permit No. MDR001221, located at 23730 Log House Rd, Gaithersburg, MD 20882 (Coordinates: N39-14-46.32. Longitude: W77-12-25.20), effluent discharging through Outfall 001 to Magruder Branch.

The Damascus WRRF is located approximately six miles upstream of the Great Seneca Creek Trunk Sewer. The original 0.75-MGD Damascus WRRF was built in 1974 as a temporary, secondary treatment plant to replace poorly functioning septic systems and allow new

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 4 – I.C.3.B. Damascus Treatment Facilities Modification Effective March 16, 2023**

Projected flows based on demographic forecasts and other flow factors for the Damascus Service Area indicate that existing treatment facility will handle all expected wastewater flows from this service area for the foreseeable future, at least until 2045 as shown in the following Table.

Add the following Table:

<b>Damascus Service Area - Projected Wastewater Flow</b>					
Projected Increase in Household, Employment, and Population					
<b>Year</b>	<b>Projected Increase From Year 2015</b>			<b>Projected Flow (MGD)</b>	<b>Available Capacity (MGD)</b>
	<b>Household</b>	<b>Employment</b>	<b>Population</b>		
2015	Baseline			0.88	1.5
2045	285	407	751	0.97	1.5

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 4 – I.C.4.B. Treatment Facility**

**Modification Effective March 16, 2023**

**Damascus Service Area - Projected Wastewater Flow**  
Projected Increase in Household, Employment, and Population

Year	Projected Increase From Year 2015			Projected Flow (MGD)	Available Capacity (MGD)
	Household	Employment	Population		
2015	Baseline			0.88	1.5
2045	285	407	751	0.97	1.5

**I.C.4. Hyattstown WRRF Service Area:**

The Hyattstown Service Area includes the Hyattstown Historic District, located along Frederick Road (Route 355) between Hyattstown Mill Road and Frederick County. The Hyattstown community consists of approximately fifty residential and commercial structures. In 1997, Montgomery County and WSSC Water agreed to build a community wastewater collection and treatment system to resolve chronic, long-term public health problems in Hyattstown resulting from failed septic systems. This sewerage system was primarily intended to be limited to the existing historic Hyattstown community, with an allowance for some growth within this area in conformance with the existing zoning and historic district designation. In 1998, the Montgomery County Council also approved community service for the Hyatt Center. Portions of this property, which abut the historic district, are located in both Montgomery and Frederick Counties, and the shopping center itself is located in Frederick County. The County Council approved sewer service for this site located outside Hyattstown historic district, due to the potential for this facility's septic systems to contaminate domestic wells in Hyattstown located downgrade from the shopping center. WSSC Water completed construction of the treatment plant in 1999.

**I.C.4.A. Collection and Conveyance System:**

The wastewater collection system uses a conventional gravity sewer line located primarily within the existing right-of-way of Frederick Road (Route 355) and consists of approximately 2,500 feet of 8-inch diameter PVC piping. This system will handle all expected wastewater flows from the Hyattstown community for the foreseeable future.

**I.C.4.B. Treatment Facility:**

Hyattstown WRRF with NPDES No. MD0067768, located at 25750 Frederick Rd Clarksburg 20871 (Coordinate N39-16-36.95 and W77-18-48.72), effluent discharging through Outfall 001 to Little Bennett Creek.

The Hyattstown WRRF consists of a prefabricated, 15,000 gallons per day (gpd) package treatment plant with extended aeration that discharges treated effluent to Little Bennett Creek. The construction of the treatment facility was completed in 1998. The existing treatment facility will handle all expected wastewater flows from this sewerage system for the foreseeable future.

Hyattstown WRRF is a small packaged Secondary Treatment plant designed for 15,000 gallons per day and typically averages about 5,000 to 6,000 gallons per day. The new plant employs the following treatment processes:

- Preliminary treatment: Course bar screen and Basket Strainer before grinder pumps
- Secondary Treatment: Extended Aeration Activated Sludge Process (2 basins), with Secondary Clarification
- Disinfection: Ultraviolet Light (UV) system
- Solids Disposal: Liquid Solids stored on site, pumped out & transferred to Damascus WRRF for solids processing in 4,000 gallon loads about every other month.

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Chapter 4 – III.E Treatment Facilities**

**Modification Effective March 16, 2023**

**III.E. Treatment Facilities:**

Poolesville WWTP with NPDES Permit MD0023001, located at 18901 Fisher Avenue, Poolesville, Maryland 20837 (Coordinates Longitude 77° 23' 33.40" and North Latitude 39° 8' 26.23") effluent discharging through Outfall 001A to the Dry Seneca Creek.

The Town of Poolesville owns and operates a permitted 750,000 gallon per day Wastewater Treatment Plant (WWTP) with a hydraulic capacity of 2,000,000 gallons per day. This sequence batch reactor type facility was upgraded in 2010 to a biologically enhanced nutrient removal (ENR) system using an anoxic zone for denitrification. It is anticipated construction of a denitrification filter system will begin to meet MDE requirements. The facility processes also chemically precipitate and remove phosphorus through aluminum chloralhydrate addition. The unit processes employed at the WWTP includes:

- **Primary Treatment** - Grinder, chemical addition (phosphorus removal), rotary filter screen, compactor
- **Secondary Treatment** - Activated sludge process (including nitrification) and clarification occur within the same reactor
- **Advanced Treatment** - Anoxic treatment, Dual media filtration - pressure vessels
- **Disinfection** - Ultraviolet Irradiation
- **Solids Conditioning** - Two stage aerobic digestion, chemical conditioners (polymer), belt filter press
- **Solids Disposal** - Land fill

The Town has received a MDE grant for the design of a denitrification filtration system with methanol injection. The plans should be permitted by the end of 2020 and ready for the bidding construction phase. Estimates and grant funding approval for the implementation should be completed sometime in Fiscal Year 2022 followed by construction.

**III.F. Wastewater Capacity Management Plan:**

The Town of Poolesville has developed a Wastewater Capacity Management Plan. The Plan utilizes a three-year rolling average of discharge flows from the WWTP to determine the available capacity for development allocation. By January 31 each year, the Town is required to develop and submit to the MDE a Municipal Sewage Capacity Report. The reports will include the three most recent years of flow data contained in the Discharge Monitoring Reports. To determine the annual average flow, the monthly average flow for each month will be averaged with the other monthly averages.

According to the MDE, use of an estimated 250 gallons per day (gpd) per single-family dwelling or 100 gpd per person is a common practice. Considering this typical domestic usage, the Town's allocation of 325 gallons per day per household is calculated to include an allowance for Infiltration and Inflow(I&I).

Currently the Town anticipates the construction of a possible 161 residential units within the next ten years. The Town uses 325 gallons per day for each unit for estimating flows to the WWTP. Based on the above numbers, within the next ten years the wastewater flows to the Town's WWTP will be increased by an additional 52,325 gallons per day. As part of the restoration of the existing infrastructure the Town is aggressively developing a plan to minimize the current excessive existing I&I problems.

Based upon 3.2 persons per single family house. The following methodology will be used to manage wastewater capacity and to control the distribution of capacity to avoid burdens to the system and to maintain sufficient set aside to accommodate the system.

- Calculate the past three-year averages
- Add the number of allocated (not connected) sewer connections that the local government has provided a written commitment
- Subtract this sum from the permitted 750,000 gpd

The remaining balance is the **net available wastewater capacity** This capacity allocation will be based on 325 GPD/household.

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby adds the Poolesville Wastewater Treatment Capacity Management Plan to Chapter 4: Sewerage Systems Modification Effective March 16, 2023**

Updated: January 20, 2023

**Commissioners of Poolesville  
Wastewater Treatment  
Capacity Management Plan**

**Purpose**

State law requires that local governments have a mechanism in place to track and manage the capacity of their wastewater systems in a manner that considers all prior commitments and the ability of the system to handle any additional flows.

The Maryland Department of the Environment (MDE) has issued guidelines for the development of Water and Wastewater Management Capacity Plans for those jurisdictions that control the allocation of water and sewer. These Management Plans are useful planning tools to ensure that municipalities have adequate water and sewer facilities to serve proposed developments and to provide guidance in developing required annual Municipal Sewage Capacity Reports.

In past year's, the MDE has annually summarized the previous two years of flow data from the Discharge Monitoring Reports submitted by all Wastewater Treatment Plants and provided municipalities with an allocation table. Beginning in 2005, the MDE is using three years of flow data, however, the tables will not include a determination regarding the facility's remaining flow capacity.

The MDE is requiring local municipalities to be responsible for determining allocation capacities and to prepare Wastewater Management Capacity Plans incorporating design capacity, available wastewater, proposed connections and allocation amounts.

**Wastewater Treatment Plant**

In 2006, the Town's National Pollutant Discharge Elimination System Permit was increased from 625,000 to 750,000 gallons per day (gpd). During the design phase, the MDE required the facility to process and filter 2,000,000 gpd in order to deal with inflow and infiltration (I&I) peak flows.

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby adds the Poolesville Wastewater Treatment Capacity Management Plan to Chapter 4: Sewerage Systems Modification Effective March 16, 2023**

Although the design capacity was increased to accommodate I&I peak flows, the Town has embarked on a comprehensive sewer relining campaign. Preliminary results show a significant decrease in flows and the efforts are continuing.

If the WWTP meets any one of the following conditions, it is considered hydraulically overloaded and shall not commit additional allocations and/or halt the issuance of building permits until corrective action is taken:

Condition 1

When sewage overflow or bypasses occurs due to hydraulic limitation

- a) During dry weather conditions or
- b) Four times during previous six-month period

Condition 2

The daily average flow rate reported for the plant using flows from the last three complete calendar years exceeds the daily average flow rate used in the discharge permit to establish effluent loading limitations.

Condition 3

The adjusted daily average flow rate reported for the plant using the last three calendar years is 90% or more of the daily average flow rate used in the discharge permit to establish effluent loading limitations, **and** in the last three years- there have been either effluent violations, bypasses or sanitary sewer overflows attributed to high flows or flow spikes during storm events.

**Allocation Management Criteria**

By January 31 each year, the Town is required to develop and submit to the MDE a Municipal Sewage Capacity Report. The reports will include the three most recent years of flow data contained in the Discharge Monitoring Reports. To determine the annual average flow, the monthly average flow for each month will be averaged with the other monthly averages.

The Town has developed the following procedures to manage wastewater capacity and to control the distribution of capacity to avoid burdens to the system and to maintain sufficient set aside to accommodate the system.

According to the MDE, use of an estimate of 250 gallons per day (gpd) per single-family dwelling or 100 gpd per person is a common practice. Although actual domestic usage may be less, this figure includes allowances for I&I. Taking into account that new construction will be virtually free of I&I, the Town is conservatively using 325 gallons

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby adds the Poolesville Wastewater Treatment Capacity Management Plan to Chapter 4: Sewerage Systems Modification Effective March 16, 2023**

per day per single-family dwelling well above the 290 gpd as recommended in the 2011 Master Plan.

The following methodology will be used in the annual wastewater capacity determinations:

- Calculate the past three-year averages
- Add the number of allocated (not connected) sewer connections that the local government has provided a written commitment
- Subtract this sum from the permitted 750,000 gpd
- The remaining balance is the **net available wastewater capacity**

### **Allocation Capacity Calculation**

In 2019, the Commissioners of Poolesville adopted Policy and Procedures for wastewater allocations. The purpose of this document is to provide guidance for the allocation of water and sewer capacity, recognizing that it is in the Town's best interest to establish procedures for requesting allocations that are well known and reasonably understood and to establish policies that are equitable and serve the economic development and growth management goals established by the Town.

Every January, the Town determines, in accordance with the MDE, available wastewater capacity utilizing a three-year rolling flow average minus previously allocated, unused taps.

Every three (3) years, the Poolesville Planning Commission will review and recommend to the Commissioners of Poolesville potential gallons per day allocatable capacity for that period as follows:

- a) 60% Downtown Target Investment Zone & special uses as identified in the Poolesville Master Plan.
- b) 30% Town use/set aside buffer.
- c) 10% Other residential (4 and under lots outside TIZ).

During each review period, the Planning Commission will ensure that the percentage allocations are in conformance with MDE standards and under capacity limits.

The Commissioners of Poolesville will review, revise and approve the recommendations by resolution.

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby adds the Poolesville Wastewater Treatment Capacity Management Plan to Chapter 4: Sewerage Systems Modification Effective March 16, 2023**

In the event of unforeseen circumstances which limit or reduce the capacity, the Commissioners of Poolesville may reduce, limit or cease granting allocations.

The 2023 population of Poolesville stands at approximately 6,200. The current Comprehensive Plan limits growth to a 6,500 population. With the limited growth potential, the general policy will be to allocate connections on a "first-come, first-serve" basis, subject to the ratio contained in Allocation Capacity Calculation section above.

Allocations are issued only for projects that have initial approval status, as detailed above, that are deemed "scheduled for completion" timely and in accordance with all planning estimates and projections.

Allocations are issued as capacity is available and only to projects that meet the priorities of the Town.

Generally, allocations will expire with plan expiration, prior to recordation, unless renewed for cause, in writing, by the Town. If an applicant loses eligibility (e.g., the Plan expires), any issued allocations for the project will expire and a new application must be submitted. The Town is not likely to extend expiry for projects that are not being diligently pursued.



