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TECHNICAL STAFF REPORT – February 2, 2017

# Adequate Public Facilities Task Force Recommendations

**Background**

The 2015 Department of Planning and Zoning Transition Team Report recommended that County Executive Kittleman review Howard County's Adequate Public Facilities Ordinance (APFO). The County Executive signed Executive Order 2015-05 on May 26, 2015, establishing a 23 member Adequate Public Facilities Review Task Force, appointed by the County Executive and the County Council. The task force met 22 times over the course of 10 months, from June 2015 through March 2016. A final Task Force Report, submitted to the County Executive on April 1, 2016, outlined 17 recommended APFO changes. For more information on task force membership and the process, as well as a history of APFO, refer to the April 1, 2016, Adequate Public Facilities Review Task Force Report.

There were 62 motions that were voted on by the task force. This staff report analyzes and makes recommendations on the 17 that passed. Many of the 62 motions that did not pass were variations on a motion that passed, as discussed in this report, or variations on a motion that ultimately did not pass. DPZ also considered the motions that did not pass and has recommended approval of one. Details on all motions, discussions, and vote tallies are in Appendix B of the Task Force Report.

**Task Force Recommendations**

The task force divided the study and report into eight categories, as does this staff report: A) Administration, B) Fiscal, C) Allocations Test, D) Schools Test, E) Roads Test, F) New Metrics, G) Downtown Columbia, and H) Non-APFO Action Items. The one motion that did not pass which DPZ recommends approval of is in part I.

## A) Administration

1. **Approved Task Force Motion**: Convene an APFO review committee at a minimum at the conclusion of every General Plan cycle.

**DPZ Analysis:** It is important that APFO be periodically reviewed as the amount, pace, patterns, and capacity for development can change over time; as can infrastructure needs and capacities. A periodic evaluation of how APFO is working in relation to such changes is clearly a best practice.

Since Howard County adopts a new general plan approximately every 10 years, an APFO review committee was initially established nearly a decade after APFO's initial passage. This occurred in 2000, around the time *General Plan 2000* was adopted. However, following the most recent general plan, *PlanHoward* 2030, APFO was not reviewed. Consequently, the task force wanted to make sure that APFO was in fact reviewed at least at the conclusion of every General Plan cycle.

While there have been periodic changes to APFO adopted by the Administration and County Council outside the post general plan review process, this motion would mandate a review at least once every General Plan cycle. It would not preclude convening a review committee more often, if deemed appropriate by County leadership.

**DPZ Recommendation:** Yes

2. **Approved Task Force Motion**: Add definition of 'minor' using definition in subdivision recommendation.

**DPZ Analysis**: Minor subdivisions are not defined in the APFO regulations (Sec. 16.1110), yet they refer to minor subdivisions in several places. For example, minor subdivisions in the Rural West that create the potential for only one additional lot are exempt from APFO. When administering APFO, the Department of Planning and Zoning (DPZ) uses the definition for minor in the Subdivision Regulations (Sec. 16.108): *Minor subdivision means the division of a residential or agricultural parcel that has not been part of a previously recorded subdivision, into four or few residential lots (including buildable preservation parcels but excluding open space and nonbuildable preservation parcels, either all at one time or lot by lot.* For clarity, the minor subdivision definition in the subdivision regulations should be added to Sec. 16.1110 of the APFO regulations.

**DPZ Recommendation:** Yes

## B) Fiscal

Two main revenue sources fund county capital infrastructure: the building excise tax for roads and the public schools facilities surcharge (both are excise taxes on new development). Portions of a 1% real estate transfer tax also go toward capital facilities—a quarter to acquire land for public schools and their construction, a quarter to develop and construct parks, and an eighth for fire and rescue capital equipment. A quarter also goes to the Agriculture Land Preservation Program and an eighth to Housing and Community Development.

The task force discussed whether these revenues were adequate or if they needed to be supplemented. The task force learned that current revenues are not adequate to address all of the Howard County Public School System's (HCPSS) capital needs, particularly given the growing need to renovate or replace older schools. The task force discussed the FY2016 Spending Affordability Committee report, which recommended the transfer tax be increased by 50 basis points and dedicated to school capital needs.

Ultimately, the task force passed a recommendation regarding the county's current fee structure for new development. This was done in conjunction with a recommended change to the school program capacity, APFO requirements, and project wait time. Several different amendments were combined into one motion and are discussed under the "Schools Test" category on page 6 of this report.

## C) Allocations Test

3. **Approved Task Force Motion:** Exempt moderate income housing units (MIHU) from the allocations test. The schools and roads test would still apply. This exemption does not apply in Downtown Columbia. The exemption would be capped at the amount of required MIHUs per the zoning regulations.

**DPZ Analysis:** The task force reached consensus that a continued need for affordable housing exists in Howard County. Therefore, the task force passed the MIHU exemption, believing that it would allow affordable units to be built faster than otherwise possible. However, DPZ believes potential consequences, beneficial or not, should be more fully discussed:

- Rather than concentrating affordable housing in a single development, MIHU goals advocate integrating them into mixed income housing projects. Given this goal, for any mixed income project that includes MIHUs the market rate units would still require housing allocations. If allocations were not available then the entire project would stall, including MIHUs. Despite the exemption, affordable units may not necessarily be delivered any faster.
- Taking a longer view, since MIHUs would not require allocations it could free up housing allocations for market rate units, thus speeding the pace of all residential development, including MIHUs. The unintended consequence could be a rate of residential development that exceeds *PlanHoward 2030* goals.
- Instead of providing MIHUs, many townhouse and single family developers choose to pay a fee. An increase in the pace of development, due to an MIHU exemption, could generate fee in lieu payments sooner, allowing the Housing Commission to provide affordable housing more quickly. While this would be beneficial, the overall pace of residential development could exceed that envisioned in *PlanHoward 2030*.
- The Downtown Columbia Plan establishes a 6,244 unit allocation cap, which includes all required MIHUs. Because it has its own pool of allocations, including required MIHUs, the task force chose not to exempt downtown Columbia from allocations. Sec. 16.1101(b)(6)(v) currently allows allocations to be borrowed from the future anyway, thereby addressing any downtown MIHU allocation concerns. If downtown MIHU allocations were to be exempt, more residential units could be developed than planned for in the Downtown Columbia Plan.
- If adopted, the MIHU exemption should be capped at the amount required by zoning regulations, otherwise an unlimited number of MIHUs could be built. However, given demand for other types of market rate housing units in Howard County this is highly unlikely.

**DPZ Recommendation:** Yes. An overarching goal of providing affordable housing has been expressed by affordable housing proponents and evidenced by past actions of the Administration and the County Council. These include expanding affordable housing requirements to all residential zones during the last comprehensive rezoning. These actions suggest that, despite potential risks, this recommendation should be included.

**4) Approved Task Force Motion:** Apply APFO tests at Environmental Concept Plan (ECP) stage rather than at the sketch plan stage of the subdivision regulations.

