GO COMMITTEE #1
October 9, 2020

M E M O R A N D U M

October 7, 2020

TO: Government Operations & Fiscal Policy (GO) Committee

FROM: Pamela Dunn, Senior Legislative Analyst
Glenn Orlin, Senior Analyst
Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Development Impact Taxes for Public School Improvements and Exemptions
Transportation and School Impact Taxes

PURPOSE: Worksession – recommendations expected

Expected Attendees for this Worksession:

Casey Anderson, Chair, Montgomery Planning Board
Gwen Wright, Director, Planning Department
Tanya Stern, Deputy Director, Planning Department
Jason Sartori, Chief, Countywide Planning Division, Planning Department
Lisa Govoni, Housing Policy Coordinator, Countywide Planning Division
Hye-Soo Baek, Senior Planner, Countywide Planning Division
Meredith Wellington, Office of the County Executive
Mary Beck, Office of Management and Budget
Pofen Salem, Office of Management and Budget
Essie McGuire, Montgomery County Public Schools

Councilmembers: Please bring your copies of the SSP Draft and Appendices to this worksession.

This worksession of the GO Committee will address recommendations from the Planning Board and its staff, the County Executive, the public hearing testimony, and Council staff regarding development impact taxes for public schools, including school impact tax exemptions and exemptions affecting both transportation and school impact taxes. Another GO Committee worksession is scheduled for October 12 to cover recommendations on the recordation tax and any follow up impact tax issues. In this report, each of the Planning Board's recommendations are referenced by its 'Rec' number followed by the page number in the Planning Board's Draft Report, in turn followed by its section and page number in Draft Bill 38-20, found in Appendix N. For example, the recommendation on the School Impact Tax Surcharge is referenced as "Rec. 6.4 (pp. 92-93; Sec. 52-55, p. 116)."

<u>Development Impacts Taxes for Public Schools</u>

The first recommendation related to school impact taxes, Rec. 6.1 (pp. 88-89; Sec. 52-58, App. p. 116), was covered in a joint GO/PHED (Planning, Housing, and Economic Development) Committee meeting held September 30. Under Rec. 6.1, the calculation of school impact taxes would include only one tax rate for all multifamily units based on the student generation rate for all multifamily units built since 1990. The Joint Committee chose to retain separate rates for low- and high-rise multifamily units, but agreed that only multifamily units built since 1990 should be used as a basis for the calculation.

<u>Calculation of School Impact Taxes</u> Rec. 6.2 (pp. 89-92; Sec. 52-54, p. 115) proposes that school impact taxes be calculated at 100 percent of the cost of a student seat using School Impact Area student generation rates. Furthermore, discount factors to single-family attached and multifamily units in desired growth and investment areas should apply, while the current 120 percent factor within the Agricultural Reserve zone should be maintained. The four parts of Recommendation 6.2 are covered separately below.

(1) *Application of School Impact Area student generation rates to calculate school impact taxes.* Currently, school impact taxes vary by structure type only. Under this recommendation, school impact taxes would vary by structure type and by School Impact Area. Along with Rec. 6.1, the Joint Committee covered the topic of School Impact Areas on September 30, supporting this change.

(2) *Calculate school impact taxes at 100 percent of the cost of a student seat.* Currently, school impact taxes are based on 120 percent of the cost of a student seat. In 2016, the Council raised it from 100 percent to 110 percent to reflect the potential cost of land per student seat, and then raised it an additional 10 percent to offset the revenue loss from eliminating the School Facility Payment. Prior to 2016, the tax was based on 90 percent of the student seat cost.

    This draft of the SSP recommends reinstating a payment, termed a Utilization Premium Payment, for approval of development in overutilized school service areas. The PHED Committee will be discussing this issue further at its worksession on October 13. Initial consideration of this recommendation suggests the Committee is likely to approve it in some form, possibly even a two-tiered assessment. Given that, it seems reasonable to return to a school impact tax calculation based on 100 percent of the student seat cost[1], thus **Council staff support an impact tax calculation based on 100 percent of the per student seat cost.** The Executive supports the current 120 percent per student seat calculation.