**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Appendix B: Multiuse Water and Sewer Facilities**

**Modification Effective March 16, 2023**

**MONTGOMERY COUNTY COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN**  
**Appendix B: Multiuse Water and Sewer Facilities**  
 County Council Approved 2022-2031 Plan

<b>Table B-T1: Inventory of Existing and Approved Multiuse Water Supply and Sewerage Systems</b>		
<b>Facility</b>	<b>Multiuse Water Supply System</b>	<b>Multiuse Sewerage System</b>
<b>Facility Name</b> <b>Owner/Operator (If Different than Facility)</b> <b>Location</b> <b>Comments (Status/Expansion)</b>	<b>Water Source</b> <b>Treatment &amp; Sludge/Backwash Disposal</b> <b>System Capacities (Rated, Ave., Max., Stor.)</b> <b>State Coordinates</b>	<b>Type of Treatment</b> <b>Design Capacity</b> <b>Point of Discharge &amp; Permit No.</b> <b>State Coordinates</b>
<b>Monocacy Elementary School</b> MCPS 18801 Barnesville Rd., Dickerson <u>Sewer:</u> No records of permitted system found. Notes in file indicate the system consists of tank(s) and seepage pits and there is no reserve area, when the system fails they will have to go a holding tank. 2014-2015 school year: 161 students & 22 staff	Source: Groundwater Treatment: Chlorination	Treatment: Septic tank, soil absorption via seepage pits Design capacity: unknown Ground discharge; no permit record.
<b>NIH Animal Farm</b> National Institutes of Health/USDHHS 16701 Elmer School Rd., Dickerson, MD 20842 <u>Water:</u> Facility Study Proposed	Source: groundwater Treatment: Chlorination. Disposal: None Rated Capacity:.....151,000 GPD Average Production:.....42,000 GPD Maximum Peak Flow:.....59,000 GPD Storage Capacity:.....150,000 gal.* Coordinates: N472,000 / E665,000 *elevated storage	Treatment: activated sludge Design capacity: .....100,000 GPD Surface water discharge: Broad Run. Permit no. 91-DP-2529 Coordinates: N471,066 / E664,523
<b>Poolesville Golf Course</b> Mont. Co. Revenue Auth. 18601 West Willard Rd. - Poolesville No comments	Source: groundwater	Treatment: Stabilization lagoon, soil absorption and evaporation via spray irrigation Design capacity: .....8,000 GPD Ground discharge; permit not required. Coordinates: N469,910 / E680,408
<b>Resource Recovery Facility</b> Mont. Co. DEP & Northeast Maryland Waste Disposal Authority 21204 Martinsburg Rd. - Dickerson No comments	Source: groundwater Treatment: Chlorination. Disposal: None. Rated Capacity:.....144,000 GPD Average Production:.....144,000 GPD Maximum Peak Flow:.....72,000 GPD Storage Capacity:.....15,000 gal. Coordinates: N498,300 / E670,050	Treatment: Package treatment plant, with neutralization tank, dual media filter Design capacity: .....122,400 GPD Surface water discharge: Potomac River via PEPCO discharge canal. Permit not required Coordinates: N498,300 / E670,050
<b>PRIVATE FACILITIES: COMMERCIAL</b>		
<b>Blue Mash Golf Course</b> Same 5821 Olney Laytonsville Rd. (MD 108), Laytonsville No comments	<i>Served by WSSC community water supply system.</i>	Treatment: spray irrigation (growing season only); ground discharge Design capacity: .....5,000 GPD Surface discharge permit issued by MDE
<b>Bretton Woods Recreation Center</b> International Monetary Fund 15700 River Road - Seneca No comments	Source: Ground water Rated capacity:.....1,500 GPD Average production:..... Maximum flow:..... Storage capacity: .....	Treatment: activated sludge Design capacity: .....15,000 GPD Surface water discharge: Unnamed Tributary to Potomac River. Permit no. 90-DP-2754 Coordinates: N452,200 / E706,500
<b>Dickerson Generating Station</b> Gen On Mid-Atlantic LLC (formerly Mirant Mid-Atlantic) Martinsburg Rd. -- Dickerson Facility formerly owned by PEPCO.	Source: Potomac River Treatment: Clarification, filtration, & chlorination. Disposal: Hauled out Rated capacity:.....56,000 GPD Average production:.....26,000 GPD Maximum flow:.....56,000 GPD Storage capacity: .....none Coordinates: N520,000 / E668,000	Treatment: Activated sludge Design capacity: .....10,000 GPD Surface water discharge: Potomac River via discharge canal. Permit MD002640 Coordinates: N501,800 / E669,992

**MONTGOMERY COUNTY COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN**

***Appendix E: County's Major Public Facilities and Institutions***

**County Council Approved 2022-2031 Plan**

**MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**

**In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Appendix E: County's Major Public Facilities and Institutions**

**Modification Effective March 16, 2023**

**Note:** Due to the fact that WSSC Water no longer uses population to calculate demand, the following listing of County's major public facilities and institutions do not contain the existing and forecasted populations. In addition, due to map size and scale as well as the sheer number of public facilities and institutions in Montgomery County, only the main and larger public facilities and institutions are included in the attached map.

<b>MONTGOMERY COUNTY MAJOR PUBLIC FACILITIES AND INSTITUTIONS</b>			
<b>INSTITUTION</b>	<b>NAME</b>	<b>ADDRESS</b>	<b>CITY</b>
<b>MONTGOMERY COUNTY GOVERNMENT</b>	Agricultural Services	18410 Muncaster Rd	Derwood
	Automotive Equipment Section	1283 Seven Locks Rd	Rockville
	Bethesda Depot/AES	1283 Seven Locks Rd	Rockville
	Board of Elections	18753 N Frederick Ave	Gaithersburg
	Board of Investment Trustees	11 N Washington St	Rockville
	Carver Educational Services Center	850 Hungerford Dr	Rockville
	Colesville Depot	14335 Cape May Rd	Colesville
	Commuter Services	8401 Colesville Rd	Silver Spring
	Council Office Building	100 Maryland Ave	Rockville
	Damascus Depot	26149 Ridge Rd	Damascus
	Dedrick Annex	1400 Spring St	Silver Spring
	Department of Economic Development	111 Rockville Pik	Rockville
	Department of Liquor Control	201 Edison Park Dr	Gaithersburg
	Department of Transportation	101 Orchard Ridge Dr	Gaithersburg
	Dickerson Composting Facility	21210 Martinsburg Rd	Dickerson
	District Court of MD - Rockville	191 E Jefferson St	Rockville
	District Court of MD - Silver Spring	8552 Second Ave	Silver Spring
	DREAMS Records Center	8532 Anniversary Cir	Gaithersburg
	Edward U Taylor Science Materials Center	19501 White Ground Rd	Boysd
	Equipment Maint/Transit Op Ctr (EMTOC)	16624 Crabbs Branch Way	Rockville
	Executive Office Building	101 Monroe St	Rockville
	Facilities Customer Services	1301 Seven Locks Rd	Rockville
	Family Justice Center	600 Jefferson Plz	Rockville
	Fire and Explosives Investigations	8663 Grovemont Cir	Rockville
	Fleet Management Division	16630 Crabbs Branch Way	Rockville
	Gaithersburg Depot	16640 Crabbs Branch Way	Rockville
	Gaithersburg Depot	17000 Crabbs Branch Way	Rockville
	Gaithersburg Warehouse	8516 Anniversary Cir	Gaithersburg
	Gray Courthouse	27 Courthouse Sq	Rockville
	Housing Opportunities Commission	10400 Detrick Ave	Kensington
	Human Resources	2301 Research Blv	Rockville
	Materials Management	2 Metropolitan Ct	Gaithersburgh
	MC Airpark Maintenance	7940 Airpark Rd	Gaithersburg
MC Animal Shelter	14645 Rothgeb Dr	Derwood	

**MONTGOMERY COUNTY COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN**

**Appendix E: County's Major Public Facilities and Institutions**

County Council Approved 2022-2031 Plan

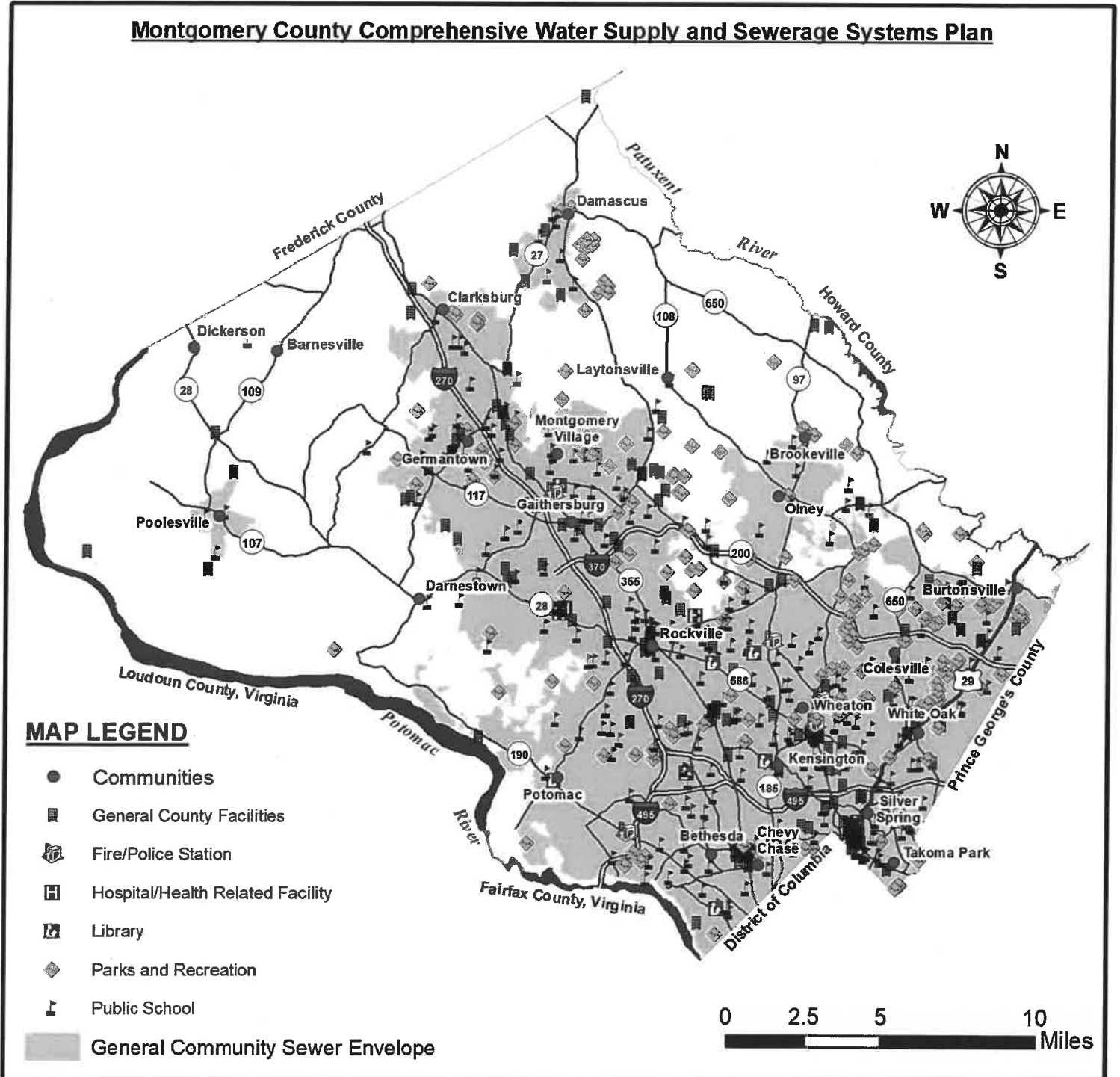
MDE Modification – 2022-2031 Montgomery County Comprehensive Water Supply and Sewerage Systems Plan

In accordance with Environment Article 9-507(a)(4), MDE hereby modifies Appendix E: County's Major Public Facilities and Institutions

Modification Effective March 16, 2023

**Montgomery County Major Public Facilities and Institutions**

**Montgomery County Comprehensive Water Supply and Sewerage Systems Plan**



DATE: January 6, 2023

TO: Steve Alfaro, Watershed Protection, Restoration, and Planning Program

FR: Denise Clearwater, Wetlands and Waterways Protection Program

RE: Water and Sewer Plan Amendment – Montgomery County - 2022-2031 Ten Year Comprehensive W&S Plan

Wetlands provide important socio-economic benefits and ecosystem services such as storing and conveying flood waters, recharging groundwater, improving water quality by filtering and storing nutrients, and providing shoreline protection and critical habitat for a multitude of plant and animal species. The Maryland Department of the Environment's Wetlands and Waterways Program protects Maryland wetlands and waterways from loss and degradation. This protection is achieved through the regulation of the draining, dredging and filling of tidal and nontidal wetlands, the nontidal wetland buffer and waterways, including the nontidal 100-year floodplain through a permitting or authorization process implemented in close coordination with the federal government (specifically, the Army Corps of Engineers).

Persons proposing activities in tidal wetlands, nontidal wetlands and their 25- or 100-foot buffers, or nontidal waterways and their 100-year floodplain must submit a Joint Permit Application and supporting information to the Wetlands and Waterways Program. Early coordination with the Program is encouraged to discuss regulatory requirements and minimization of adverse impacts to the regulated resources.

Contact: Wetlands and Waterways Program Office (410) 537-3837  
Regulatory Services Section / Application Processing (410) 537-3752

Tidal Wetlands. Activities in tidal wetlands to construct or reconstruct structures, or to dredge or fill a State or private tidal wetland, shall obtain a license from the Board of Public Works or a permit from Maryland Department of the Environment. The construction, reconstruction, alteration, or addition to any conduit, cable, pipeline, intake or discharge pipe, trestle, or other similar device, structure, or apparatus, over, on, in, or under tidal wetlands or waters of the State requires an applicant to submit a Joint Permit Application and supporting information to MDE's Wetlands and Waterways Program. The Program will review the application and supporting information to make a determination which will be provided in a Report and Recommendation to the Board for their use in making a decision to grant or deny a license for proposed work over, on, in, or under **State tidal wetlands**. The Program will review the application and supporting information to make a determination to issue or deny a permit for proposed work over, on, in, or under **private tidal wetlands**.

A person submitting a Joint Permit Application to obtain a license or permit shall be the riparian landowner of upland adjoining the affected area of State or private tidal wetlands, an agent of the riparian landowner, the State, any unit of the State, a public service company, a municipality, or a political subdivision.

Contact: Tidal Wetlands Division (410) 537-3571

Nontidal Wetlands. MDE regulates the following activities in nontidal wetlands and their 25-foot or expanded 100-foot buffers: (i) Removal, excavation, or dredging of soil, sand, gravel, minerals, organic matter, or materials of any kind; (ii) Changing existing drainage characteristics, sedimentation patterns, flow patterns, or flood retention characteristics; (iii) Disturbance of the water level or water table by drainage, impoundment, or other means; (iv) Dumping, discharging of material, or filling with material, including the driving of piles, and placing of obstructions; (v) Grading or removal of material that would alter existing topography, and (vi) Destruction or removal of plant life that would alter the character of a nontidal wetland.

Contact: Nontidal Wetlands Division (410) 537-3837

Nontidal Waterways and 100-year Floodplain. MDE regulates construction, reconstruction, repair, or alteration of a dam, reservoir, or waterway obstruction or any change of the course, current, or cross section of a stream or body of water within the State including any changes to the 100-year frequency floodplain of free-flowing waters.

Contact: Waterway Construction Division (410) 537-3837

Climate Change Resiliency and Flooding. In addition, consideration of measures to address climate change are highly encouraged. This may include designing stormwater management facilities to treat storm events beyond generating more than 1" of runoff in 24 hours, and instead treat more frequent, higher intensity, shorter duration events. Roads crossings over waters may need to be designed to different standards to pass storm flows without infrastructure damage or discharges to aquatic life. Retention or re-establishment of forests is also highly desirable.

The County or applicant is advised to contact Dave Guignet, State NFIP Coordinator, of MDE's Stormwater, Dam Safety, and Flood Management Program, at (410) 537-3775 for additional information regarding the regulatory requirements for Floodplains and Storm Surges.