**DPZ Analysis:** APFO was adopted in 1992 and established that residential allocations are granted upon initial plan approval, as defined in the Howard County Subdivision and Land Development Regulations. This is generally at the Sketch Plan (S) or Preliminary Equivalent Sketch Plan (SP) phase. For plans not requiring subdivision allocations are granted at the Site Development Plan (SDP) stage and for minor subdivisions (4 lots or less) at Final Plan (F). After allocations are granted the Open/Closed Schools test is then taken.

The Maryland Department of the Environment (MDE) stormwater management requirements became effective in May 2009. Shortly after, in 2010, Howard County began requiring an Environmental Concept Plan (ECP). An ECP is a concept plan depicting the general location of stormwater management, water/sewer connections, forest conservation, and environmental areas, such as wetlands and floodplains. Rather than adding the ECP process and requirements to the Subdivision and Land Development regulations they were incorporated into the Howard County Design Manual, which details engineering specifications and requirements. As a result, allocations are not granted upon ECP approval since, per the Subdivision and Land Development Regulations, an ECP is not the initial plan submission. An argument can be made that testing and granting allocations at the ECP stage begins the APFO process sooner, thus providing time savings if allocations are not currently available and/or the schools test is not passed. This is especially true for minor subdivisions, which do not receive allocations until the Final Plan is deemed technically complete.

To test for APFO at the ECP stage would require moving ECP requirements from the Design Manual to the Subdivision and Land Development Regulations (see related recommendation—Task Force Motion 12, page 11). However, a number of issues arise:

- Since ECPs are at a concept level, full development details and final residential unit counts may be unknown and housing unit allocations may be just estimates.
- Since ECPs may be submitted concurrently with initial subdivision plans the result could be little to no time savings.
- Presubmission community meetings are required before an initial plan can be submitted to the county, which would require a public meeting prior to ECP submission. Since plan details may not be known at this stage the information presented to the public could be incomplete.
- MDE requires a three-step review so any changes to the ECP process, such as combining ECPs with S or SP plans, must ensure that a three-step process is maintained. Making such changes could have a ripple effect, requiring other changes to subdivision regulations.
- Testing APFO at the ECP stage would apply key milestone dates to ECP submissions that currently apply to initial plan submissions. This issue was not discussed by the task force and could have unintended consequences.

Given its complexity and because the task force did not discuss many of the potential issues, additional study is necessary before such a change is made. DPZ is embarking on a full rewrite of county land development regulations and this recommendation could be assessed at that time. Should it be a more pressing issue, DPZ could look at it sooner and initiate a change following a more public process.

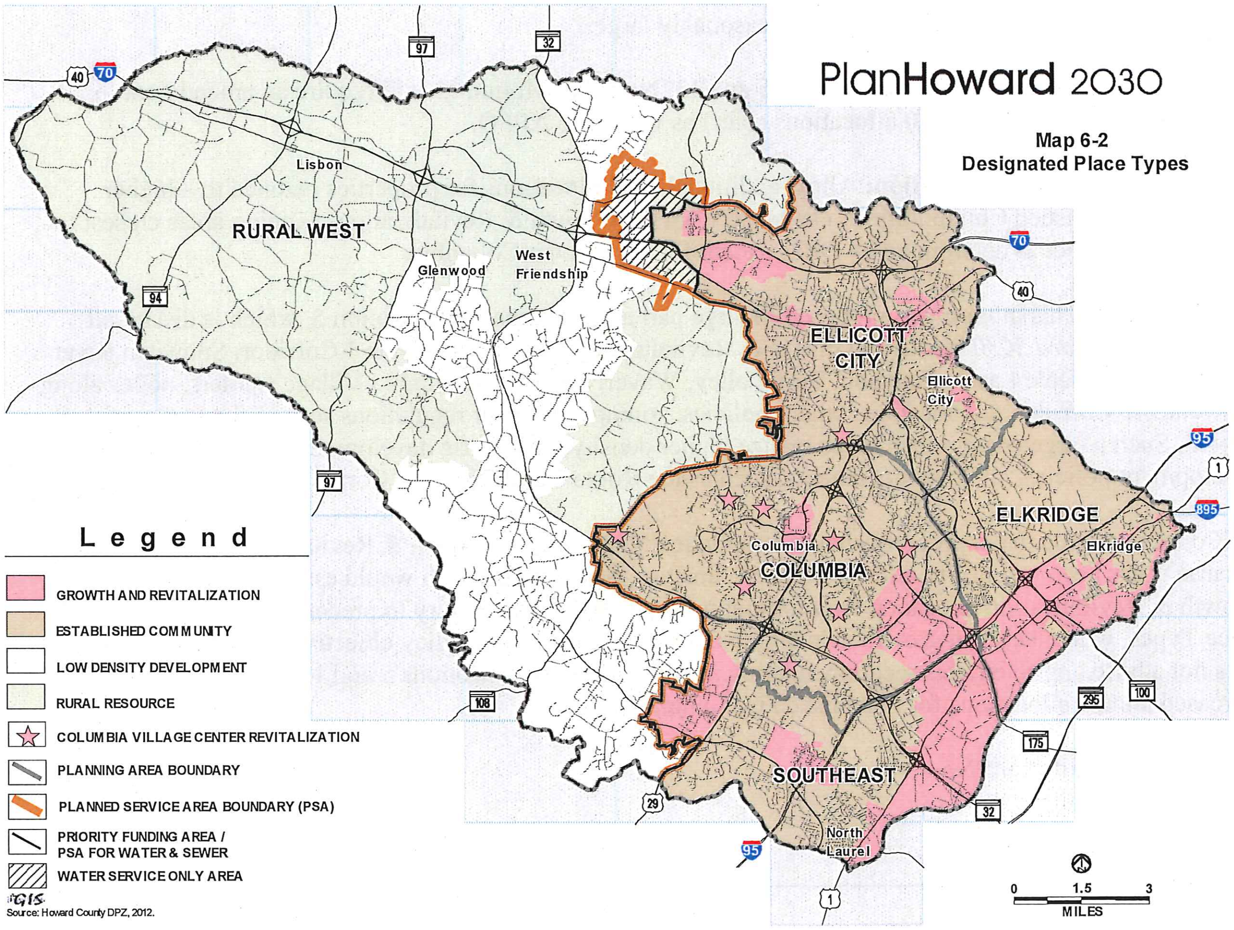
**DPZ Recommendation:** This issue requires further review with two possible options:

- Wait to incorporate changes into the broader comprehensive review and update of the Zoning and Subdivision and Land Development Regulations.
- Convene a small technical work group to evaluate the proposed changes and adopt them sooner.

**5) Approved Task Force Motion:** Remove the allowance to share allocations across the Established Communities and the Growth & Revitalization allocation areas.