[1] The dedication of land for the purpose of building additional school facilities is more common than the purchase of land. The last appropriation for MCPS land acquisition occurred in 2019 for a Materials Management Warehouse. Prior to that was an appropriation for land acquisition in the Northwest Cluster in 2013.

(3) *Discount factors to single-family attached and multifamily units in desired growth and investment areas should apply.* The Planning Board Draft recommends a 40 percent discount on school impact taxes be provided to duplex, townhouse, and multifamily development in areas deemed "desired growth and investment areas". Planning staff recommended the discounts apply to MWCOG defined Activity Centers; however, the Planning Board modified this, creating the "desired growth and investment area" designation. "Desired growth and investment areas" are defined as: "Activity Centers located within Infill and Turnover School Impact Areas (with the exception of the Olney, Kensington, NIH/Walter Reed, Bethesda, and Clarksburg Activity Centers), and areas within a 500 foot buffer of an existing Bus Rapid Transit (BRT) line or planned BRT line with approved construction funding in the County's Capital Improvements Program (CIP)[2]. Figure 37 on page 90 of the Draft SSP shows the location of the desired growth and investment areas relative to School Impact Areas.

Currently, school impact taxes apply Countywide, varying only by structure type based on the recognition that different types of dwelling units generate students at different rates. Impact taxes are, by definition, supposed to equal the cost of the impact for which they are being charged. School impact taxes do this fairly well. Montgomery County Public Schools (MCPS) provides a per student seat cost based on the actual capital cost of school construction (by school level), which does not vary across the County. The per seat construction cost by school level is then multiplied by the student generation rate (for all school levels) per structure type[3], to provide an impact tax that equals the capital cost of school infrastructure per dwelling unit.

The Planning Board's proposal to vary school impact taxes based on School Impact Area adds a geographically-based refinement to the calculation. School Impact Areas group planning areas based on the character of their growth and that growth's impact on school utilization; they capture differences in student generation associated with how and where development is occurring, thus refining the cost-associated impact of development by School Impact Area.

Do the Planning Board's "desired growth and investment areas" warrant an additional discount based primarily on location? According to the Draft SSP, Montgomery County's growth expectations are formed by the Metropolitan Washington Council of Governments (MWCOG) Round 9.1 Cooperative Forecast, the most recently completed forecast of population, household, and employment growth. Montgomery County is expected to grow its population by 20.5 percent, its number of households by 23.2 percent, and its number of jobs by 30.5 percent over the next 25 years. Furthermore, the MWCOG Forecast estimates that, increasingly, households and jobs will gravitate to Activity Centers and hotspots[4], with 76 percent of the County's household growth and 80 percent of its job growth occurring in these areas. While forecasts are not a guarantee, information on where development is occurring today is also useful. To evaluate preliminary recommendations by Planning staff, the Office of Management and Budget evaluation of impact tax

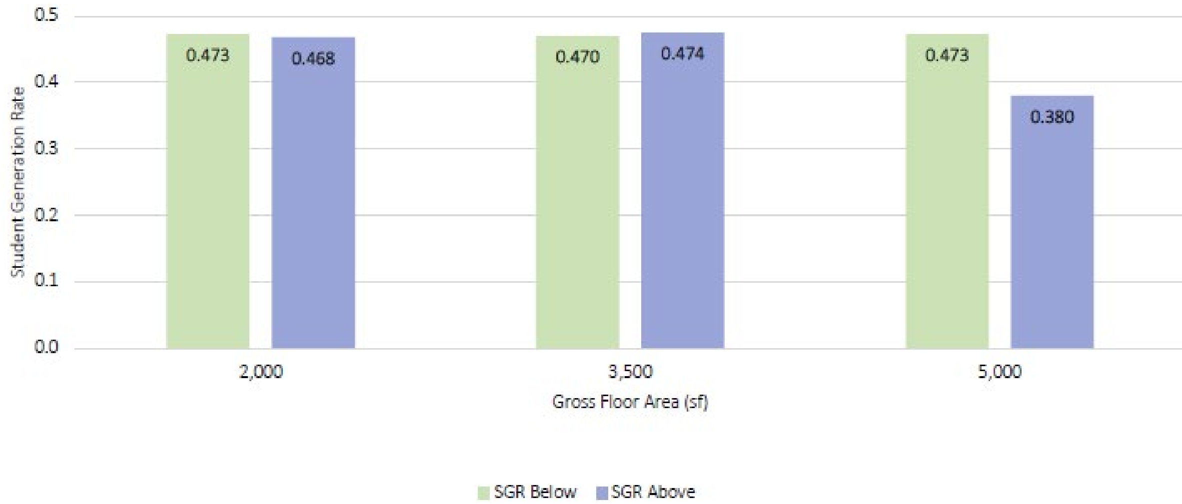
[2] At this point in time, this includes the planned BRT routes along US 29, MD 355, and Veirs Mill Road.
[3] Calculated from actual student data on grade level and address, scrubbed of all other personal information.
[4] Hotspots are defined by their relatively high per-acre job or population growth forecasted at the geographic level of a Transportation Analysis Zone (TAZ).