The County or applicant is advised to contact Matthew C. Rowe, CC-P, Assistant Director of MDE's Water and Science Administration, at (410) 537-3578 for additional information regarding Climate Change and Resiliency

I have reviewed the proposed amendment for the Wetlands and Waterways Program and have the following comments:

- 1) There are mapped/wetlands hydric soils or streams and 100-year floodplains in the vicinity of the Riverwood Drive area. The applicant is encouraged to consult with the Wetlands and Waterways Program to verify the presence of wetlands, their buffers, stream and its 100-year floodplain in relation to any activities which are planned for the property. Activities in these water resources may be subject to regulatory requirements from the MDE's Wetlands and Waterways Program.
- 2) Early coordination with the Wetlands and Waterways Program for new major or replacement lines is recommended in advance of submitting applications and to

discuss any new requirements related to restoration of wetlands after temporary impacts.

- 3) Early coordination with the Program during planning stages for the project is strongly encouraged to avoid or minimize adverse impacts from regulated activities. If there are activities proposed for new sewer or water projects in regulated resources, the County is encouraged to contact the Wetlands and Waterways Program.
- 4) The plan mentions new extensions for water and sewer lines, storage facilities, and/or treatment plants. Where practicable, locations of the utility lines and facilities should support protection measures from future development in wetlands, waterways, or floodplains, as well as avoiding and minimizing impacts from the line, treatment facility, and supporting utility infrastructure. Suggested for consideration include:
  - a) a prohibition on new subdivision lots in wetlands;
  - b) avoidance and minimization requirements;
  - c) site plan considerations over multiple parcels that provide for contiguous wetland and stream corridors to be maintained, with minimum fragmentation from roads, buildings, or other structures; and
  - d) location of new or replacement lines in existing utility or road rights-of-way.
- 5) Compensatory mitigation may be required for permanent wetland losses, including conversion of forested wetlands to other wetland types and permanent access roads, and other structures.
- 6) Wetland estimates in the county should use estimates from the National Wetlands Inventory and DNR Wetlands layers. Sensitive resources may be preliminarily identified using the Watershed Resources Registry at:  
<https://watershedresourcesregistry.org/states/maryland.html>.
- 7) An evaluation of the site and its vicinity using the Watershed Resources Registry shows the presence of sensitive resources. These may include: sensitive species project review areas, Targeted Ecological Areas, Biodiversity Conservation Network, Nontidal Wetlands of Special State Concern, Tier II watershed, Stronghold Watershed, and/or Forest Interior Species. Contact MDE or the Maryland Department of Natural Resources for recommendations or requirements to avoid or minimize adverse impacts to these resources.
- 8) There may be wetland or waterway impacts associated with the project. Impacts will be reviewed by MDE during application review. Pre-application meetings are also available to discuss avoidance, minimization, and restoration after temporary impacts.
- 9) The Wetlands and Waterways Program (Program) encourages a site design which avoids, or if avoidance is not practicable, minimization of impacts from activities

in regulated stream or wetland resources. The Program also supports the cluster design recommended by the County for this project to conserve remaining forest land on site and avoid and minimize activities in the stream or potential wetlands.

- 10) The plan/project includes activities in Tier II watershed(s). Tier II streams are high-quality waters that require, under regulation, additional consideration to protect their water quality. Water quality and their associated aquatic resources in Tier II streams require healthy contributing watersheds and riparian areas, including adjacent floodplains and wetlands. Tier II waters may also be associated with other sensitive species and nontidal wetlands of special State concern.

All possible considerations should be implemented to protect high-quality waters and their associated wetlands and floodplains from activities which may result in water quality degradation. This primarily consists of rigorous watershed planning, with consideration of the extra provisions necessary to protect high-quality waters; site design, and construction practices; and compensatory offsets for adverse impacts.

- 11) No comments
- 12) Additional specific comments

Coordination with MDE is highly recommended for review of proposals to use Travilah Quarry for water supply.



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## Maryland DEPARTMENT OF PLANNING

January 10, 2023

Ms. Dinorah Dalmasy, Manager, Integrated Water Planning Program  
Maryland Department of the Environment  
Water and Science Administration  
1800 Washington Boulevard  
Baltimore, Maryland 21230

Subject: Montgomery County—2022-2031 Ten Year Comprehensive W&S Plan (CWSP)  
Triennial Update—County Council Resolution No. 19-1423

Dear Ms. Dalmasy:

The Maryland Department of Planning (Planning) reviewed the above-referenced water and sewerage plan amendment pursuant to our mandate to advise the Maryland Department of the Environment (MDE) on local comprehensive plan consistency and other appropriate matters as required by Environment Article Section 9-507(b)(2).

This Triennial Update (Plan) amendment to the Montgomery County Comprehensive Water Supply and Sewerage Systems Plan (CWSP) was adopted by the Montgomery County Council on October 25, 2022, following a public hearing on July 12, 2022. A Council work session was held on October 18, following the Transportation and Environment Committee work sessions held on September 12 and October 3, 2022.

### **Summary of Amendment**

According to Resolution No 19-1423, Attachment A (Pages 1-2) and Appendix B (Pages 1-8), the county provides a summary of the changes made to the CWSP, not including minor changes such as editing and minor wording revisions. The Montgomery County Department of Environmental Protection updated several of the maps appearing in the CWSP.

### **Consistency with the Comprehensive Plan**

The following text amendments made to the CWSP have been reviewed for consistency with Thrive Montgomery 2050 (Thrive 2050), dated October 25, 2022 and/or the Water Resources Functional Plan (WRP), dated September 2010. Planning's comments are provided below the text taken from the Attachment to Resolution No. 19-1423, Appendix B describing the changes (Appendix B, pages 1-8).

Note: Planning has provided the CWSP changes from the resolution below, excluding the Executive Summary. For the readers' convenience and clarity, Planning has removed deletions of language and underlining, because the underlining reflects only the newest added language, not the entire added language in the adoption.



**F. CHAPTER 1**

**I.E.3.a.: Washington Suburban Sanitary Commission (WSSC Water, WSSC) ((Page 1-13))  
((Text added to clarify WSSC-Water’s role in the category change review process.))**

“WSSC Water provides data and guidance to the Executive pertaining to capacity of the water supply and sewerage systems and to engineering and fiscal aspects of system expansion. WSSC Water’s functions also include reviewing and commenting on the Recommended Comprehensive Water Supply and Sewerage Systems Plan and on proposed amendments, including water and sewer service area category change requests. For category change requests, WSSC Water addresses the technical feasibility of new community service, including system transmission and treatment capacities.”

**Comment:** Planning has no comment on this clarifying language.

**G. II.G.3.: Community Service for Properties Abutting Community System Mains  
II.G.3.a.: General Requirements Technical Feasibility of Service Connections Page 1-37))**

**((Text added to clarify which confronting properties, that abut new main extensions, can receive service connections from those mains. The intent is to not allow these main extensions to promote unapproved development.))**

“The requested main extension may offer abutting mains connections to other confronting properties provided that they are only improved properties or recorded building lots. These confronting properties must be served from the extended main; no additional extensions are allowed. DEP may grant an exception to this limitation in cases where an extension is needed for the relief of a failed onsite system. In cases where a service area category change is needed for a confronting property, the category change is not suitable for an advance action (see Section II.G.3.e.). The confronting properties will carry a notice that disallows any similar, additional main extensions. As with the general provisions of this abutting mains policy, a property newly abutting a new main extension is limited to a single service connection from the new main. Further, in such cases, the additional subdivision of the newly abutting property based on the provision of an abutting service connection is not allowed. Service connections from the extended main to other newly abutting properties must be direct connections from the main. Non-abutting service connections are not allowed in these cases.”

**Comment:** This amendment derives directly from specific properties currently under review by MDE associated with County Council Resolution No. 19-1425, and concurrently adopted on October 25, 2022, specifically **WSCCR 20-TV03A: Ashwani & Janak Arora**, and **WSCCR-20-TRV05A: Ravinder & Rita Kapoor**. To understand the amendment, Planning provides the new language in its entirety under the title “Technical Feasibility of Service Connections”:

“A property owner may request DEP’s approval of a new water or sewer main extension to the existing abutting main to position the main directly aligned with the building on the property. This can allow for a shorter onsite service utility between the main and the structure or serve to avoid affecting an environmental constraint on the site (stream, forest stand, etc.). The new main extension cannot extend past the point where it can best provide a logical connection to the existing outfall from the building to the septic tank. (See figure 1-F7, following.) DEP, DPS, and WSSC-Water will confer on these cases and determine the allowed length of the additional main extension.

“The requested main extension may offer abutting mains connections to other confronting properties provided that they are only improved properties or recorded building lots. These confronting properties must be served from the extended main; no additional extensions are allowed. DEP may grant an exception to this limitation in cases where an extension is needed for

the relief of a failed onsite system. In cases where a service area category change is needed for a confronting property, the category change is not suitable for an advance action (see Section II.G.3.e.). The confronting properties will carry a notice that disallows any similar, additional main extensions. As with the general provisions of this abutting mains policy, a property newly abutting a new main extension is limited to a single service connection from the new main. Further, in such cases, the additional subdivision of the newly abutting property based on the provision of an abutting service connection is not allowed. Service connections from the extended main to other newly abutting properties must be direct connections from the main. Non-abutting service connections are not allowed in these cases.”

**Comment:** Planning suggests that MDE scrutinize the technical aspects from the lens of engineering design to determine if the language is necessary to improve the technical feasibility of a connection such that an extension of a main is warranted and appropriate, and if the language relating to “shorter onsite service utility between the main and the structure” is equally justifiable to a homeowner and the county taxpayers from a cost maintenance standpoint.

Planning is concerned that the new language will allow an extension of a main such that new properties can be served, specifically, those properties that confront the new main extension. Planning is concerned because the text amendment may cause unintended consequences of mains being extended in a prolific manner throughout the county. Additionally, the language of the text amendment seems to say that once an extension is made for a confronting property it cannot be extended any further, yet this seems to be an unenforceable provision and inequitable to other homeowners when a failed septic or public health issue arises.

Prior to this text amendment, the WSP abutting mains policy allowed a limited number of properties to take advantage of water and sewer mains that are available for those properties. Several limitations were built into the policy to ensure that it would not result in uncontrolled and unintended public service in areas using on-site systems. Planning suggests that this proposal to allow new main extensions should only be allowed if there is evidence of a failed septic confirmed by the health department and with confirmation there is no feasibility of repair or new septic system to be placed on the subject property.

The new language under Section II.G.3, Technical Feasibility of Service Connections allows for liberal main extensions. The language is confusing and may be difficult to interpret and/or enforce. The abutting mains policy is intended to only serve abutting properties from existing mains, but the new language for confronting properties may contribute to extension of mains in the right-of-way that may induce growth or sprawl, a term used extensively throughout Thrive 2050, which speaks strongly against sprawl.

Amendments to the CWSP text should be preceded by an analysis included in the county’s general plan, specifically the water resources element. Planning was unable to find any reference to the proposed amendment language in the policies of the newly approved and adopted Thrive 2050. Likewise, there is no mention in the WRP. The properties included in County Council Resolution No. 19-1425 are located within the approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the properties prior to the adoption of Thrive 2050) and there is no such policy mentioned there either. There is no information provided that indicates how this amendment might affect or induce growth or impact land use patterns throughout the county, such as the quantity of properties eligible for extending a main to create a confronting property situation, and its impact on the public sewer system. Therefore, Planning finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

**H. II.G.3.: Community Service for Properties Abutting Community System Mains  
II.G.3.c.: Transfer of an Abutting Mains Single Service Connection Qualification ((Page 1-40))**

**((A new policy added at the direction of the T&E Committee to allow a “connection right” under the abutting mains policy to transfer from a qualifying property to an adjacent, co-owned property that does not qualify for an abutting mains connection.))**

“The transfer of an available abutting mains service connection “right” from a qualifying property to another property that does not qualify for a connection right may be considered under this policy on a case-by case basis. The approval of such a transfer of a service connection right will require that DEP make the following findings during a category change review process:

- Both properties must abut the water or sewer main with the donating property confirmed by DEP to be eligible for a single connection via the abutting mains policy.
- Both properties must be contiguous (i.e. share a property boundary).
- Both properties must be under common ownership.
- If improved, the property with the existing abutting mains connection “right” must have a fully functioning septic system that satisfies all current septic system permitting requirements, including an established septic reserve area, under State and County law as verified by the Department of Permitting Services.
- The property donating the existing abutting mains connection right will no longer be eligible for public service through the abutting mains policy.
- Approval of the connection right transfer will be conditioned upon Planning Board confirmation of the receiving property as a building lot. Provided that DEP determines that preceding requirements are satisfied, a service area category change may be approved through the administrative delegation process.”

**Comment:** This amendment to the CWSP Section II.G.3 is directly derived from specific properties currently under review by MDE associated with County Council Resolution No. 19-1425 (previously deferred under CR 19-748), and concurrently adopted on October 25, 2022, specifically **WSCCR 220-TV-09A: Samians Siham Ainane**. In this case the applicant is the owner of two adjoining properties as identified in the State Department of Assessments and Taxation (SDAT) database: a single-family home on a recorded lot and the abutting outlot recorded as Lot 2 and Outlot “A,” Block D, Piney Glen Farms, as recorded in July or 2004. The owner is asking that because the existing home is serviced by a septic system, the applicant would like to transfer the “right” to the abutting main from Lot 2 to Outlot “A.” In doing so, the applicant is most likely seeking to achieve another buildable lot under Division 50.7, Main Subdivision Section 7.1, Applicability B. Conversion of an outlot into a lot. The problem with the allowance to transfer the “right” of a connection to an abutting main from one lot to an outlot is that the existing lot that has been built upon may need a connection upon future septic system failure. In that case, the record lot has an existing house on the property that was built in 1961, according to SDAT records. If the septic system on that property fails and there is an attempt to connect to the abutting main, how will the county respond to the need to address the issue of public health and safety? Another question relates to the future transfer of either of the properties to others, as the same ownership clause does not say it is in perpetuity. How is notice intended to be given to a new purchaser of either the existing lot or the current outlot, which appears to be a proposal to convert it to a buildable lot? It should not be expected that a home buyer could possibly understand this amendment.