**DPZ Analysis:** Housing unit allocations are currently distributed among five categories: Growth & Revitalization, Established Communities, Rural West, Downtown Columbia, and Green Neighborhood. The map shown on page 5 below, Map 6-2 from *PlanHoward 2030,* depicts the geography of these categories. The Growth and Revitalization and Established Communities areas were first established when *PlanHoward 2030* was adopted to incorporate Designated Place Types as called for in the 2011 State Development Plan, known as *PlanMaryland*. The Rural West area consists of 60% of the county lying outside the Planned Service Area (PSA) and it includes two Designated Place Types—Low Density Development and Rural Resources. The Downtown Columbia area is defined by the Downtown Columbia Plan. Green Neighborhood allocations can be applied anywhere in the county as long as the project qualifies as a Green Neighborhood project, as defined in the Howard County Subdivision and Land Development Regulations.

When APFO was revised in early 2013 the new allocation categories from *PlanHoward 2030* were incorporated and housing unit allocations are currently distributed among them. However, the County Council added a late amendment that allowed a shared Established Communities and Growth & Revitalization allocation category. This was done because some had argued that the annual Established Communities allocations were insufficient. The *PlanHoward 2030* allocations chart includes 400 annual Established Communities allocations and 1,200 annual Growth & Revitalization allocations. Proponents of the change asserted that given current and expected development, 400 annual allocations in Established Communities was too little and the shared pool was added to remedy this. However, the shared pool has grown over time and continues to grow because many of the 1,200 Growth & Revitalization allocations are not being used. An ever-increasing shared pool that can be used in either the Established Communities or the Growth & Revitalization area—essentially anywhere in the eastern portion of the county—renders the geographic distribution and intended phasing meaningless.




The 400 annual units in the *PlanHoward 2030* allocations chart for Established Communities was based on an estimated new residential unit capacity, measured at that time to 2030. It recognized instances where projects in the Established Communities area could be delayed a year or two if more than 400 units were to come forward annually. However, to provide a more even pace of new development over the life of *PlanHoward 2030*, the 400 annual allocations were adopted.

While APFO anticipates that some projects may have to wait a year or two before moving forward, the shared pool potentially allows development to occur faster than proposed in *PlanHoward 2030*. Furthermore, the shared pool could allow large numbers of units to be concentrated, rather than geographically spread out. Of the 1,200 annual Growth & Revitalization allocations, APFO stipulates that no more than 35% can be built in a single Planning Area (see Map 6-2 for the eastern planning areas—Elkridge, Southeast, Columbia, and Ellicott City). There is no such restriction for the shared pool.

The task force recommended increasing the annual Established Communities allocations from 400 to 600 and reducing the annual Growth & Revitalization allocations from 1,200 to 1,000 (see approved Motion 13 on page 11, categorized as a "Non-APFO Action Item" because it amends the *PlanHoward* 2030 allocations chart, not APFO). The changes to the allocations chart in Motion 13 were, however, contingent on eliminating the shared pool. By increasing the annual Established Communities allocations by 200 and eliminating the shared pool the task force thought it would remedy the perception that 400 annual allocations was too limiting. Some on the task force thought that development capacity in the Established Communities area would also increase over time due to piecemeal rezoning, as evidenced by recent, relatively large projects rezoned to CEF. The task force felt this was not an unreasonable assertion and the compromise was fair. It would not unduly hinder new development in the Established Communities area and would eliminate the shared pool, which is likely to grow unreasonably large.

**DPZ Recommendation:** Yes, for Motions 5 and 13. Note that Motion 13 will require an amendment to *PlanHoward 2030* (Figure 6-10 allocations chart) as well as to APFO.

**6) Approved Task Force Motion:** Allow additional new allocations for properties rezoned to a higher density in Established Communities to be taken from the Growth & Revitalization planning areas closest to the rezoned project as determined by DPZ, except for Downtown Columbia.

**DPZ Analysis:** This motion was proposed in large part as an alternative to Motion 5, which is discussed above. *PlanHoward 2030* identifies Growth & Revitalization areas in the Route 1 Corridor, Snowden River Parkway area, Maple Lawn, Emerson, Turf Valley, Waverly Woods, Columbia Village Centers, nodes along the Route 40 Corridor, and locations where policies, zoning, and other regulations seek to focus most future growth. Such a targeted approach helps realize higher density, mixed-use development based on zoning, development policies, and plan documents, such as the Route 1 and Route 40 Corridor Design Manuals.

DPZ does not agree that a property should automatically qualify for Growth & Revitalization allocations just because it has been rezoned to allow increased densities. Such an approach would essentially create a new Growth & Revitalization allocation area for that property, which is contrary to predetermined Designated Place Types, where targeted growth is in alignment with General Plan policy objectives. Furthermore, DPZ does not advise approving this recommendation in conjunction with Motions 5 and 13, which already allow increased annual allocations for Established Communities.

**DPZ Recommendation:** No

## D) Schools Test

**7) Approved Task Force Motion:**

(1) Change program capacity at which a school is deemed to open to 110%;

(2) If projected enrollment lies between 110% and 115% of program capacity then developer can move forward if it pays a public school facilities surcharge double the amount in current law; if projected enrollment is over 115% and up to 120% of program capacity then developer can move forward if it pays a public school facilities surcharge triple the amount in current law;

(3) The developer's wait time for the allocations and schools test combined shall not exceed 5 years contingent on the receipt of allocations within the 5-year time period; the last development plan shall be allowed to be processed at the developer's risk;

(4) All existing Howard County dwelling units excluding MIHU and age-restricted dwelling units shall pay an annual fee ($25 for apartment/condominium, $50 for townhouse, $75 for single family) detached that is dedicated to public school capital budget;

(5) In an effort to identify efficiencies and better utilize existing space, HCPSS shall reduce its capital budget request by 2% per year for the next 5 fiscal years excluding revenue from the surcharge and the household fee in this motion.

**DPZ Analysis:** This is the most complex and comprehensive motion approved by the task force. They spent a lot of time deliberating and crafting this motion and many alternatives were considered before the final version was approved. The overall intent in approving this motion was for all parties to contribute their fair share toward a common solution. Consensus was achieved only because it included all components deemed by the task force to be associated with school crowding and capital funding issues. These include:

a) Student population growth due to new construction.

b) Student population growth due to the resale of existing homes in some districts and neighborhoods, and concerns that an increasingly large portion of the school capital budget is going toward renovating and replacing existing schools that are near the end of their useful lives.

c) School construction costs that have increased at a relatively rapid rate over the last decade and which are expected to continue to increase.

Motion items (1) and (2) are related to points (a) and (b) above. Motion item (3) is also related to (a) and (b). Motion item (4) is related to (b) only, and motion item (5) is related to (c) only. These are discussed below:

Motion Items (1) and (2)

The task force concluded that increased school capital funding needs are not solely caused by new development, and they also believed it was appropriate to lower the school capacity threshold from the current 115% to 110%. The task force further recognized that developers should have the ability to move forward with a project (at the higher school capacity threshold) if they paid a higher school facility surcharge. This would provide flexibility for developers willing to pay to move forward and it could generate additional funds for school capital projects. However, it is difficult to estimate how much additional revenue would be generated because of the following:

- The number of schools at various capacity thresholds can change from year to year.
- The amount of development in each district can vary.
- The number of developers who choose the surcharge option is unknown.