collections from FY15-FY20 showed almost 66 percent of collections coming from development occurring in the County's Activity Centers. However, more important than whether growth is or isn't occurring in these locations is whether the "desired growth and investment areas" have a lower cost impact on providing school infrastructure not already accounted for through regional student generation rates. And the answer is that they don't. **Council staff does not support providing a discount to "desired growth and investment areas".**

(4) *Retain the current 120 percent cost per student seat calculation for residential development in the Agricultural Reserve (AR) zone.* Under the Draft SSP, potential residential development in the AR zone will be required to make a Utilization Premium Payment (UPP), just like residential development anywhere else in the County. If the rationale to remove the 20 percent premium from the base calculation of impact taxes in exchange for the UPP is appropriate for the rest of the County, then it seems appropriate for the AR zone, as providing school facilities in the AR zone is not uniquely more expensive than elsewhere. If the rationale is to discourage development in the AR zone, the County has adopted restrictive zoning to further this goal. Impact taxes are to reflect the cost of providing school infrastructure. **Council staff supports using a 100 percent student seat cost calculation for residential development in the AR zone, just as it recommended for the rest of the County.**

School impact tax surcharge Rec. 6.4 (pp. 92-93; Sec. 52-55, p. 116) recommends elimination of the current impact tax surcharge on units larger than 3,500 square feet. Developers are currently charged an impact tax premium surcharge of $2.00 for each square foot of gross floor area that a single-family unit exceeds 3,500 square feet, to a maximum of 8,500 square feet. Figure 39 in the SSP Draft shows student generation rates for single-family detached houses by gross floor area, indicating no appreciable relationship between the size of a single-family unit and the number of school students generated. In other words, larger single-family homes do not necessarily generate more students compared to smaller-sized homes. Figure 40, copied below, further highlights the relationship between students and three different home size thresholds: 2,000 square feet, 3,500 square feet, and 5,000 square feet, demonstrating no connection between the size of the home and the number of school students living in the home.

Figure 40. Single-Family Detached Student Generation Rates Above and Below Particular Gross Floor Area Thresholds.



Council staff supports the elimination of the impact tax surcharge on dwelling units larger than 3,500 square feet. The Executive does not support the elimination of the surcharge.

Below is a summary of the estimated impact of Council staff's proposed changes to the calculation of the school impact tax. Changes 1 and 5 concur with the Planning Board's recommendation. Changes 2, 3 and 4 do not, and result in an estimated $8 million more annually over a 10-year build out scenario.

Estimated Impact[5] of Council Staff Proposed Changes to School Impact Taxes		Total Amount	Annual Average (10-yr build out)
1.	Calculate school impact tax based on 100% cost of student seat	$(49,355,317)	$(4,935,532)
2.	Retain 4 structure types for calculation of school impact taxes	$33,416,193	$3,341,619
3.	Eliminate 40% discount in "desired growth and investment areas"	$46,525,116	$4,652,512
4.	Calculate school impact tax based on 100% cost in AR zone	$(101,345)	
5.	Eliminate surcharge on single-family units larger than 3,500 sf.	$(420,336)	
	Notes: 1) 13 residential projects (totaling 43 housing units) are identified in the AR Zone from the pipeline 2) Of 214 SFD projects in the pipeline, only 3 projects are identified with more than 3,500 sf.		