Prior to this text amendment, the CWSP abutting mains policy allows a limited number of properties to take advantage of water and sewer mains that are available for those properties. Several limitations were built into the policy to ensure that it would not result in uncontrolled and unintended public service in

areas using on-site systems. Furthermore, from a planning perspective, Planning was unable to find any reference to this amendment language in Thrive 2050, the WRP, or the underlying approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the property prior to the adoption of Thrive 2050). There is no information provided that indicates how this amendment might induce growth or impact land use patterns throughout the county, such as how many properties could be converted from outlots to buildable lots and its impact on the public sewer system. Therefore, Planning finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

**J. II.G.5.: Community Service for Commercial Land Uses ((Page 1-45))**

**((A new policy added at the direction of the T&E Committee to allow for the limited provision of community service for properties with commercial uses located outside the planned community service envelopes.))**

“This policy addresses the provision of community water and sewer service for commercial land uses located outside the planned community service envelopes. This is to help support commercial service (such as grocery and convenience stores, medical offices, and day-care facilities) in lower-density areas of the county where residents may otherwise have to travel many miles to avail themselves of these services. Properties eligible for consideration for community service are those with existing or proposed commercial uses as defined in the Montgomery County Zoning Ordinance. The provisions of this commercial uses service policy (allowances, restrictions, procedural requirements) parallel those established in the Private Institutional Facilities (PIF) policy (see II.G.4, preceding), with the following exceptions:

- The commercial uses considered under this policy do not have to qualify as tax-exempt under Section 501 of Title 26 of the United States Code (Internal Revenue Service).
- Neither community water nor sewer service shall be used to support existing or proposed commercial uses within the Agricultural Reserve (AR), Rural (R), and Rural Cluster (RC) Zones.
- Water and sewer main extensions for these properties are required to stay within public rights of way and avoid sensitive environmental features such as streams and forests.
- Properties with residential structures converted or proposed to be converted to a commercial use may be considered for community service.
- Properties that have submitted category changer requests for community service for an existing or proposed commercial use prior to the approval of this policy are not required to submit a concept plan for consideration by the Development Review Committee.”

**Comment:** This amendment derives directly from specific properties currently under review by MDE associated with County Council resolution No. 19-1425, adopted on October 25, 2022, specifically **WSCCR 20-TV-14A**: Transquest and **WSCCR 20-TRV**: Travilah Oak LLC. The proposal to allow for the provision of community water and sewer systems for commercial land uses outside of the planned community service envelope as described in Section II.G.5 is found on page 1-45 of the CWSP. The new language is confusing and may be difficult to interpret by those tasked with implementing it. It states that the new policy parallels the Private Institutional Facilities (PIF) policy, which is largely based on the concept of allowing tax exempt non-profit entities to utilize the exemption. PIF also includes a discussion of the relationship of the policy to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) (page 1-41). But there are many questions that this amendment leaves unanswered.

The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses, and may result in any commercial use being eligible for service outside the

envelopes (page 1-45) except for expansion into the Agricultural Reserve, Rural, and Rural Cluster zones. It also allows for conversion of residential structures to commercial uses and to be considered for main extensions for service. This text amendment is not well defined, is very broad, and was not addressed in the recent approval of Thrive 2050, the approved and adopted WRP, or the underlying approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the property prior to the adoption of Thrive 2050). There is no information provided that indicates how this amendment might induce growth or impact land use patterns throughout the county, such as how many properties, including existing commercial or future residential conversion throughout the county could be become eligible, and its impact on the public sewer system. Therefore, Planning finds this proposed text amendment **appears to be inconsistent** with Thrive 2050 and the WRP.

**K. IV.A.: Washington Suburban Sanitary District**

**IV.A.2.: Local Service Extension Programs IV.A.2.c.:**

**Efforts to Address Underserved and Unserved Communities ((Pages 1-67 – 1-68)  
Unserved and Underserved Subgroup of the Bi-County Infrastructure Financing  
Committee ((underscored as in the text, not added language))**

**((A revision to update the status of the program since the preparation of the Executive draft Plan.))**

“Following the preparation of the 2014 subdistricts report, the effort to create a new extension financing system stagnated for several years. In late 2018 a new WSSC Water and bi-county working group formed to reexamine the unserved and underserved (U&U) communities issue. There was a concern that the prior subdistrict proposal would still result in unaffordable costs for new community service. This working group focused more closely on the financing issue, looking for alternate revenue sources to help offset the high costs of new main extensions. Several proposals are currently under consideration, including rate payer subsidies from WSSC Water, subsidies from County property tax revenues, and State grants and low-interest loans. However, in ongoing discussions the working group members have recognized that the subdistrict concept may still have value in organizing service extension locations and specific projects. The workgroup has also developed a general implementation plan for this extension concept that includes a proposed financing system for the proposed main extensions. Implementation would divide financial responsibilities for new main extensions between affected property owners, the Counties, and WSSC Water. State and Federal funding would also be pursued, as available. The workgroup presented its findings to WSSC Water Commissioners, both County Executives, the Princes George’s County Council, and the Montgomery County Council Transportation and Environment Committee, receiving support to move forward with its proposals from each.”

**Comment:** This is an update to the current text and is included in the Plan text for informative purposes. Planning has no comment on this update.

**L. V.D: Review and Consideration of Plan Amendments ((Page 1-73))**

**((Text added to clarify the roles of the reviewing agencies in the category change request review process.))**

“Two primary pathways are used to consider and act on Plan amendments: the County Council’s legislative review process and DEP’s administrative delegation review process. For amendments requiring interagency review, DEP collects requests on a quarterly basis, with collection periods closing at the end of September, December, March and June of each fiscal year. DEP transmits packets of requested amendments to the [reviewing] agencies in the month following the close of each quarterly group. Agencies typically have 30 days to provide comments back to DEP. The reviewing agencies typically include the following:

- DPS, for issues concerning individual onsite systems and onsite system suitability.
- M-NCPPC, for issues concerning master plans and land use planning
- WSSC-Water, for issues concerning the feasibility of providing community water and sewer service, including system transmission and treatment capacities. WSSC-Water also advises DEP whether there are technical or policy issues that would complicate the provision of community service or that would make community service infeasible.
- Municipalities, on a case-by-case basis, for issues concerning local planning and infrastructure.”

**Comment:** Added text that expands the discussion of the primary reviewing agencies for service area category change requests and those agencies’ responsibilities in the process. Planning has no comment on this update.

**M. CHAPTER 2 II.E. Water Resources:**

**II.E.5. Water Quality Programs: ((Pages 2-16 - 2-17))**

**((Updated the National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System Permit Program (AKA the MS4 Permit Program)).**

**II.E.5.d Montgomery County’s MS4 Permit:**

“The Department of Environmental Protection is the lead department coordinating the County’s multidepartment/agency response to meet the requirements of the MS4 Permit. The permit is a key driver of the County’s strategic watershed management program. The MS4 Permits are issued for a five-year cycle. The County’s current MS4 Permit was issued on November 5, 2021, by the Maryland Department of the Environment and expires on November 4, 2026. During the permit term, the County is required to:

- By November 4, 2026, the County shall complete the restoration of 1,814 impervious acres that have not been treated to the maximum extent practicable by implementing stormwater BMPs, programmatic initiatives, or alternative control practices in accordance with the 2021 Accounting Guidance
- Show progress toward meeting the Total Maximum Daily Loads (TMDLs) Wasteload Allocations (WLAs) approved by the U.S. Environmental Protection Agency (EPA).
- Reduce trash and litter county-wide. • Develop and implement a public outreach and education program that focuses on reducing stormwater pollution and litter
- Conduct preventive maintenance inspections of all Stormwater management facilities
- Implement laws and programs to reduce stormwater and pollution
- Submit annual progress reports to MDE.”
- ((The remaining four paragraphs in this section were deleted from the text.))

**Comment:** This updating language relates to the MS-4 permitting process. Planning has no comment on this amendment.

**N. CHAPTER 3 II.C: Water Supply Sources Programs and Policies:**

**II.C.2: Regional Drought Operations: ((Pages 3-14 – 3-15))**

**((Updated the text to reflect revised operations rules and procedures for reducing the impacts of severe droughts in the Potomac River for the Washington Metropolitan Area Water Suppliers)) ...**

“In response to the 2015 Water Supply study, the CO-OP utilities funded a follow-up study by Montgomery County Comprehensive Water Supply and Sewerage Systems Plan Chapter 3: Water Supply Systems Executive Draft 2022-2031 Plan Page 3-15 the ICPRB to identify and evaluate water supply strategies to meet future challenges of growing regional demand for water including consideration of potential impacts of climate change on water resources. This study, completed in 2017, considered structural measures to add water supply capacity to meet the future regional need and operational changes to optimize the existing resources. Structural alternatives included the future potential future use of quarries in Maryland and Northern Virginia for raw water storage. Operational strategies included expanded coordinated operation of existing and planned water supply facilities and improved flow forecast models for the Potomac River. The work effort to explore and obtain Federal Funding assistance and the general planning effort is underway by WSSC Water and other COOP utilities for implementing the recommendations of the 2017 study.

“Subsequently, the ICPRB published the 2020 WMA Water Supply study in September 2020. The study reaffirmed the need for supplemental storage to mitigate drought flows in the Potomac River stating, “Under all the 2040 Lower Flow scenarios, the addition of Travilah Quarry is necessary to avoid system failure in a severe drought.” Beyond 2040 the benefits of the additional raw water storage from quarries remain but further population growth and potential impacts from climate change on flows on the Potomac and Patuxent Rivers may require that additional storage or other practices be implemented in the future. The impacts of climate change will continue to be evaluated as more information is available to gage the impacts of climate change on hydrology.

“As a result of the above regional planning efforts and recommendations, in Fiscal Year 2021, WSSC Water created a new CIP project entitled the Regional Water Supply Resiliency Project, which includes planning, preliminary engineering, community outreach, and coordination with elected officials for a regional raw water supply reservoir and raw water conveyance system to serve the long-range water supply needs of the Washington metropolitan region. The outcome of this work would better define the scope, budget and schedule of the project. This project was adopted by Montgomery and Prince George’s Counties during the FY2021 CIP budget approval process. The capital project is contingent upon funding assistance and will proceed only if all other funding solicitation efforts by other agencies are not successful. Subsequently, the work effort to explore and obtain Federal Funding assistance and to perform the general planning effort began soon afterwards by the ICPRB, WSSC Water, and other CO-OP utilities.

“In August 2021 an application for federal funding assistance under the Water Resource Development Act (WRDA) 7001 process was submitted for the completion of a Feasibility Study to further evaluate and support the recommendation of the regional planning efforts. If authorized and appropriated, this work, which will be completed by the U.S. Army Corps of Engineers, will be the first step of many that will be required in the WRDA program to eventually obtain the remaining Federal Funding assistance required to execute the project. In the 2022 USACE Report to Congress on Future Water Resource Development the Metropolitan Washington Region was identified as eligible for authorization of a feasibility study under the WRDA program. In addition, the U.S. House of Representatives included authorization for a study in its version of WRDA 2022 (H.R. 7776), which passed the lower chamber on June 8, 2022. As of June 30, 2022, the Senate has yet to its version of WRDA 2022 and efforts are underway to lobby the relevant members of Congress. Once the WRDA 2022 is passed by both the House and Senate and signed by the President, then it will need to be appropriated. Appropriations could occur either under an FY23 or FY24 spending bill or in a possible reconciliation package.”

**Comment:** This amendment is related to Regional Drought Operations and intended to inform the reader that federal legislation may make the Metropolitan Washington region eligible for funding for a feasibility

study under the Water Resource Development Act 7001. This update is for informational purposes. Planning has no comment on this informative additional language and anticipates that if the federal legislation is reviewed and passed, then the CWSP will be updated further.

**O. Plan Recommendation: Potential Use of Travilah Quarry for Additional Raw Water Storage ((Page 3-19))**

**((Updated language on Plan Recommendation for Potential Use of Travilah Quarry for Additional Raw Water Storage))**

“This Plan recommends acquisition of Federal Funding assistance to validate the previous planning studies in accordance with the Water Resource Development Act (WRDA) 7001 process as the first step in obtaining funding authorization from the U.S. Congress for the overall project. After the necessary funding is in place for subsequent phases of work, the goal is to ultimately develop an additional emergency raw water supply that would benefit not only WSSC Water customers but also much of the Washington Metropolitan Region. Once complete, this project will convert a quarry located within close proximity to the Potomac Water Filtration Plant into an approximate 7.8-billion-gallon water supply facility. This quarry has been evaluated by WSSC Water and the Interstate Commission on the Potomac River Basin for several years and this Plan, encourages actions be taken to ensure its future availability to the water supply needs of the WSSC Water service area and the Washington Metropolitan Region.”

**Comment:** This amendment is supported by Thrive 2050 and is explained on page 116, as it has been studied for a long period of time by the “Interstate Commission on the Potomac River Basin, the Washington Suburban Sanitary Commission, the Metropolitan Washington Council of Governments, DC Water, and the Washington Aqueduct to use the open pit as an emergency water supply reservoir.” Therefore, planning finds that this amendment **appears to be consistent** with Thrive 2050.

**P. APPENDIX C**

**II.N. RIVERWOOD DRIVE (Pages C-18 – C-19 & Figure C-F14)**

**((The area proposed for removal from the restricted sewer service area was revised at the recommendation of County Council staff. This left most of the Potomac Manor Section 2 subdivision in the restricted sewer service area in addition to the other two subdivisions.))**

“DEP’s recent review of this restricted sewer service area revealed that it is more extensive than is needed to limit sewer service from the Riverwood Dr. sewer main extension south of River Rd. Much of the original restricted service area already has community sewer service. Other areas in Potomac Manor are not reasonably accessible due to the steep stream valley along Sandy Landing Rd. Except where community service is required to relieve public health problems, the Riverwood Drive sewer main, and potential future extensions from that main, are restricted from serving the following subdivisions: Fox Meadow, Carrs Addition, and part of Potomac Manor Section 2 as shown on Figure C-F14.

(Figure C-F14: Riverwood Drive Sewer Restricted Service Area ((The following figure replaced the original figure provided in the Executive’s draft Plan))”

**Comment:** This amendment seems to address a specific Restricted Sewer Service Area known as Riverwood Drive per an earlier Council Resolution (13-1205 in 1998) by deleting language that is no longer applicable. Planning has no comment on this amendment.

**Q. APPENDIX F**

**((The following text revisions cited in Appendix F were included to reflect revisions elsewhere in the Plan text.))**



**CHAPTER 1 Section ((Page F-1))**

**• Updates to Special Policies for Water and Sewer Service (Section II.G.):  
For the Community Service for Abutting Mains Policy -**

**“Revised the policies for community service for properties abutting community service mains (II.G.3.):**

Limited extensions of existing abutting mains may be considered in cases where an extension would allow for better placement of the service connection relative to the building receiving new service. This would also allow another property that abuts the new extension to qualify for community service under this policy (II.G.3.a). Properties that abut new main extensions are limited to one connection per property and new connections will be limited to improved properties and recorded building lots. That allowed connection cannot support subdivision or resubdivision of that newly abutted property.