**DPZ Recommendation:** Since more revenue could potentially be generated for capital projects by lowering capacity thresholds, DPZ believes the approach to be rational and supports the task force recommendation. Note that that state enabling legislation is required to collect a higher amount of school facility surcharge fees.

Motion Item (3)

*Part One*
The first part of this recommendation indicates that it is unfair for developers to wait several years for allocations and then wait again, for up to four more years, because schools are closed. Under APFO, there is a maximum wait time of 4 years due to closed schools, but there is no maximum wait time for allocations. There have been occasions, particularly during the time of strong housing growth in the mid-2000s, where a project would have to wait several years for allocations and then again for several more years due to closed schools. Given current development trends and the number of available housing allocations, such a wait scenario is unlikely in the near term. However, if the pace of development were to increase, then projects could be held up for more than one year in the allocations waiting bin once again. And then if schools were to also be closed, the total wait time could exceed 4 years. DPZ supports this recommendation of a total wait time of up to 5 years contingent on the receipt of allocations within the 5-year time period. This will allow for better predictability for developers and homebuilders while also allowing for ample time for planning and implementation of necessary public infrastructure.

**DPZ Recommendation:** Yes, for the first part of Item (3).

*Part Two*

The second part of this recommendation would enable a developer to submit final project plans for DPZ to review, even while a project is in the APFO waiting bin. Under APFO, projects are tested and put on hold if they fail the APFO allocations or the APFO schools test at *initial plan* stage. Plan processing beyond this stage, which is a sketch plan (S) or preliminary-equivalent sketch plan (SP) for major subdivisions, or a final plan (F) for minor subdivisions or a site development plan (SDP) for plans that do not undergo subdivision, cannot resume until the plan receives allocations and passes the school test. Implementing this clause would allow a developer to resume processing a plan even when the project has failed APFO. Allowing continued processing, as this recommendation suggests, opens a developer to "risk" in that significant engineering/planning costs could be incurred up to that point, but the project could still be on hold.

**DPZ Recommendation:** DPZ does not support this recommendation as it impacts the fundamental design of APFO. APFO is designed and works well in terms of predictability by testing and delaying development progress, if necessary, at the initial plan stage. Allocations that are granted are always three years out; for example, the first allocation year in the most recent chart adopted in July 2016 is for 2019. This is because it takes about three years for a project to move from the initial plan stage to when the development is fully built. Allowing a development to move through the review process sooner (while still in a hold bin) would allow projects to be built sooner than intended and it could alter the fundamental design and pacing of APFO.

<u>Motion Item (4)</u>

The task force acknowledged that in addition to students coming from new construction, student growth is also generated by the resale of existing homes in some neighborhoods. They also recognized that increasing capital dollars are being spent on major renovations and to replace those schools that are approaching or exceeding their useful life. (See Appendix, page 15, for details on student growth and HCPSS capital spending trends.). The task force concluded that every household in Howard County should share in addressing this reality by contributing an annual fee to raise capital funds.

DPZ discussed this annual fee option with the Howard County Office of Law which indicated that it is not clear if such a fee would be legal, since it would seem to be an impact fee charged to every household in the county without having a direct impact nexus required for the funding of capital infrastructure. Impact fees are typically charged to new construction only at time of building permit, as new growth creates a demand for new public infrastructure. Another option, instead of the proposed countywide fee for capital funding, would be to raise property taxes to generate additional revenues. Such an approach would be aligned with the goal of having all property owners participate—not just the developers of new homes. However, a property tax increase would not necessarily have to be dedicated to school capital funding, and the task force had envisioned a dedicated funding source. Furthermore, the administration is not amenable to raising taxes or instituting new fees at this time.

**DPZ Recommendation:** No.

<u>Motion Item (5)</u>

The task force recognized school construction costs have increased significantly over the last decade. This is evident when costs for the most recent high school, Marriotts Ridge, built in 2005 for $46.1 million, are compared to the estimated $138.5 million proposed in the FY18 HCPSS capital budget for the next high school, to be completed in 2023.

School design and facility standards and material and construction labor costs all continue to increase, which is not unique to Howard County. As a statewide issue, the 21st Century School Facilities Commission was recently appointed and asked to convene by the General Assembly in April 2016. A report is due back to the General Assembly by December 2016. Among other things, this commission has been charged with looking for efficiencies and cost savings in school construction and maintenance costs.

Recognizing that costs continue to increase, the task force added to this overall motion a stipulation that HCPSS reduce its capital budget request by 2% per year for the next 5 fiscal years. While this is a laudable goal, it is not entirely clear how it could be mandated and implemented.

**DPZ Recommendation:** DPZ recommends that the county and the HCPSS together come up with innovative ways to reduce costs. The results of the 21st Century Schools Facilities Commission should be a starting point for those discussions.

**8) Approved Task Force Motion:** Refer to 'Open/Closed Chart' as 'School Capacity Chart', use the term 'constrained' for those schools above the threshold percentage, and 'adequate' for those schools below the threshold.

**DPZ Analysis:** The task force found that the terms 'open' and 'closed' were confusing. It was indicated that some residents thought that a 'closed' school district, for example, meant that the school was closed to new students. They believed that calling the chart a 'School Capacity Chart' is better than an 'Open/Closed Chart'. Likewise, referring to schools that are over the capacity threshold as 'constrained' and those below as 'adequate' are more accurate descriptions.

**DPZ Recommendation:** Yes

## E) Roads Test

**9) Approved Task Force Motion:** Amend the following provision: "A facility owned by Howard County or any agency thereof where essential County Government services are provided, ~~including~~ LIMITED TO police services, fire prevention and suppression services, emergency medical services, highway maintenance, detention facilities, water treatment and supply, sewage disposal and treatment and solid waste disposal.

**DPZ Analysis:** The goal was to clarify the definition for exempt governmental facilities. The full definition from the code is:

(i) *Exempt governmental facility* means:

(1) A facility to be owned or operated by the Federal Government, State Government, Howard County Public Schools, or any agency thereof;

(2) A facility owned by Howard County or any agency thereof where essential County Government services are provided, including police services, fire prevention and suppression services, emergency medical services, highway maintenance, detention facilities, water treatment and supply, sewage disposal and treatment and solid waste disposal.

Changing the word "including" to "limited to" in (2) above clarifies that the term '*exempt governmental facility*' only applies to the listed essential services. For example, park and library facilities, which are not listed in the above definition, are not considered essential in terms of APFO and are therefore not exempt. These non-essential county-owned facilities have always been subject to APFO, and the proposed change helps clarify this.

**DPZ Recommendation:** Yes

## F) New Metrics

**10) Approved Task Force Motion:** Exempt age-restricted projects that incorporate continuing care and/or intermediate care services from the allocation test as these projects help our elderly population and reduce the need for other medical facilities.

**DPZ Analysis:** The task force referred to the newly built Lutheran Village at Miller's Grant, located adjacent to the Miller Library, as an example of a continuing care facility. These types of facilities accommodate independent living, as well as providing continuing care, ranging from assisted living to skilled nursing care.