Calculation of development impact taxes on net new units Rec. 6.8 (p. 99; Sec. 52-54, p. 115) recommends the continued application of impact taxes on a net impact basis, providing a credit for any residential unit demolished. Currently, impact taxes are not paid on a replacement dwelling as long as construction begins within a year of the demolition of the original house. Planning staff did an analysis of student generation rates associated with recently torn down and

[5] Based on the Pipeline of Approved Development.

rebuilt single-family homes. Their work showed that teardown/rebuilds generate slightly fewer students on average than other single-family homes that were recently sold (regardless of the home's age). According to the SSP Draft, there were 848 replacement homes built across the County between 2014 and 2018 generating, on average, 0.557 students per home. A review of single-family detached homes sold between 2014 and 2018 revealed that they generated 0.622 students per home on average in 2018, or 11.7 percent more than replacement homes. Basically, when a single dwelling unit replaces another single dwelling unit, the net housing impact is zero. Over the life of the new home, it is expected to generate as many students, on average, in any given year as the original home.

While initially Council staff concurred with this opinion, during an earlier worksession on the Draft SSP, Councilmember Riemer mentioned the difficulty a couple in his neighborhood encountered in meeting the one-year deadline to start construction on their new home. They ran into unexpected issues that delayed their reconstruction efforts, and consequently they faced a $30,000 plus impact tax they had not expected nor budgeted for. As a result, Councilmember Riemer suggested modifying the one-year construction start requirement by increasing the time limitation from one year to four years, and changing the trigger to an application for a building permit instead of construction. Below is the current code text with Councilmember Riemer's proposed changes. **Council staff supports Councilmember Riemer's proposed changes.**

Sec. 52-54. Imposition and applicability of tax.

* * *

(d) The tax under this Article does not apply to:

(1) any reconstruction or alteration of an existing building or part of a building that does not increase the number of dwelling units of the building;

(2) any ancillary building in a residential development that:

(A) does not increase the number of dwelling units in that development; and

(B) is used only by residents of that development and their guests, and is not open to the public; and

(3) any building that replaces an existing building on the same site or in the same project (as approved by the Planning Board or the equivalent body in Rockville or Gaithersburg) to the extent of the number of dwelling units of the previous building, if:

(A) [construction begins] <u>an application for a building permit is filed</u> within [one year] <u>four years</u> after demolition or destruction of the previous building was substantially completed; or

(B) the previous building is demolished or destroyed, after the replacement building is built, by a date specified in a phasing plan approved by the Planning Board or equivalent body.

However, if in either case the tax that would be due on the new, reconstructed, or altered building is greater than the tax that would have been due on the previous building if it were taxed at the same time, the applicant must pay the difference between those amounts

Development Impact Tax Credits and Exemptions

<u>*School impact tax credit for non-capacity improvements*</u> (Rec. 6.3, p. 92; Sec. 52-58(c), App. N, pp. 117-118). The School Impact Tax law allows for a credit for a new public elementary or secondary school, an addition to an existing public elementary or secondary school that adds one or more teaching stations, or a modernization of an existing public elementary or secondary school to the extent that the modernization adds one or more teaching stations (Section 52-56(d)). The Planning Board recommends expanding the credit to include any other type of physical school facility improvement if the Board of Education agrees to it. The CGP Report suggests HVAC system upgrades and roof replacements as examples.

Council staff recommends against including this provision in the bill. This proposal violates the very concept of an impact tax. An impact tax is levied to cover the impact of a new development on capacity. A residential development, depending on its size and type, has an impact on the number of students that need to be accommodated, so there is a direct nexus to the need to add capacity. However, the need to replace or upgrade existing HVAC, roofs, life safety systems, PLAR elements, etc., is totally unrelated to the number of students added to a school. Similarly, the transportation impact tax can only be used for transportation improvements that add capacity, and not for resurfacing, in-kind bridge rehabilitation, Ride On bus replacements, etc. Since the County cannot spend impact tax funds on non-capacity improvements, neither should it grant credits to developers for non-capacity improvements.