“Attachment to Resolution No.: 19-1423 County Council Resolution No. 19-1423 (10/25/2022) – Appendix B: Page 8 Approved 2022 – 2031 Water and Sewer Plan:

Substantive Revisions to the Executive Draft Plan [Bracketed Text] = Approved Deletions  
Underscored Text = Approved Additions ((Notes))

- A new provision allows for the transfer of an abutting mains connection “right” from one eligible property to another, commonly owned, ineligible property under strictly limited conditions. Among other requirements, the two properties must be adjacent to each other, and both must abut a qualifying water or sewer main. The property donating the connection right surrenders the connection right then becomes ineligible for the abutting mains service connection. (II.G.3.c.) ...
- The Community Service for Commercial Land Uses policy addresses the provision of water and/or sewer service for properties with commercial land uses located outside the planned community service envelopes. The requirements for community service under this new policy closely mirror those of the private institutional facilities policy. Among the exceptions included are that the commercial uses qualifying for community service do not need to be tax-exempt under the U.S. I.R.S. code and they cannot be located within the Rural and Rural Cluster Zones, in addition to the Agricultural Reserve Zone. (II.G.5.)”

**Comment:** This amendment derives directly from specific properties currently under review by MDE associated with County Council resolution No. 19-1425, adopted on October 25, 2022. As previously stated, Planning has found the adopted amendments associated with II.G.3.a, II.G.3.c, and II.G.5 appear to be inconsistent and the changes in this section **appear to be inconsistent** for the same reasons. To further address this inconsistency, Planning has noticed that the five changes to the text all include properties that are located within the area of the Potomac Master Plan. Planning suggests that an update to the WRP is appropriate as well as an update to the Potomac Master Plan, rather than changes to the CWSP targeted to address the needs of one community that would have a countywide impact.

**APPENDIX C**

**Section ((Page F-7))**

**“• In the Riverwood Drive section, reduced the area of the existing restriction, removing those areas served by community sewerage systems and with existing and access to existing community sewerage systems. (II.N.)”**

**Comment:** Planning’s response is the same as comment P above.

### **Priority Funding Area and Growth Tier Map Analysis**

If MDE approves the amendments adopted with this Plan, Planning suggests that Montgomery County consider the potential impacts of these adopted amendments on the county's Thrive 2050 and various master plan growth area policies, Priority Funding Areas (PFAs), and Growth Tier Map, as described elsewhere in this review. Liberalizing abutting and confronting main connections may make properties or areas eligible for PFA designation upon connection or require the county to amend its Growth Tier Map to reflect previously unintended or unplanned sewer connections in Tier III or IV areas.

### **Conclusion**

Thrive 2050 speaks of reducing urban sprawl throughout the document, defining it as: "A pattern of low-density suburban development that is highly dependent upon the automobile as the main form of travel and is considered the source of today's traffic congestion, environmental degradation and other issues associated with the growth of suburbs since at least World War II." This definition correlates with several of the 12 State Visions in § 1-201, most importantly (3) Growth Areas: growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers.

Regarding focusing growth, the history of the county presented in Thrive 2050 indicates that the lack of strict requirements that regulate compact growth caused development in outlying areas. "The absence of tighter limits allowed development to disperse, consuming large amounts of land and increasing the cost of roads, water, sewer, and other public infrastructure by limiting economies of scale" (page 39). Planning is concerned that the loosening of water and sewer regulations, as these amendments do, without fully evaluating the impact through the updating of the WRP, will encourage commercial and residential growth in areas that were not intended to support these uses. Specifically, Thrive 2050 states that "if we fail to make efficient use of land, the available space for growth, outdoor recreation, agriculture and natural resource conservation will diminish. The cost of building and maintaining water and sewer infrastructure [emphasis added], roads, and public services will become harder to manage. Problems such as traffic congestion and climate change will be exacerbated."

The intent of Thrive 2050 is to promote compact development in the county. This concept is reflected in Figure 2-F10 Land use, Zoning, Population density, and general Community Sewerage Service Envelope of the CWSP.

Planning reminds the county that Planning provided previous guidance relating to the WRP in the review of Thrive 2050, which is relevant to this review of the subject text amendments. In a letter dated November 6, 2022, Charles Boyd, AICP, Director, MDP to Khalid Afzal, Special Project Manager, pertaining to the review of the Thrive Montgomery County 2050 - Working Draft Plan and Implementation Guide, Planning recommended:

"...that an action item be added to the Draft Plan to analyze the county's existing and proposed land use mapping in relation to the current WRP to determine whether any changes are needed to ensure conformance with or support of the Draft Plan, and if so, to include a proposal to update and revise the WRP in the appropriate time frame."

It does not appear that this guidance was incorporated into the final adopted version of Thrive 2050, but Planning continues to make this recommendation, particularly considering the updated zoning ordinance in 2014, the intensifying housing shortage, and the adoption of Thrive 2050 which may result in higher density in the county. These factors should be addressed in the WRP as an amendment to Thrive 2050.

In the same above-referenced letter, Planning also emphasized the relationship of the general plan to the Environment Article and the implementation of the general plan policies. It is repeated here for convenience to the reader, as it directly relates to amendments to the subject functional plan:

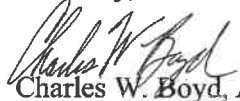
“Planning notes that Environment Article Section 9-507 (b)(2) requires our department to review county water and sewer plans, including amendments, for consistency with local comprehensive plans. Planning understands that the Draft Plan is a high-level policy document, and that future planning efforts and regulatory instruments will address plan implementation. However, the Draft Plan, as now constituted, does not provide the required level of land use and growth policy detail for Planning to evaluate water and sewer plans or amendments for consistency. A jurisdiction’s water and sewer infrastructure is one of the most effective tools to facilitate and/or restrict growth; therefore, Planning recommends including in the Draft Plan explicit references to the county’s master plans for the intended implementation of water and sewer service policy and to provide clarity on how plan consistency should be evaluated in future master plans or water/sewer plan amendment proposals.”

Planning notes that many of the county’s master plans point to the CWSP for water and sewer connection and service policies rather than include their own policies on the topic. Thus Planning, as well as Montgomery County residents and stakeholders, cannot effectively determine the county’s intent for serving areas with public utilities using the master plans alone, which should serve as guiding planning documents. Planning suggests that the county consult with its attorney’s office to discuss whether the circular and self-amending process of making changes to the county’s master plans via CWSP amendments is at odds with Land Use Article Section 1-303, which defines the meaning of consistency between planning actions and comprehensive/general plans in Maryland.

Lastly, to achieve consistency between new CWSP special connection policies and the county general plan, Montgomery County should amend its WRP to include a strategy that requires a study to be completed of the expected growth and land use pattern impact of any changes to its CWSP special connection policies. Once the study is completed, the county should confirm, with guidance from M-NCPPC, whether proposed changes to water and sewer policies will result in unwanted growth or sprawl, and/or an expected land use pattern that would be inconsistent with Thrive 2050 or any subregional master plan's land use vision. No CWSP amendment involving special connection policies should be adopted unless the county confirms that such policies would prevent any inconsistency with any subregional master plan's land use vision. This process recommendation is supported in Thrive 2050 on pages 3 and 4 that speak to the implementation of Thrive 2050 through analysis and evaluation of new or revised master plans and function plans.

If you have any questions concerning these comments, please contact me at 410-767-1401 or [chuck.boyd@maryland.gov](mailto:chuck.boyd@maryland.gov), or Susan Llareus, Planning Supervisor at [susan.llareus@maryland.gov](mailto:susan.llareus@maryland.gov) .

Sincerely,



Charles W. Boyd, AICP

Director of Planning Coordination

cc: Robin Pellicano; Nicholai Francis-Lau; Steve Alfaro; Hannah C. Benzion, MDE  
Tony Redman, DNR  
Dwight Dotterer, MDA  
Jason Dubow; Joe Griffiths; Susan Llareus; Sylvia Mosser; and Cassandra Malloy, Planning



March 25, 2023

The Honorable Evan Glass  
County Council President  
Montgomery County Council  
Stella Werner Council Office Building  
100 Maryland Avenue  
Rockville, MD 20850

Dear Council President Glass:

The Maryland Department of the Environment (MDE) has completed its review of **Montgomery County's Resolution No. 19-1425 (Amendment) to the 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan (Plan)**. The Montgomery County Council adopted the Plan on October 25, 2022. The Amendment included category changes for several properties:

**WSCCR 20-TRV-03A:** Ashwani & Janak Arora: 10400 Boswell Ln., Potomac, Parcel P741, Wickham & Pottinger (acct. no. 00046148). Requesting one sewer category change from S-1\* [\*Properties approved for and generally with existing access to community (public) service] to S-1\*\* (\*\*Seeking S-1 for one sewer connection only with approval of a sewer main extension) for one connection, only with approval of a sewer main extension.

**WSCCR 20-TRV-05A:** Ravinder & Ritu Kapoor: 10400 Boswell Ln., Potomac, Parcel P666, Wickham & Pottinger Piney Level (acct. no. 00053133). Requesting one sewer category change from S-6\* [\*Properties that will use private, on-site systems (wells and septic systems), where community (public) service is not planned. Consideration of sewer category S-3 was deferred] to S-3 [Properties planned and approved for community (public) service, but without existing access to public service. for one connection].

**WSCCR 20-TRV-09A:** Sami and Siham Ainane: 12000 block of Piney Meetinghouse Rd., Potomac, Outlot A, Block D, Piney Glen Farms (acct. no.03464464). Requesting one sewer category change from S-6\* to S-1, for one connection.

**WSCCR 20-TRV-14A:** Transquest LLC: 13005 Travilah Rd., Rockville, Parcel P648, Travilah School Property (acct. no. 00395131). Requesting one sewer category change from S-6 to S-3 and one water category change from W-6 to W-6 (multiuse).

**WSSCCR 20-TRV-15A:** Travilah Oak LLC:

- 12960 Travilah Rd., Potomac; Parcel N679\*, Lot 4, (acct. no. 03063708)
- 12948 Travilah Rd., Potomac; Parcel N726\*, Lot 3, (acct. no. 02232731)
- 12940 Travilah Rd., Potomac; Parcel N780\*, Lot 1, Lot 2 (acct. no. 00397857)

\*This request includes only those parts of these three parcels zoned NR-0.75. Areas zoned RE-2 are excluded.

Requesting sewer category changes from S-6\*\* (multiuse) to S-3 for the proposed redevelopment of the shopping center. (\*\*Approved for the existing multiuse sewerage system. Consideration of the request for category S-3 is deferred.)

During MDE's initial review of the Plan, it was determined that more time was required for MDE to complete its final review. The initial review period, set to expire on February 18, 2023, had been extended by an additional 45 days making the new due date April 4, 2023.

**Maryland Department of Planning Findings**

The Maryland Department of Planning (MDP) advises to review MDP's comment letter regarding the update to the County's Water and Sewerage Plan, dated January 10, 2023, relating to the findings of consistency with Thrive Montgomery 2050 (Thrive 2050) on the CWSP special connection policy changes that enable these cases. In that letter, MDP found all of the CWSP special connection policy changes to be inconsistent with Thrive 2050 and the county's Water Resources Functional Plan (WRP).

Maryland Department of Planning has advised MDE that:

- **WSSCCR 20-TRV-03A** appears to be consistent with the Potomac Master Plan, however it proposes "an unusual alternative extension of the existing sewer main to a point at which WSSCCR 20-TRV-05A would then also qualify under the abutting main criteria."
- **WSSCCR 20-TRV-05A** appears to be inconsistent with the 2002 Potomac Subregion Master Plan. This sewer house connection does not qualify under the provisions of the abutting mains policy of the Piney Branch restricted sewer access policy. The property must, at a minimum, abut an existing sewer main to qualify for a sewer house connection.
- **WSSCCR 20-TRV-09A** may be inconsistent with the 2002 Potomac Subregion Master Plan, as it appears to be located on land outside the sewer envelope. This connection to Outlot A is currently in conflict with the Potomac Peripheral Service policy because it is in the vicinity of the Palatine Subdivision and the lower Greenbriar Branch properties.
- **WSSCCR 20-TRV-14A** appears to be inconsistent with the 2002 Potomac Subregion Master Plan, as the subject property is well outside the limits of the planned public sewer service envelope. Furthermore, the WSSC has expressed some engineering concerns relating to the applicant's (WSSCCR 20-TRV-14A) intention to collaborate with the applicant in the following category change (WSSCCR 20-TRV-15A) to provide a single sewer extension to serve both properties. Sewage from this site is proposed

to flow into a pumping facility on the “Potomac Oak Center,” a shopping center proposed to be redeveloped and located across the intersection.

- **WSSCCR 20-TRV-15A** appears to be inconsistent with the 2002 Potomac Subregion Master Plan. As with the preceding case, engineering issues have been noted by WSSC, specifically that sewer service to this project will require a 5,300-foot low-pressure sewer extension that is separate from and parallel to the extension needed for the above-referenced property for the proposed country inn project. The existing sewerage system has a design capacity of 5,000 gallons per day and cannot be expanded for additional capacity.

### **MDE Review and Action**

On October 25, 2022, the Montgomery County Council approved the 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan through Resolution No.19-1423. The Plan included new policy language upon which the County Council’s approval of this Amendment was based. MDE notes that although both the Plan and this Amendment were approved by the County Council, and submitted to MDE, a final action by MDE of approval, modification, or disapproval for either resolution was not yet determined.

1. At the time of submission to MDE, all the category changes requested in this **Amendment** were contingent on MDE’s pending final action letter, regarding the Montgomery County 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan (Plan). The Plan included new and revised policies that were a direct reflection of the changes requested in this Amendment. These policies were ultimately approved, modified, or disapproved, through the MDE’s final action letter regarding the Plan, dated March 16, 2023. Specifically:
  - **WSSCCR 20-TRV-03A: Ashwani & Janak Arora**  
Section II.G.3.a: General Requirements, Page 1-36 of the approved Plan: “This new main extension must be used to avoid an environmental constraint on the site (stream, forest stand, etc.) that would preclude an onsite service utility connection as described in II.A.Fig. 1-F5 of the approved CWSP”. There was no documentation submitted with this Amendment confirming the existence of an environmental constraint that would prevent the connection of the 20-TRV-03A property, to the existing and abutting sewer main.
  - **WSSCCR 20-TRV05A: Ravinder & Ritu Kapoor**  
This category change request is not supported by the abutting mains service connection policy in Section II.A.: County Water and Sewer Systems, Page 1-18 of the approved Plan.
  - **WSSCCR 20-TRV-09A: Sami and Siham Ainane**  
Section II.G.3.c: Transfer of an Abutting Mains Single Service Connection Qualification, Page 1-40 (Plan) was modified through MDE’s Final Action Letter dated March 16, 2023, to be excluded from the approved Plan, including the exclusion of language for the “transfer of an abutting mains connection *right* from a

qualifying property to another property”.