Currently, age-restricted units are not required to take the Open/Closed Schools test and allocations are only required for new senior units with kitchens. This was the case for Lutheran Village at Miller's Grant, where allocations were required only for independent living units with kitchens, while assisted living and nursing home units without kitchens did not require any. The task force concluded that exempting continuing care facilities from the allocations test would "...help our elderly population and reduce the need for other medical facilities." Since allocations are currently not required for assisted living and nursing home units—those without kitchens—then this goal is already met for a significant portion of continuing care facilities.

Applying such an exemption to independent living units that are exclusively part of a continuing care facility raises equity concerns. Should not other age-restricted units (that are not part of a continuing care facility) qualify, since they also serve an elderly population? About one in five units built in Howard County since 2004 have been age-restricted and they have all required allocations. In addition, such units count toward the growth targets established by *PlanHoward 2030*.

**DPZ Recommendation:** DPZ does not recommend exempting independent living units in continuing care facilities from the allocation test. Senior populations do have an impact on public infrastructure other than just medical facilities. By not requiring allocations *PlanHoward 2030* growth targets could be exceeded. However, DPZ believes the biggest issue is one of equity and consistency. It is best to maintain consistency by treating all independent living units the same under APFO and in alignment with General Plan projections.

## G) Downtown Columbia

**11) Approved Task Force Motion:** Exempt Downtown Columbia from the 300 unit annual allocation limit for a single elementary school district if the school region within which the school district resides is over 100% capacity.

**DPZ Analysis:** This motion was recommended because the Downtown Columbia Plan already has mechanisms in place to address school infrastructure. These include the initial and subsequent joint DPZ and HCPSS feasibility reports to address school crowding and the Community Enhancement, Programs, and Public Amenities (CEPPA). CEPPAs are development obligations specified in the Downtown Columbia Plan and CEPPA 17 states that before the 1,375$^{th}$ new residential unit can be approved, the developer has to reserve an adequate school site, or provide an equivalent location within downtown Columbia, if the Board of Education so determines.

These current requirements already ensure that adequate school infrastructure will be available in downtown through redistricting and by constructing new school capacity within the region. Consequently, a regional cap is not necessary and would potentially hinder planned downtown development. The 300 unit annual cap is not appropriate given that large residential buildings are planned in downtown, many with more units than the annual cap would allow. This could force a single building with more than 300 units to split development between two years—which is not feasible for a single building. It is important to note that units in downtown would still require allocations. They would also have to pass the Open/Closed Schools test, and the development phasing chart in the Downtown Plan would also apply. This amendment was proposed as part of the Joint Recommendations for Affordable Housing for the same reasons and was recently approved by the County Council as part of CB55-2016.

**DPZ Recommendation:** Yes

## H) Non-APFO Action Items

**12) Approved Task Force Motion:** Include ECP in subdivision regulations.

**DPZ Analysis:** See related Motion 4 on page 3.

**DPZ Recommendation:** This issue requires further review with two possible options:

- Wait to incorporate changes into the broader comprehensive review and update of the Zoning and Subdivision and Land Development Regulations.
- Convene a small technical work group to evaluate the proposed changes and adopt them sooner.

**13) Approved Task Force Motion:** Increase Established Communities annual allocations from 400 to 600 and decrease Growth and Revitalization annual allocations from 1,200 to 1,000—contingent on elimination of shared allocation pool (Task Force Motion 5).

**DPZ Analysis:** The task force considered this a non-APFO item because it is not in the APFO regulations and would require an amendment to the General Plan (Figure 6-10, the Howard County APFO Allocation Chart, would need to be amended). This motion is directly related to Motion 5 on page 4 of this report, which eliminates the shared allocation pool. Please refer to that motion for a further discussion.

**DPZ Recommendation:** Yes, for both Task Force Motions 5 and 13. Note that Motion 13 will require an amendment to *PlanHoward 2030* (Figure 6-10 allocations chart) as well as to APFO.

**14) Approved Task Force Motion:** Require the county to develop a plan of action to address the Department of Fire and Rescue Service's (DFRS) public water supply/cistern needs in the western portion of the county.

**DPZ Analysis:** The motion was adopted after a presentation by and further discussions with Fire Chief Butler. The task force determined that while it was not appropriate to address under APFO, further attention was warranted. The following summarizes the history and current state of the county's Rural Water Supply program, based on information from DFRS:

> In FY2008 a capital project to install 100 underground cisterns in areas not served by public water and, therefore, without hydrants, was approved. It fulfilled a strategic need to provide reliable public water sources for fire suppression in areas outside the Planned Service Area (PSA) that had experienced residential development before 2012, after which sprinklers were required in all new single family homes. However, sprinklers are not feasible or required in all parts of a home, nor do they fully extinguish fires in all cases. Sprinklers can certainly reduce the spread of fire and ultimate loss of property and life, but other water sources are still required to terminate a fire and fight fires in a non-sprinklered area, such as the exterior of a home, barns, outbuildings, and brush fires. The Rural Water Supply program remains an important strategic initiative for DFRS.
>
> DFRS utilized several GIS maps to organize western Howard County into one square mile grids to prioritize cistern needs and locations based on population density, existing alternate private water sources, and locations of dependable natural water supplies. To date, $6.6 million has been allocated to the project, which has provided 24 cisterns with another 10 in progress. The plan is reviewed annually,

or as new demographic information becomes available, to ensure that site selection priorities are up to date. At this point funding has come from a hybrid of fire and rescue tax funds and DFRS's 12.5% share of the county's transfer tax. Because it can take some time to identify a site, acquire land if a purchase is necessary, and bid the project, funds and installations can typically carry over from one fiscal year to the next. In partnership with the Department of Public Works, new funding requests are made only if it is deemed likely that additional sites will move to action in an upcoming year.

Although there is a sound plan and funding stream in place, DFRS has welcomed DPZ's help in identifying sources outside APFO to provide land for cisterns in new developments where there is a need. Dedicated water sources for fire suppression is one of the more important criteria used by the Insurance Services Office to establish the county's Public Protection Classification rating, which impacts property insurance premiums.

**DPZ Recommendation:** DPZ will review this issue with DFRS and work together during the subdivision review process to help enable potential cistern installations where they are most needed.

**15) Approved Task Force Motion:** Raise critical lane volume (CLV) from 1500 to 1600 for Downtown Columbia in the Design Manual to be consistent with APFO.

**DPZ Analysis:** Section 16.1101(f)(1) of APFO states: "For all final development plan applications proposing downtown revitalization and all subdivision and site development plan applications in Downtown Columbia, the intersection standard is up to 1600 CLV for all intersections as specified in the Howard County Design Manual."