- **WSCCR 20-TRV-14A: Transquest LLC**

Section II.G.5.: Community Service for Commercial Land Uses, Page 1-45 (Plan) was modified through MDE’s Final Action Letter dated March 16, 2023, to be excluded from the approved Plan, including the exclusion of language for “the provision of community water and sewer service for commercial land uses located outside the planned community service envelopes”.

Additionally, the category change request from “W-6” to “W-6 for a multiuse water system,” was not supported by a documented design capacity that equals or exceeds 1,500 gpd, as required by the approved Plan, Section III.C.5: General Policies for Multiuse Water Supply and Sewerage Systems, Page 1-61.

- **WSCCR 20-TRV-15A: Travilah Oak LLC**

Section II.G.5.: Community Service for Commercial Land Uses, Page 1-45 (Plan) was modified through MDE’s Final Action Letter dated March 16, 2023, to be excluded from the approved Plan, including the exclusion of language for “the provision of community water and sewer service for commercial land uses located outside the planned community service envelopes”.

2. Wetlands and Waterways Protection Program (WWPP)

- There are mapped/wetlands hydric soils or streams and 100-year floodplains in the vicinity of the 20-TRV-03A property. The applicant is encouraged to consult with the Wetlands and Waterways Program to verify the presence of wetlands, their buffers, stream and its 100-year floodplain in relation to any activities which are planned for the property. Activities in these water resources may be subject to regulatory requirements from the MDE’s Wetlands and Waterways Program.
- An evaluation of the 20-TRV-03A site and its vicinity using the Watershed Resources Registry shows the presence of sensitive resources. These may include sensitive species project review areas, Targeted Ecological Areas, Biodiversity Conservation Network, Nontidal Wetlands of Special State Concern, Tier II watershed, Stronghold Watershed, and/or Forest Interior Species. Contact MDE or the Maryland Department of Natural Resources for recommendations or requirements to avoid or minimize adverse impacts to these resources.
- There may be wetland or waterway impacts associated with the 20-TRV-03A project. Impacts will be reviewed by MDE during application review. Pre-application meetings are also available to discuss avoidance, minimization, and restoration after temporary impacts.

The Honorable Evan Glass

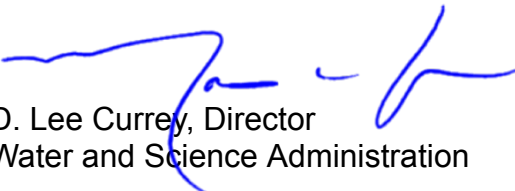
Page 5

In accordance with §9-507(a) of the Environment Article, Annotated Code of Maryland, the Department hereby **disapproves Montgomery County's Resolution No. 19-1425 (Amendment) to the Montgomery County 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan.**

**Please be advised that in accordance with Environment Article 9-508(b), at any time up to six months after receiving this disapproval, the County may request the Secretary of the Department to reconsider the disapproval.**

This completes MDE's review, as required by §9-507 of the Environment Article, Annotated Code of Maryland. If you need further assistance on these matters, please contact Heather Barthel, Deputy Director, at (410) 537-3512, toll-free at (800) 633-6101, or by e-mail at [heather.barthel@maryland.gov](mailto:heather.barthel@maryland.gov).

Sincerely,

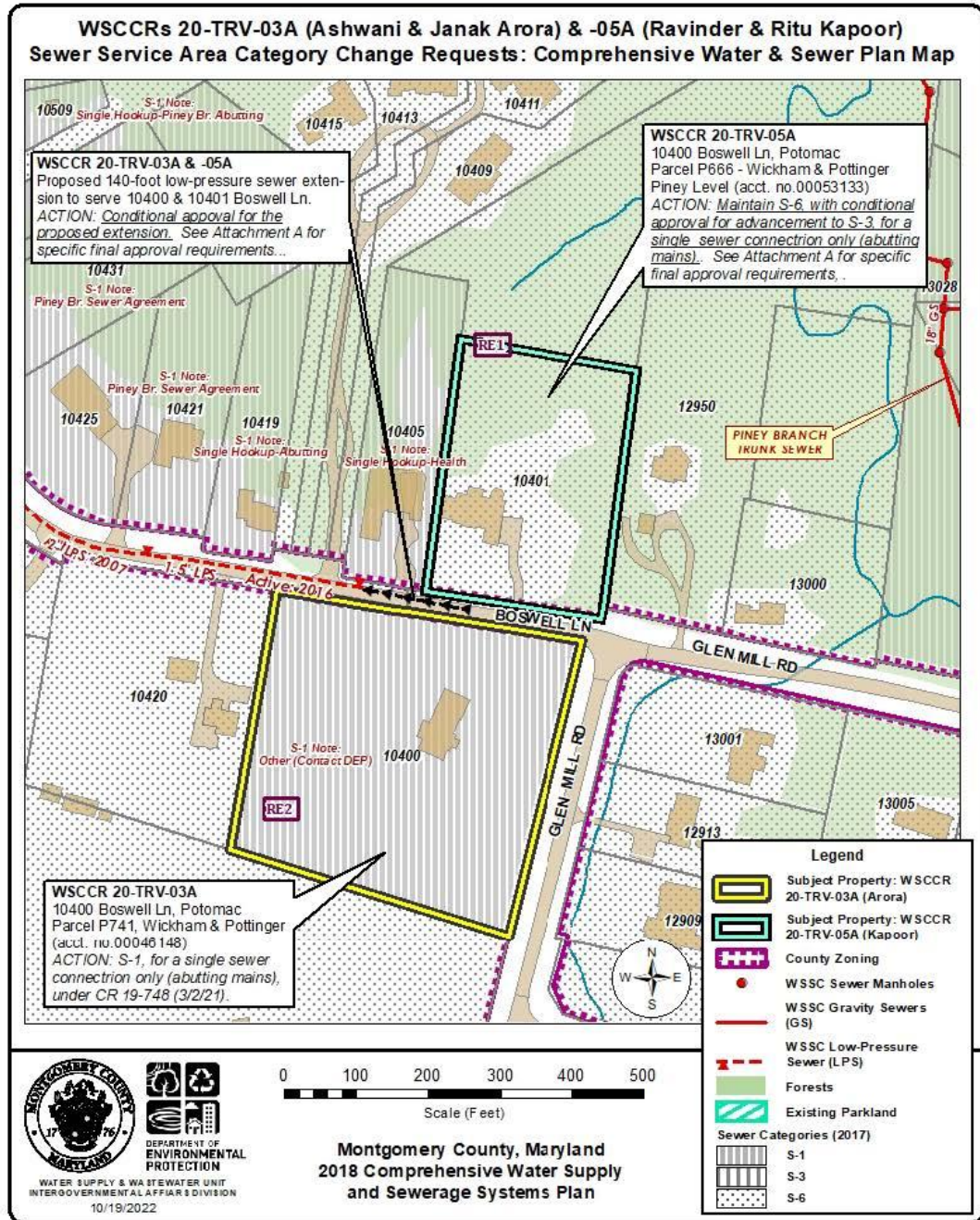
  
D. Lee Currey, Director  
Water and Science Administration

Enclosures

cc: Keith Levchenko, Senior Legislative Analyst, Montgomery County Council  
Adriana Hochberg, Acting Director, Montgomery County DEP  
Alan Soukup, Senior Planner, Montgomery County DEP  
George Dizelos, Environmental Planner, Montgomery County DEP  
Charles Boyd, Director, Planning Coordination, MDP  
Les Knapp, Senior Policy Advisor, MDE  
Heather Barthel, Deputy Director, Water and Science Administration, MDE

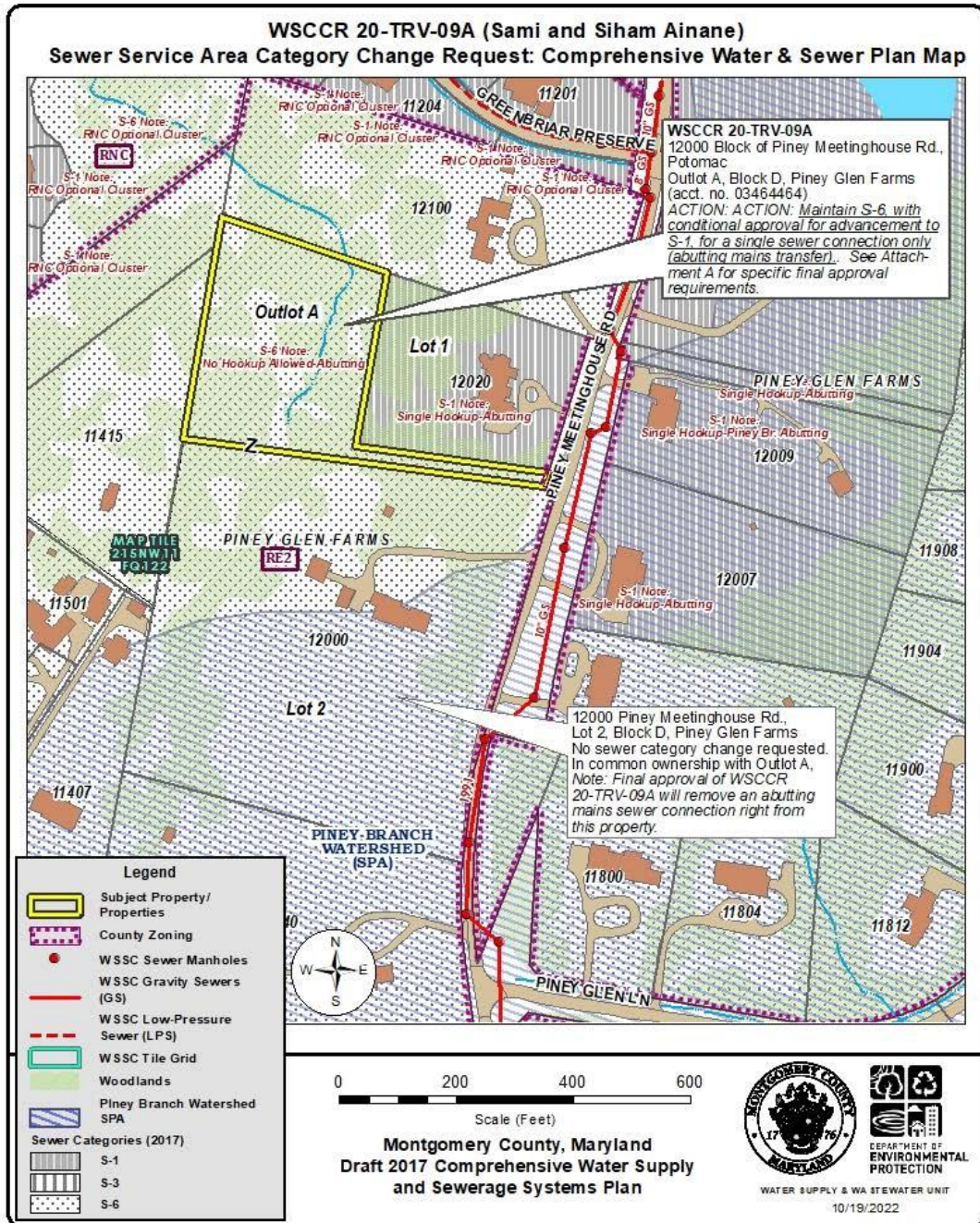


Montgomery County Comprehensive Water Supply and Sewerage Systems Plan  
December 2020 & July 2021 Amendment Transmittals: Water/Sewer Category Map Amendments



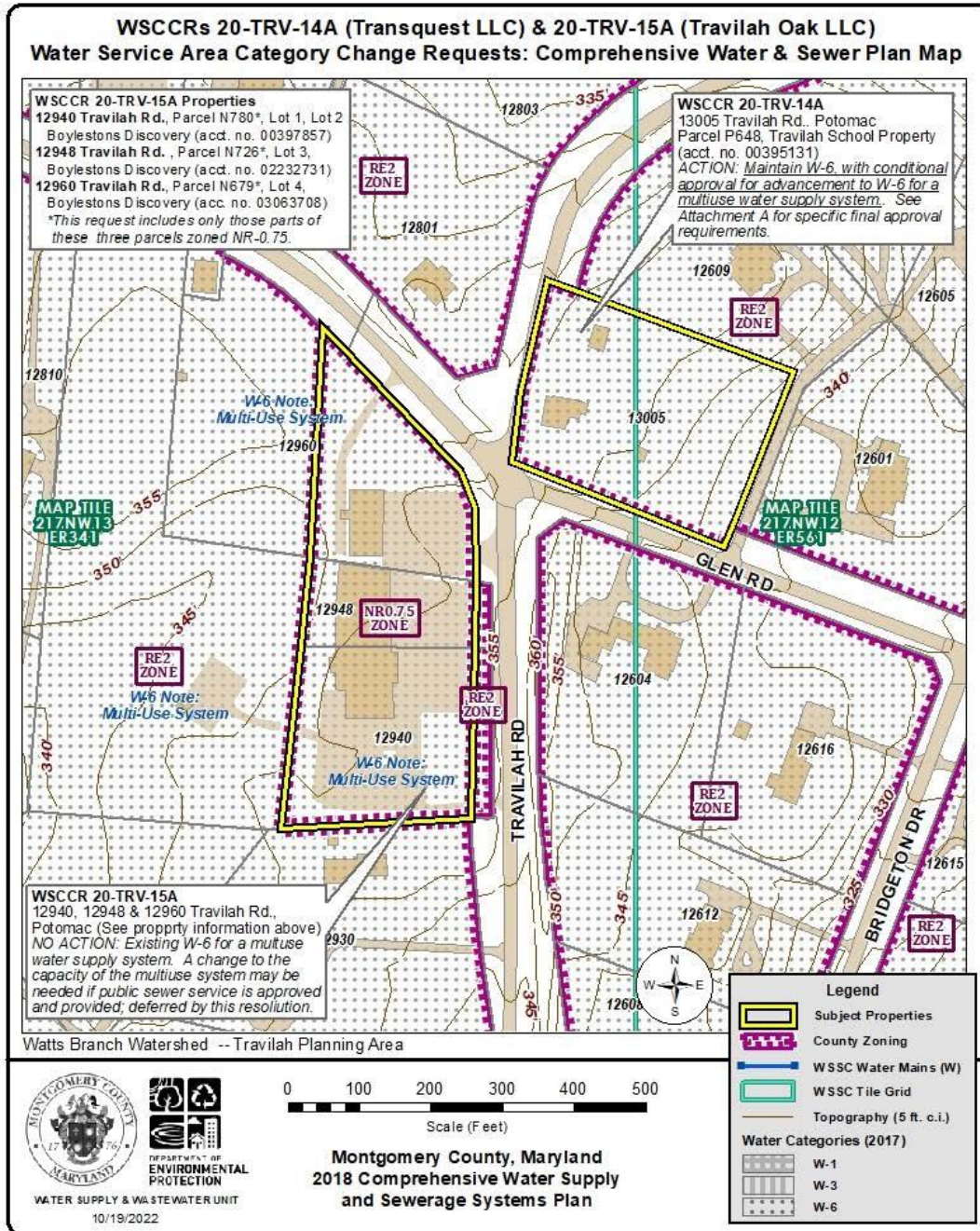
Attachment B presents mapping only for approved, conditionally approved, and deferred category change amendments. See Attachment A for the specific language of the Council's actions and information on water and sewer service area categories.