The Howard County Design Manual Volume III, Chapter 4.9.1(B)(3)(A) states: "The intersection standard within the cordon line, as defined in Section 4.9.5 shall not exceed CLV 1600 for the overall intersection. This standard is subject to a transitional CLV requirement. During this transition phase to CLV 1600, all downtown intersection testing and mitigation will be subject to the following: (A) All Downtown intersections must be evaluated and, if necessary, mitigated per Section 4.9.2 using an initial CLV of 1500. (1) In the event the sum of existing and projected background traffic volumes (total projected background traffic) results in a CLV exceeding 1500 before the addition of site generated net peak hour trips, then the acceptable CLV standard for mitigation at the subject intersection will be the CLV as determined by total projected background traffic. (2) If it is determined by DPZ/DPW that: (I) an intersection cannot be improved to the applicable CLV standard as described above or, (II) the proposed improvement to attain the applicable CLV standard does not satisfy the design balance as further discussed in section 4.9.2 or, (III) mitigation of the intersection to the applicable CLV standard would require the construction of an improvement which DPZ, in consultation with DPW, finds not to be necessary to maintain an intersection CLV of no more than 1600 at the time of full buildout of the Downtown Columbia Plan, then the applicable CLV standard will increase by increments of 50 until the conditions identified in both (I) and (II) above are no longer true. Therefore, the adjusted intersection CLV will then become the new accepted CLV standard for that intersection and will be used as the initial CLV for subsequent evaluations of that intersection under paragraphs (A)(1) and (2) of this subsection, 4.9.1(B)(3)."

Based on the above APFO and Design Manual regulations it is clear that there is no inconsistency. APFO regulations take the Design Manual into account by indicating that the standard can go up to CLV 1600. The CLV standard starts at 1500, but if this cannot be achieved for the reasons given, then the CLV may increase by increments of 50, from 1500 to 1600, with 1600 being the maximum. As a result, the task force motion is unnecessary because while the two regulations may appear to be inconsistent, they are crafted as intended. The goal for downtown is to achieve CLVs as close to 1500 as possible, while recognizing there may be a need, as well as a logical rationale, to go higher when necessary. However, in no case would CVLs be higher than 1600.

**DPZ Recommendation:** No

**16) Approved Task Force Motion*:** Request the County to review the feasibility of a public infrastructure test that contains a mitigation requirement based on optimal cost-to-efficiency ratios.

** The above 16th motion is the one that passed; however, it is different than the 16th approved motion in the April 1, 2016, Adequate Public Facilities Review Task Force Report submitted to the County Executive. After reviewing task force deliberations, that one was found to be incorrect.*

**DPZ Analysis:** This motion is focused on measuring an optimal cost-to-efficiency ratio for new capital infrastructure investments. The task force discussed an example—installing solar facilities on schools and school sites. While the initial investment may be relatively large, the long term cost savings could more than offset it.

**DPZ Recommendation:** Yes, worth exploring such cost/benefit analyses during the county's capital budget process.

**17) Approved Task Force Motion:** Support DPZ's process to review infill regulations that include such things as stormwater management and the density exchange program; urge that process is complete in 2016; fast track this motion if the County Council considers legislation on the subject prior to submission of the APF Task Force Report.

**DPZ Analysis:** This motion reflects two efforts that were in process while the task force met. Zoning Regulation Amendment (ZRA 158), submitted by Councilmember Jon Weinstein, proposed amending Section 128.0.K. of the Supplementary Zoning District Regulations related to the Neighborhood Preservation Density Exchange Program option. ZRA 158 was heard by the Planning Board on May 19, 2016, and both DPZ and the Planning Board recommended approval. To date, the Council has not introduced a bill related to this ZRA.

Amendments to Section 12.127 of the Subdivision and Land Development Regulations related to infill development were also underway during the APFO study. Changes to infill development regulations were reflected in Council Bill 15-2016, adopted by the County Council on April 14, 2016, and it went into effect on June 14, 2016. For more information and the adopted legislation refer to this link on the County Council website: https://apps.howardcountymd.gov/olis/PrintSummary .aspx?LegislationID=1633.

**DPZ Recommendation:** Infill Regulations—completed. Neighborhood Density Exchange Program—DPZ's role in the process has been completed and the legislation is pending.

## I) Motion that Did Not Pass Task Force – DPZ Recommends Approval

**18) Task Force Motion:** Require that a planned traffic remediation project must be in construction before being able to be used as a remediation of a failed traffic test at or near its location.

**DPZ Analysis:** The intent of this motion is to ensure that road mitigation projects required under APFO are complete or substantially complete before the development has been completely built. There have been instances when required road mitigation projects are not finished until after the development is fully built and occupied.

The county does have leverage through secured surety bonds that developers must acquire through the developer's agreement process before final plans are recorded. The county has the option to default on the bonds and use the money to pay for the mitigation project if the developer fails to do so. However, if the default option is used, which is rare, the process often takes much time, and it does not solve the problem of ensuring that the road mitigation project is complete before the development project is built. Furthermore, the county would prefer not to have to use the default option unless absolutely necessary—the county prefers not to have to manage and build capital mitigation projects that are the responsibility of a developer and agreed to by the developer through the developer's agreement process. The surety bond process is really intended to safeguard the county in cases of developer bankruptcies or other significant financial or managerial problems.

Ensuring the timely construction of road mitigation projects cannot be addressed directly in the APFO regulations. This is because the APFO regulations only apply at the initial plan stage and are associated with how traffic studies are conducted and what projects need to be added to traffic studies to ensure adequate traffic. This is all done several years before the project construction even begins.

**DPZ Recommendation**: Add language to the APFO and/or other appropriate place in the subdivision regulations to ensure that developers agreements include language specifying that road mitigation projects need to be complete at a time before the development project is complete, and furthermore tie such requirements to the issuance of building permits.

Valdis Lazdins, Director — 2/2/17 Date
Department of Planning and Zoning

## APPENDIX

### Howard County Public School System Capital Spending & New Student Enrollments

The task force recognized that a significant number of new students in the HCPSS were generated by the resale of existing homes (see page 6 under the discussion of Task Force Motion 7). Many well-established neighborhoods in Howard County are aging, and as empty nesters retire and move away new families with children are coming in. This natural turnover of existing housing is adding more students and this will continue as neighborhoods continue to age. Much of Howard County is moving into "middle age" and neighborhoods built in the 1960s and 70s are experiencing this change. The table below is based on data provided by the HCPSS summarizing net new student growth from new construction versus from home resales. For the past 10 years an average of 42% of new students came from newly constructed housing, while 58% came from resales. This same ratio is expected in the decade ahead, based on projected new housing growth and assuming similar historical resale patterns.

**New Students added to the Howard County Public School System**
**From New Construction & Resales (September enrollments)**

| Year | New Construction | | Resales | | Total | |
|---|---|---|---|---|---|---|
| | Number | Percent | Number | Percent | Number | Percent |
| 2006 | 601 | 47% | 682 | 53% | **1,283** | **100%** |
| 2007 | 370 | 34% | 725 | 66% | **1,095** | **100%** |
| 2008 | 430 | 47% | 482 | 53% | **912** | **100%** |
| 2009 | 332 | 42% | 452 | 58% | **784** | **100%** |
| 2010 | 384 | 42% | 530 | 58% | **914** | **100%** |
| 2011 | 464 | 38% | 763 | 62% | **1,227** | **100%** |
| 2012 | 396 | 37% | 685 | 63% | **1,081** | **100%** |
| 2013 | 518 | 42% | 715 | 58% | **1,233** | **100%** |
| 2014 | 677 | 50% | 670 | 50% | **1,347** | **100%** |
| 2015 | 590 | 42% | 806 | 58% | **1,396** | **100%** |
| **Subtotal Past** | **4,762** | **42%** | **6,510** | **58%** | **11,272** | **100%** |
| 2016 | 640 | 46% | 749 | 54% | **1,389** | **100%** |
| 2017 | 770 | 50% | 760 | 50% | **1,530** | **100%** |
| 2018 | 785 | 50% | 772 | 50% | **1,558** | **100%** |
| 2019 | 679 | 46% | 785 | 54% | **1,464** | **100%** |
| 2020 | 696 | 47% | 796 | 53% | **1,492** | **100%** |
| 2021 | 629 | 44% | 808 | 56% | **1,437** | **100%** |
| 2022 | 552 | 40% | 819 | 60% | **1,371** | **100%** |
| 2023 | 524 | 39% | 829 | 61% | **1,353** | **100%** |
| 2024 | 417 | 33% | 838 | 67% | **1,254** | **100%** |
| 2025 | 370 | 30% | 845 | 70% | **1,216** | **100%** |
| 2026 | 354 | 29% | 851 | 71% | **1,205** | **100%** |
| **Subtotal Projected** | **6,416** | **42%** | **8,853** | **58%** | **15,268** | **100%** |
| **Grand Total** | **11,178** | **42%** | **15,363** | **58%** | **26,540** | **100%** |

*Source: HCPSS, Office of Planning, September 2016*

The task force also recognized that much of the recent and expected future capital spending has been and will continue to be for renovations and the replacement of existing schools. The average school in Howard County is about 34 years old and the useful life of such a capital facility is typically 40 years. Money for future renovations will need to be allocated as schools and other facilities continue to age. At the same time funding for new schools must be maintained. Both are recognized challenges facing the HCPSS.

The tables below summarize past and projected school capital costs by category. The first table summarizes dollar amounts and the second percentages by category. For the past 10 years 57% has been spent on renovations, another 12% on renovations with additions, and 4% on replacement schools with seats added. A total of 18% was spent on new schools and 9% on additions. Similar renovation percentages are projected into the next decade as well. The new school percentage is higher in the coming decade compared to the past at 34%. This is in large part because a new high school is needed—with a big price tag.

The charts below the tables show the percentages by year graphically. It is clear from these charts that renovations (along with renovations/additions) have been and will continue to be a significant percentage of the HCPSS capital budget.

**Howard County Public School System Capital Funding (X $1,000) (1)**

| Fiscal Year (2) | New | Replacement + Seats | Addition | Renovation/ Addition | Renovation | Total |
|---|---|---|---|---|---|---|
| 2007 | 37,797 | 0 | 10,669 | 11,901 | 19,633 | **80,000** |
| 2008 | 8,419 | 0 | 9,631 | 14,352 | 31,598 | **64,000** |
| 2009 | 1,191 | 0 | 9,574 | 8,349 | 27,887 | **47,000** |
| 2010 | 11 | 0 | 2,791 | 13,526 | 34,672 | **51,000** |
| 2011 | 836 | 0 | 4,380 | 8,527 | 35,257 | **49,000** |
| 2012 | 2,366 | 0 | 1,212 | 1,019 | 48,403 | **53,000** |
| 2013 | 23,035 | 0 | 3,897 | 420 | 59,648 | **87,000** |
| 2014 | 28,695 | 775 | 4,764 | 1,016 | 39,751 | **75,000** |
| 2015 | 8,629 | 2,303 | 8,916 | 9,428 | 42,724 | **72,000** |
| 2016 | 3,691 | 22,952 | 3,198 | 10,683 | 31,475 | **72,000** |
| **Total** | **114,670** | **26,030** | **59,031** | **79,221** | **371,048** | **650,000** |
| 2017 | 14,526 | 14,285 | 0 | 20,311 | 20,834 | **69,956** |
| 2018 | 23,958 | 2,000 | 0 | 23,303 | 34,250 | **83,511** |
| 2019 | 17,082 | 0 | 0 | 1,500 | 62,928 | **81,510** |
| 2020 | 40,630 | 0 | 0 | 3,557 | 32,200 | **76,387** |
| 2021 | 47,366 | 0 | 0 | 25,703 | 17,000 | **90,069** |
| 2022 | 58,625 | 0 | 0 | 7,136 | 21,686 | **87,447** |
| 2023 | 33,449 | 0 | 544 | 0 | 50,575 | **84,568** |
| 2024 | 5,380 | 0 | 5,404 | 0 | 71,409 | **82,193** |
| 2025 | 23,099 | 0 | 0 | 0 | 64,793 | **87,892** |
| 2026 | 23,286 | 0 | 0 | 0 | 64,927 | **88,213** |
| 2027 | 24,576 | 0 | 0 | 0 | 63,169 | **87,745** |
| **Total** | **311,977** | **16,285** | **5,948** | **81,510** | **503,771** | **919,491** |
| **Grand Total** | **426,647** | **42,315** | **64,979** | **160,731** | **874,819** | **1,569,491** |

(1) Capital dollars include individual project lines (renovations, additions, new schools, replacement schools renovations/additions), roofs, systemic renovations, Full Day K. Does not include projects grouped by type (barrier free, playgrounds, relocatables, site technology, parking lots, planning/design etc.), specific needs (MBR, etc.) special schools (Cedar Lane, etc.)

(2) FY 2007 through FY 2016 are actual expenditures, FY 2007 is funded amount and FY 2018 through FY2027 are funds requested in the Proposed FY2018 Capital Budget.