Montgomery County Comprehensive Water Supply and Sewerage Systems Plan  
December 2020 & July 2021 Amendment Transmittals: Water/Sewer Category Map Amendments



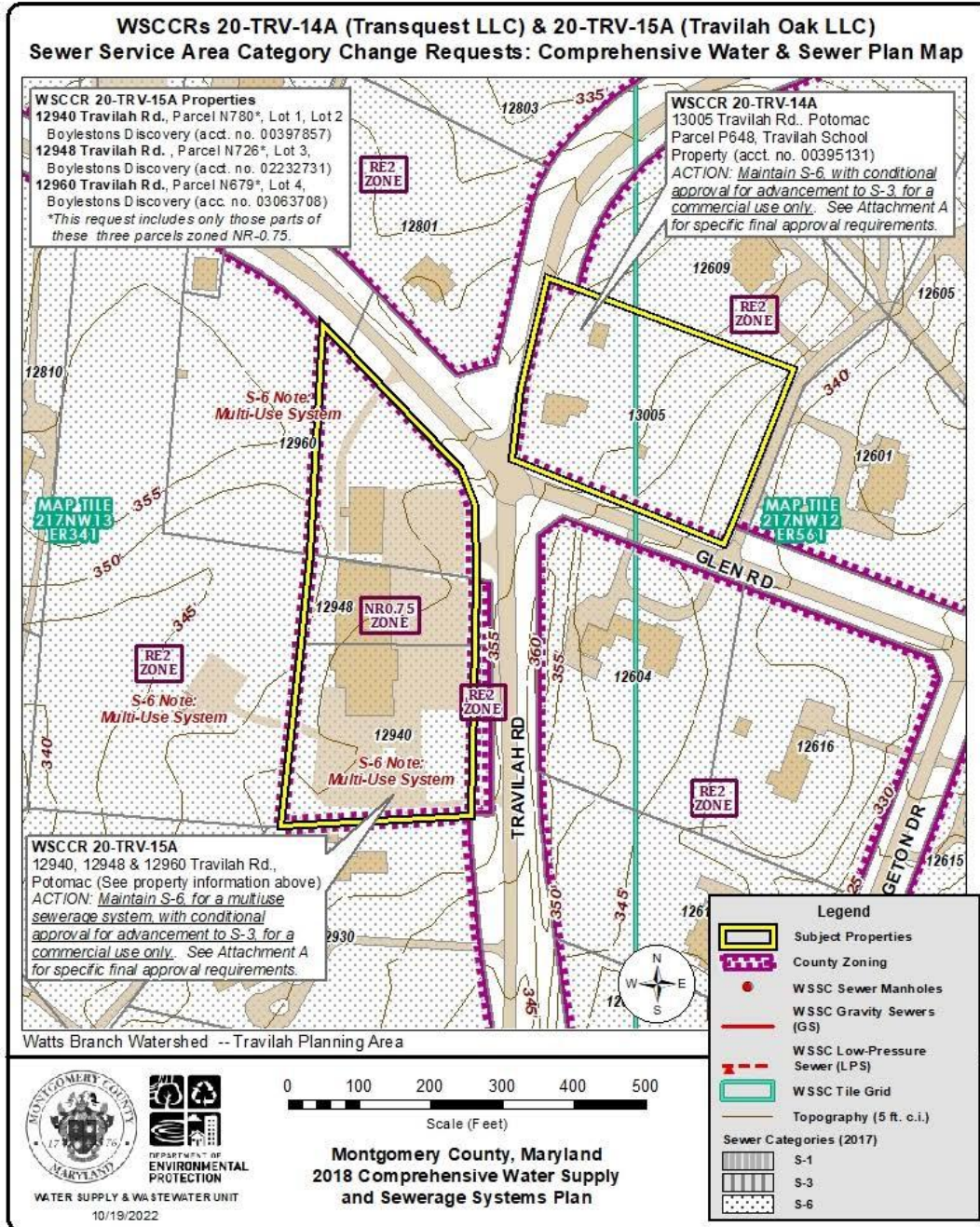
Attachment B presents mapping only for approved, conditionally approved, and deferred category change amendments. See Attachment A for the specific language of the Council's actions and information on water and sewer service area categories.

Montgomery County Comprehensive Water Supply and Sewerage Systems Plan  
December 2020 & July 2021 Amendment Transmittals: Water/Sewer Category Map Amendments



Attachment B presents mapping only for approved, conditionally approved, and deferred category change amendments.  
See Attachment A for the specific language of the Council's actions and information on water and sewer service area categories.

Montgomery County Comprehensive Water Supply and Sewerage Systems Plan  
December 2020 & July 2021 Amendment Transmittals: Water/Sewer Category Map Amendments



Attachment B presents mapping only for approved, conditionally approved, and deferred category change amendments.  
See Attachment A for the specific language of the Council's actions and information on water and sewer service area categories.





March 9, 2023

The Honorable Evan Glass  
County Council President  
Montgomery County Council  
Stella Werner Council Office Building  
100 Maryland Avenue  
Rockville, MD 20850

Dear Council President Glass:

The Maryland Department of the Environment (MDE) has completed its review of the **Resolution 19-1426 (Amendment) - WSCCR 21-TRV-03A: David Mohebbi** to the Montgomery County Comprehensive Water and Sewerage Plan. The Amendment request involves one (1) water and sewer category change to the Montgomery County Comprehensive Water Supply and Sewerage Systems Plan. The property is located at 11905 Centurion Way, Potomac, Lot 3 Parcel N188, with a total of 5.17 acres, and the proposed request is to change the sewer service category from S-6 (No Planned Service) to S-3 (Service within two years). The needed low-pressure sewer extension will be the shorter of two extension options evaluated by WSSC Water, approximately 70 feet in length. The new sewer main will not extend beyond the existing public road right-of-way (Centurion Way cul-de-sac). The Amendment was approved by the Montgomery County Council on October 25, 2022.

During MDE's initial review of the Amendment, it was determined that more time was required for MDE to complete its final review to determine if the update to the County Water and Sewerage Plan, currently under the Department's review, affects the policies related to this property. The initial review period, set to expire on January 28, 2023, had been extended by an additional 45 days making the new due date March 14, 2023.

### **Maryland Department of Planning Findings**

The Maryland Department of Planning (MDP) advised the Department that for the proposed sewer category change MDP is not able to find the WSP amendment for sewer service reclassification consistent with the 2002 Potomac Master Plan because the amendment did not include information regarding the following:

“Provide community sewer service in the Subregion generally in conformance with Water and Sewer Plan service policies. This will generally exclude areas zoned for low density development (RE-1, RE-2, and R-C) not already approved for service

from further extension of community service.” (page 23 of the 2002 Potomac Master Plan)

If there are comments or questions regarding MDP’s review, MDE encourages the County to contact MDP. See enclosed MDP’s comments and contact information.

### **MDE Action**

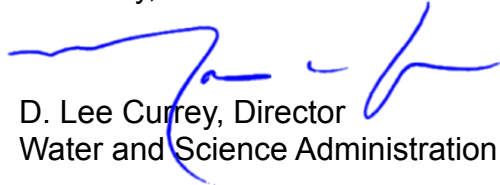
1. MDE noted the Wastewater Treatment Plant Capacity: The one property soon to be connected to public sewer will contribute 250 gallons per day to the Blue Plains Wastewater Treatment Plant (WWTP). Blue Plains WWTP's current permitted design capacity is 370 million gallons per day (MGD) and the facility’s calendar year 2021 average flow was 286.75 MGD, therefore there currently is adequate capacity at the WWTP.
2. Initially, MDE requested from the County’s Department of Environmental Protection (DEP) on January 9, 2023 any information on the status of the septic system to determine if based on that information the system was failing. DEP indicated that due to the property owner’s increasing costs, the County Council has declared this a public health concern. After extending the review period, because MDE could not determine that the new Policies could affect this property’s ability to connect, MDE again requested more information from the County’s DEP and Permitting Services (DPS) on February 8 and February 21, 2023. County DPS indicated they visited the property but could not find any issues from an outside inspection and contacted the homeowner for another inspection with the homeowner present, but the homeowner did not respond.

MDE has reviewed the proposed changes and in accordance with §9-507(a) of the Environmental Article, Annotated Code of Maryland, **MDE hereby disapproves for the reason stated above, Resolution 19-1426 - WSCCR 21-TRV-03A: David Mohebbi** Water and Sewerage Plan Amendment to the Montgomery County Comprehensive Water and Sewerage Plan.

If an evaluation of the septic system can occur within the next 6 months and it is determined to be failing by the Montgomery County Department of Permitting Service or a delegated authority, please be advised that in accordance with Environment Article 9-508(b), at any time up to six months after receiving this disapproval, the County may request the Secretary of the Department to reconsider the disapproval.

This action completes MDE's review, as required by §9-507 of the Environment Article, Annotated Code of Maryland. If you need further assistance, please contact Heather Barthel, Deputy Director, at (410) 537-3512, toll-free at (800) 633-6101, or by e-mail at [heather.barthel@maryland.gov](mailto:heather.barthel@maryland.gov).

Sincerely,



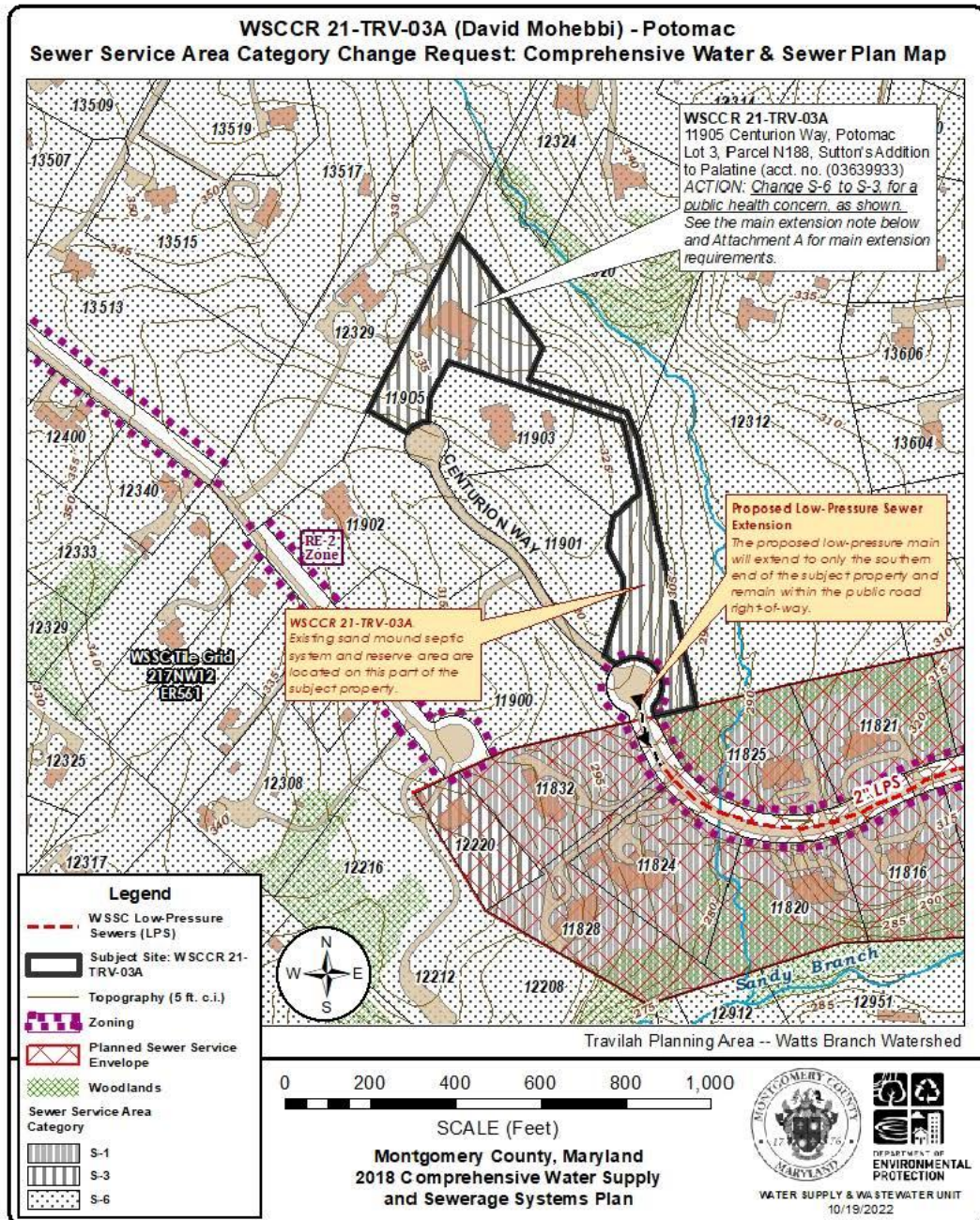
D. Lee Currey, Director  
Water and Science Administration

Enclosure

cc: Adriana Hochberg, Acting Director, Montgomery County DEP  
Vicky Wan, Acting Deputy Director, Montgomery County DEP  
Alan Soukup, Senior Planner, Montgomery County DEP  
George Dizelos, Environmental Planner, Montgomery County DEP  
Les Knapp, Senior Local Advisor, Office of the Secretary, MDE  
Charles Boyd, Director, Planning Coordination, MDP  
Heather Barthel, Deputy Director, WSA, MDE



Montgomery County Comprehensive Water Supply and Sewerage Systems Plan  
January 2022 Amendment Transmittal: Water/Sewer Category Map Amendments



The Maryland Dept. of the Environment (MDE) must review and concur with this approval action. Applicants receiving a category change approval in this resolution may proceed with WSSC Water main extension requests prior to MDE's action but do so at their own risk.

**RESPONSE TO MDE’S REVIEW OF THE**  
**2022-2031 COMPREHENSIVE WATER SUPPLY AND SEWERAGE SYSTEMS PLAN**  
**RE COMMUNITY SERVICE FOR COMMERCIAL LAND USES POLICY**

On behalf of Transquest (WSCCR 20-TVR-14A) and Travilah Oak, LLC (WSCCR 20-TRV-15A), the following is provided in response to the Maryland Department of the Environment’s (“MDE”) comments/concerns regarding the Community Service for Commercial Land Uses Policy (the “Commercial Service Policy” or “Policy”) adopted by the County Council in the recent update to the 2022-2031 Comprehensive Water Supply and Sewerage Systems Plan (the “Comp Plan Update”). MDE’s stated reasons for its initial ‘disapproval’ of the Commercial Service Policy are outlined on pages 4 and 8 of its March 15, 2023 letter to Council President Evan Glass, excerpted below with emphasis added.

MDE’s comments that certain aspects of the Commercial Service Policy would benefit from clarifying and/or augmented text in order to support/justify the County Council’s adoption of the Policy as well as to assist in its implementation, are duly noted and can be adequately addressed with supplemental provisions. However, as further discussed herein, MDE’s opinion that the Policy “**appears to be**” inconsistent with the County’s land use planning vision, principles and priorities set forth in Thrive Montgomery 2050 (“Thrive 2050”) and the Water Resource Plan is wholly without merit and unsubstantiated by the record established by the County Council in its adoption of the Policy.

**Comment:** This amendment derives directly from specific properties currently under review by MDE associated with County Council resolution No. 19-1425, adopted on October 25, 2022, specifically WSCCR 20-TVR-14A: Transquest and WSCCR 20-TRV: Travilah Oak LLC. The proposal to allow for the provision of community water and sewer systems for commercial land uses outside of the planned community service envelope as described in Section II.G.5 is found on page 1-45 of the Plan. The new language is confusing and may be difficult to interpret by those tasked with implementing it. It states that the new policy parallels the Private Institutional Facilities (PIF) policy, which is largely based on the concept of allowing tax exempt non-profit entities to utilize the exemption. PIF also includes a discussion of the relationship of the policy to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) (page 1-41). But there are many questions that this amendment leaves unanswered.

The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses and may result in any commercial use being eligible for service outside the envelopes (page 1-45) except for expansion into the Agricultural Reserve, Rural, and Rural Cluster zones. It also allows for the conversion of residential structures to commercial uses and to be considered for main extensions for service. This text amendment is not well defined, is very broad, and was not addressed in the recent approval of Thrive 2050, the approved and adopted WRP, or the underlying approved and adopted 2002 Potomac Master Plan (as was reported in the earlier amendment reviews associated with the property prior to the adoption of Thrive 2050). There is no information provided that indicates how this amendment might induce growth or impact land use patterns throughout the county, such as how many properties, including existing commercial or future residential conversion throughout the county could be become eligible, and its impact on the public sewer system. Therefore, MDP finds this proposed text amendment appears to be inconsistent with Thrive 2050 and the WRP.

*MDE Letter to Council President Evan Glass, pg. 4*

#### **II.G.5.: Community Service for Commercial Land Uses**

The Department is **disapproving** II.G.5.: Community Service for Commercial Land Uses for the following reasons:

- This policy is intended to parallel the existing PIF policy. The existing PIF policy has built-in exclusions to limit growth. The proposed II.G.5. policy undermines the original PIF policy by providing its benefits while ignoring some of its exclusions. This new policy is inherently incongruous with the original PIF policy that it intends to parallel.
- Additionally, the proposed policy appears to be lacking the specificity needed to prevent significant but unintended consequences and confusion regarding the potential for category changes that are not supported by the Plan.
- The Community Service for Commercial Land Uses policy lists a few examples of commercial uses that could be helpful in serving areas outside of the community service envelope, but it is not limiting in regard to the commercial uses (MDP). Should a revision of this policy be submitted for approval in the future, a comprehensive list of commercial services to which the policy applies should also be included.

*MDE Letter to Council President Evan Glass, pg. 8*

## **A. The Commercial Service Policy was Adopted in Compliance with and in Furtherance of Thrive 2050**

Adopted at almost exactly the same time as the Commercial Service Policy, Thrive 2050 is now the overarching policy framework for land use and development patterns for the County. The land planning principles now codified in Thrive 2050 reflect a fundamental shift in the County’s approach to the creation of viable communities and what it means to maintain their sustainability. MDE’s summary conclusion that the Policy is somehow contrary to Thrive 2050 when in fact the exact opposite is true, reflects a need to more thoroughly explain the role that Thrive 2050 played in the Policy’s genesis.

### 1. Thrive 2050 Calls for “15-Minute Living” and “Complete Communities”

Thrive 2050 recognizes that the combination of uses and activities in each center of activity – whether a city, town, village or neighborhood – must add up to a cohesive whole, allowing people who live and work there to meet as many of their needs as possible without driving long distances. Thrive 2050 seeks to achieve this goal by planning for complete communities where as many residents as possible live within 15 minutes of most essential services:

Developing neighborhoods and districts with the features and qualities that support the emergence of more vibrant communities is easier said than done. Even the most progressive policies on land use, transportation, housing, and public amenities are likely to fall short unless they are integrated into a cohesive framework. That’s why Thrive Montgomery 2050 recommends strategies that reinforce each other, using compact form as the foundation, “complete communities” and 15-minute living as basic orienting objectives . . .<sup>1</sup>

The concept of “15-minute living” calls for reimagining existing communities to maximize their attractiveness and efficiency by mixing uses to meet the daily needs of people who live or work in the area. “Complete Communities” are places that include a variety of uses, services and amenities – including hospitality-oriented businesses – even in rural areas or neighborhoods where low-density housing is the predominant form of development. Thrive 2050 explains that the specific mix of uses,

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<sup>1</sup> Thrive 2050 at 17.

public facilities, and building types in Complete Communities can and should vary depending on factors such as the size and location of the neighborhood or community, but every part of the county needs a range of services and amenities, including local-serving businesses.

With these key principles of Thrive 2050 in mind, the previous Council directed legislative staff to craft a policy that would be measured and focused in its potential application but that could facilitate extension of community sewer service to support a smart growth development proposal brought forth by property owners and numerous surrounding residents of the Travilah community.

As clearly recognized by MDE, the Commercial Service Policy adopted by the previous Council “derives directly from specific properties currently under review by MDE associated with County Council resolution No. 19-1425, adopted on October 25, 2022, specifically WSCCR 20-TVR-14A: Transquest and WSCCR 20-TRV: Travilah Oak LLC.”

The specific properties associated with these two category change applications are located in the crossroads area of Travilah (i.e., intersection of Travilah and Glen Roads), long viewed as a potential community gathering place and local destination for neighborhood convenience services/uses. Not only did the 2002 Potomac Subregion Master Plan affirm the continuation of commercial uses at the Potomac Oak Center (Travilah Oak LLC) but recommended that an appropriate special exception use (i.e., country inn) be allowed on the Old White House property (Transquest). (2002 Potomac Subregion Master Plan, pg. 91)

The above land use recommendations for the properties were only bolstered by the adoption of Thrive 2050 and, together, fully supports the Council’s adoption of the Commercial Service Policy which will:

- Promote a more robust mix of neighborhood retail at the Potomac Oak Center to better serve adjacent residential communities; and

- Facilitate an economically viable re-use (as a country inn) of the Old White House property – an historic asset to the Travilah community that is worthy of protection; and
- Provide an existing low-density residential area, such as Travilah, the opportunity to achieve smart growth in the form of a more sustainable localized commercial center that can offer a functional and attractive gathering place and destination for the community.

**B. The Commercial Service Policy Will Not Permit Unlimited Numbers of Extensions by Right to Any Commercial Use**

The Commercial Service Policy states in relevant part as follows:

*This policy addresses the provision of community water and sewer service for commercial land uses located outside the planned community service envelope. This is to help support commercial service (such as grocery and convenience stores, medical offices, and day care facilities) in lower density areas of the county where residents may otherwise have to travel many miles to avail themselves of these services. Properties eligible for consideration for community service are those with existing or proposed commercial uses as defined in the Montgomery County Zoning Ordinance.*

As the Council is aware, the practical effect of the Policy is that it cannot be implemented in isolation and/or separate and apart from what a particular property’s zoning would allow under the County’s Zoning Ordinance. In other words, commercial uses that might request service under this Policy cannot simply and easily materialize “by right” in any area of the County not otherwise zoned or approved for such uses. Nonetheless, to the extent that the Council agrees that MDE’s concerns relative to potential unintended consequences warrants further clarification of the Policy, we would recommend the following change to the last sentence of the paragraph excerpted above:

*Properties eligible for consideration for community service are those with existing ~~or proposed~~ commercial uses as defined in the Montgomery County Zoning Ordinance, or those recommended for an appropriate special exception or conditional use in an applicable master plan.*

**C. The Private Institutional Facilities (“PIF”) Policy’s Provisions Regarding “Allowances, Restrictions, Procedural Requirements” Apply to Limit the Commercial Service Policy’s Potential Scope and Application**

The Commercial Service Policy further states in relevant part as follows:

*The provisions of this commercial uses service policy (allowances, restrictions, procedural requirements) parallel those established in the Private Institutional Facilities (PIF) policy (see II.G.4. preceding), with the following exceptions:*

- *The commercial uses considered under this policy do not have to qualify as tax exempt under Section 501 of Title 26 of the United States Code (Internal Revenue Service).*
- *Neither community water and sewer service shall be used to support existing or proposed commercial uses within the Agricultural Reserve (AR), Rural (R), and Rural Cluster (RC) Zones.*
- *Water and sewer main extensions for these properties are required to stay within public rights of way and avoid sensitive environmental features such as streams and forests.*
- *Properties with residential structures converted or proposed to be converted to a commercial use may be considered for community service.*

*Properties that have submitted category change requests for community service for an existing or proposed commercial use prior to the approval of this policy are not required to submit a concept plan for consideration by the Development Review Committee. (Emphasis added.)*

To address MDE’s PIF Policy related comments, rather than simply making reference to the PIF Policy, it may be advisable to restate the specific aspects of the PIF Policy that are also intended to apply to the Commercial Service Policy to be more explicit and address MDE’s ‘interpretation’ concerns. It should be noted that but for a category change request that was submitted prior to approval of the Policy, the Concept Plan review process outlined under the PIF Policy would also be required under the Commercial Service Policy. This aspect of the Policy, i.e., in the sentence immediately following the four bullet points above, is intended to acknowledge the fact that the Transquest/Travilah Oak LLC applications had already prepared a Concept Plan that was reviewed by the Council and Planning

Department staff in conjunction with the category change requests, well in advance of the Policy's approval that was deemed acceptable and so need not be redone/repeated.

Moreover, the four bullet-point exceptions serve to limit the application of the Policy by not only making it potentially applicable only to RE-2 zoned properties but by also significantly restricting the specific manner in which any connection to community service can physically be achieved, i.e., within existing public rights of way and avoiding sensitive environmental features, further limiting its application. The purpose of these provisions are to ensure that the overarching environmental benefits of Thrive 2050's land planning principles (at the core of the Policy) are not undercut by other potential impacts to the environment such that if a service connection cannot be achieved through environmentally sensitive design, it cannot be allowed under the Policy.





MONTGOMERY COUNTY COUNCIL  
ROCKVILLE, MARYLAND

ANDREW FRIEDSON  
COUNCILMEMBER, DISTRICT 1

CHAIR, PLANNING, HOUSING AND PARKS COMMITTEE  
GOVERNMENT OPERATIONS AND FISCAL POLICY COMMITTEE

**MEMORANDUM**

July 24, 2023

**TO:** Councilmembers

**FROM:** Council Vice President Andrew Friedson *AF*

**SUBJECT:** MDE Disapproval Actions Regarding Montgomery County's Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2022-2031 and Related Disapproved Category Change Requests

On Tuesday, July 25, the Council will consider sending a letter to the Maryland Department of the Environment (MDE) appealing recent disapproval actions related to the County's Ten-Year Comprehensive Water Supply and Sewerage Systems Plan 2022-2031. The disapprovals specifically relate to the Abutting Mains Policy – Transfer of Abutting Mains Rights, the New Commercial Sewer Service Policy, and the related category change requests 20-TRV-09A (Ainane), 20-TRV-14A (Transquest LLC), and 20-TRV-15A (Travilah Oak LLC).

I want to thank the Department of Environmental Protection and the T&E Committee for their work on these policies and category change requests and their recommendations to seek reconsideration of the MDE disapprovals. The Council has previously supported these policies and category change requests and, as the district Councilmember for the three category change requests in the draft letter, I want to share my support for reconsideration.

**20-TRV-09A (Ainane)**

Council staff believes the new policy language allowing abutting mains transfers under limited circumstances is reasonable, will not result in excessive new development, and adds important conditions for the transfer of abutting mains rights between properties which are not currently required in the resubdivision process.

**20-TRV-14A (Transquest LLC) and 20-TRV-15A (Travilah Oak LLC)**

Approval of these category change requests is consistent with the County's General Plan. The requested connections support our goals to achieve the Complete Communities that our residents desire. Currently, the Potomac Oak Shopping Center and the Old White House cannot support amenities that the community desires, like a small grocery store, a coffee shop or café, a family restaurant, and a country inn. If approved, the presence of these amenities will result in fewer trips, thereby reducing carbon emissions and congestion on our roads. The bones of these amenities already exist, and approval of the requested connections will allow them to best serve the community with limited impact to the environment.

While we can all recognize the importance of preventing sprawl development and the unnecessary expansion of sewer into rural areas, it is clear that the recommendations of the Council are reasonable and limited in scope given the policy conditions established by the Council and the clarifications noted in the draft letter to MDE. As such, I appreciate your consideration of support for the actions of the previous Council on these policies for the reasons outlined in the draft letter.

cc:

Keith Levchenko, Senior Analyst, Montgomery County Council

NOTE: Below is suggested additional text for the Council’s MDE reconsideration letter received from Steven Silverman on behalf of Transquest LLC and Travilah Oak LLC

## INSERT A

The Transquest LLC and Travilah Oak LLC category change requests relate to properties that comply with this new policy as follows:

- The Travilah Oak LLC property is an existing commercial retail center in the NR-0.75 H-45 (Neighborhood Retail) Zone.
- The Transquest LLC property has a master plan recommendation<sup>1</sup> that “allow[s] appropriate special exception uses” (now known as conditional uses under the County’s 2014 Zoning Ordinance). Under Section 59.3.1.6 and 59.3.5.3.A, a ‘Country Inn’ is allowed as a conditional use in the property’s RE-2 Zone.

Moreover, these two properties are located in the crossroads area of Travilah (i.e., intersection of Travilah and Glen Roads), long viewed as a desirable community gathering place and local destination for neighborhood convenience services/uses. Allowing the provision of community service to this particular area of the County is fully supported by Thrive 2050. Adopted at almost exactly the same time as the Commercial Sewer Service Policy, the land use principles of “15-Minute Living” and “Complete Communities” articulated in Thrive fully support the new policy with appropriate limitations as defined above.

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<sup>1</sup> 2002 Potomac Subregion Master Plan, pg. 91.