*Source: Howard County Public School System, Septemnber, 2016*

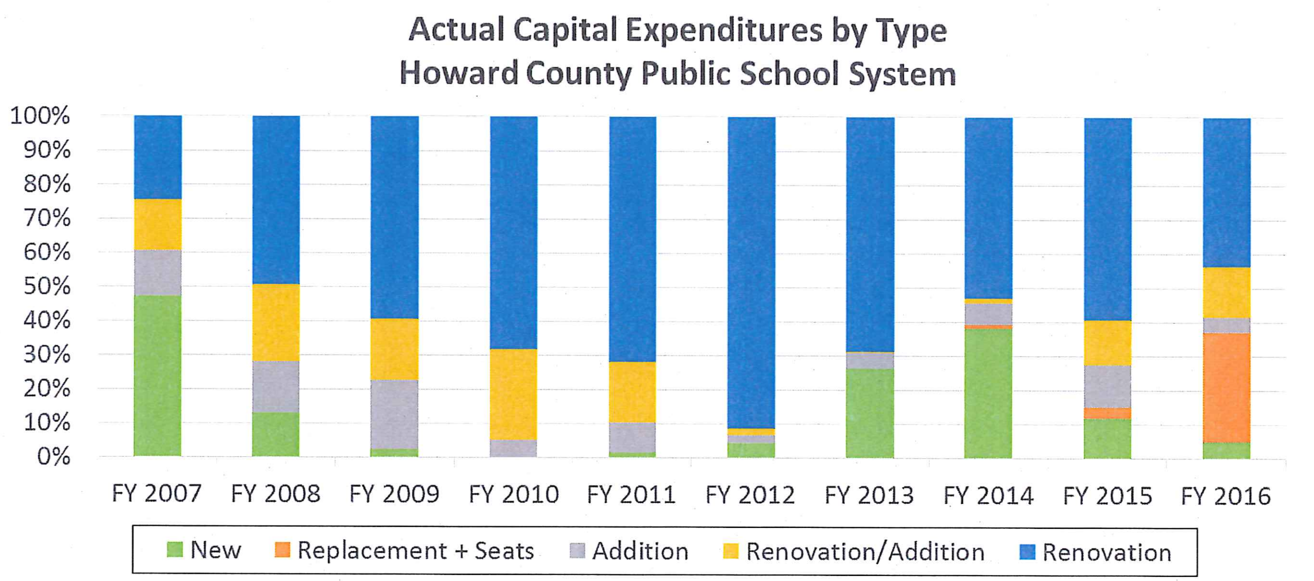
Howard County Public School System Capital Funding (X $1,000) - PERCENTAGES (1)

| Fiscal Year (2) | New | Replacement + Seats | Addition | Renovation/ Addition | Renovation | Total |
|---|---|---|---|---|---|---|
| 2007 | 47% | 0% | 13% | 15% | 25% | 100% |
| 2008 | 13% | 0% | 15% | 22% | 49% | 100% |
| 2009 | 3% | 0% | 20% | 18% | 59% | 100% |
| 2010 | 0% | 0% | 5% | 27% | 68% | 100% |
| 2011 | 2% | 0% | 9% | 17% | 72% | 100% |
| 2012 | 4% | 0% | 2% | 2% | 91% | 100% |
| 2013 | 26% | 0% | 4% | 0% | 69% | 100% |
| 2014 | 38% | 1% | 6% | 1% | 53% | 100% |
| 2015 | 12% | 3% | 12% | 13% | 59% | 100% |
| 2016 | 5% | 32% | 4% | 15% | 44% | 100% |
| Total | 18% | 4% | 9% | 12% | 57% | 100% |
| 2017 | 21% | 20% | 0% | 29% | 30% | 100% |
| 2018 | 29% | 2% | 0% | 28% | 41% | 100% |
| 2019 | 21% | 0% | 0% | 2% | 77% | 100% |
| 2020 | 53% | 0% | 0% | 5% | 42% | 100% |
| 2021 | 53% | 0% | 0% | 29% | 19% | 100% |
| 2022 | 67% | 0% | 0% | 8% | 25% | 100% |
| 2023 | 40% | 0% | 1% | 0% | 60% | 100% |
| 2024 | 7% | 0% | 7% | 0% | 87% | 100% |
| 2025 | 26% | 0% | 0% | 0% | 74% | 100% |
| 2026 | 26% | 0% | 0% | 0% | 74% | 100% |
| 2027 | 28% | 0% | 0% | 0% | 72% | 100% |
| Total | 34% | 2% | 1% | 9% | 55% | 100% |
| Grand Total | 27% | 3% | 4% | 10% | 56% | 100% |

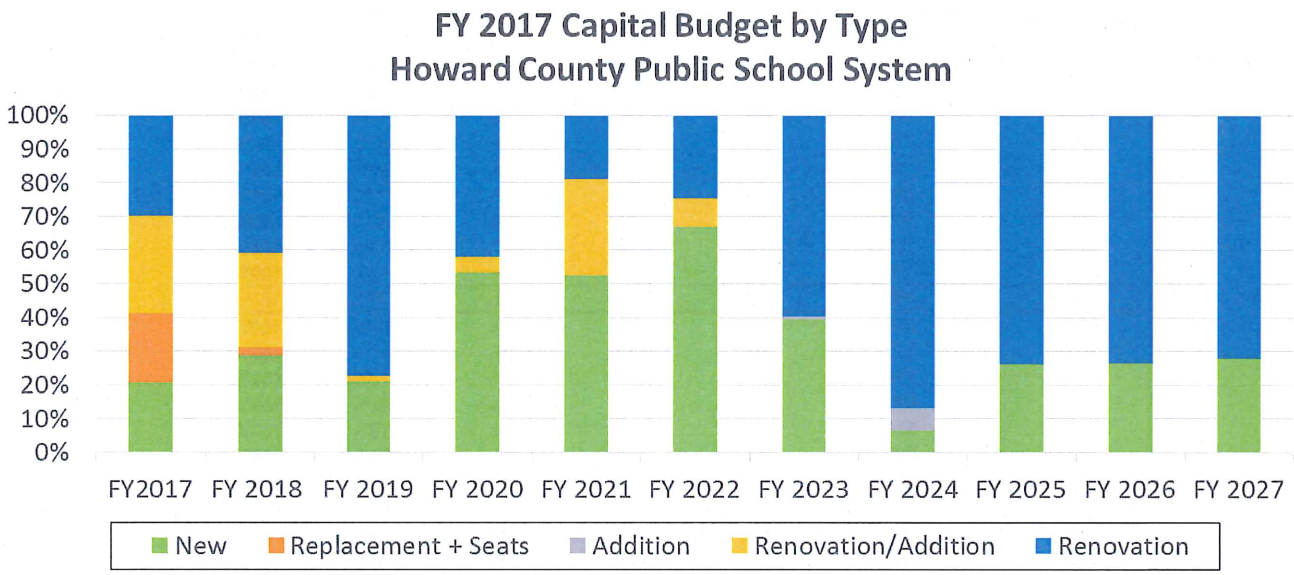
(1) Capital dollars include individual project lines (renovations, additions, new schools, replacement schools renovations/additions), roofs, systemic renovations, Full Day K. Does not include projects grouped by type (barrier free, playgrounds, relocatables, site technology, parking lots, planning/design etc.), specific needs (MBR, etc.) special schools (Cedar Lane, etc.)

(2) FY 2007 through FY 2016 are actual expenditures, FY 2007 is funded amount and FY 2018 through FY2027 are funds requested in the Proposed FY2018 Capital Budget.

*Source: Howard County Public School System, Septemnber, 2016*




*Source: HCPSS, Office of Planning, September 2016 - Inlcudes individual project lines (renovations, additions, new schools, replacement schools, renovation/additions), roofs, systemtic renovations, full day Kindergarten*




*Source: HCPSS, Office of Planning, September 2016 - Inlcudes individual project lines (renovations, additions, new schools, replacement schools, renovation/additions), roofs, systemtic renovations, full day Kindergarten*