Even if it were legally defensible, a credit would not increase resources for MCPS capital projects. The cost a developer spends replacing a roof would be a dollar-for-dollar credit against his school impact tax, so while MCPS would be getting a free roof, its revenue from the school impact tax would be commensurately reduced by the cost of that roof. This would mean less control of these funds by MCPS; it might instead want to spend these resources to replace a roof in another school where the need is greater, for example. The Executive does not support a credit that does not add student capacity.

<u>*Amendment to transportation impact tax credit provision*</u>. As noted above, if a development constructs added capacity on a County road, it is eligible for a dollar-for-dollar credit against that development's transportation impact tax. For decades, the County has interpreted added capacity as meaning additional through or turning lanes. In the past, some developers have claimed that widening a road to a larger cross section, such changing a narrow two-lane road to wider curb-and-gutter cross-section (and, perhaps, parking lanes), constitutes added capacity, but DOT has consistently rejected these claims.

Recently a Cabin Branch developer in Clarksburg requested credits for the reconstruction of West Old Baltimore Road, including widening the roadway from a two-lane 20'-wide roadway (a typical country road width) to a two-lane 24'-wide roadway (a standard suburban cross-section), a sidewalk, bike lanes, and turning lanes at intersections. DOT was willing to grant dollar-for-dollar credit for all these elements except for the widening from 20' to 24'. However, in a recent court case, a judge interpreted the impact tax law in favor of the developer, and the result was approval of a further credit valued at about $5.5 million. This means that resources for the County's CIP are diminished by $5.5 million.

To prevent a recurring claim by other developers, the Executive and DOT propose the following amendment:

Sec. 52-39. Definitions.

In this Article the following terms have the following meanings:

Additional capacity means a new road, **[**widening an existing road**]**, adding an additional lane or turn lane to an existing road, or another transportation improvement that:

(1) increases the maximum theoretical volume of traffic that a road or intersection can accommodate, or implements or improves transit, pedestrian and bike facilities or access to non-auto modes of travel; and

(2) is classified as a minor arterial, arterial, parkway, major highway, controlled major highway, or freeway in the County's Master Plan of Highways, or is similarly classified by a municipality. The Director of Transportation may find that a specified business district street or industrial street also provides additional capacity as defined in this provision.

Additional capacity is sometimes referred to as added "highway capacity," "transportation capacity," or "intersection capacity".

* * *

Sec. 52-50. Use of impact tax funds.

Impact tax funds may be used for any:

(a) new road**[**, widening of an existing road,**]** or total reconstruction of all or part of an existing road **[**required as part of widening of an existing road,**]** that adds <u>an additional lane or turn lane</u> **[**highway or intersection capacity**]** or improves transit service or bicycle commuting, such as bus lanes or bike lanes;

* * *

Council staff concurs with these revisions. They will make clear what the County has always intended with this credit.

<u>*Enterprise and opportunity zone exemptions*</u> (Recs. 6.5-6.6, pp. 95-97; Sec. 52-41(g)(5-6), App. N, p. 114). In 1982, the State established enterprise zones (EZs) to promote job growth and capital investment in census tracts that meet certain threshold criteria on unemployment, poverty, or family income. To incentivize the desired growth, the EZ designation grants state income tax credits and real property tax credits when a business meets certain criteria. These zones have a 10-year life but may be renewed if the zone continues to meet the State's criteria for qualification. The first EZ in Montgomery County was Silver Spring, which was established in 1986.

There are currently four State-designated EZs in the County: Olde Town Gaithersburg, Long Branch/Takoma Park, Burtonsville/Briggs Chaney, and Glenmont. Under current County law, development in these EZs are exempt from school and transportation impact taxes. In 2006, the Silver Spring EZ expired, but in 2007 the Council amended the impact tax law to extend these exemptions to former EZs. In 2019, the Wheaton EZ also expired, so it, too, falls under the former EZ exemption. Maps of the existing and former EZs are on ©1-5.

Qualified opportunity zones (OZs) were created under the 2017 Federal Tax Cuts and Jobs Act to promote capital investment in census tracts that met certain poverty and family income thresholds. To incentivize investment, certain investments in the OZ reduce or eliminate taxes on capital gains.[6] The OZ designation expires in 2028. Each state was required to submit the list of designated OZs in 2018, and there are 14 census tracts designated in the County by the U.S. Treasury Department as OZs. The County's OZs include the Silver Spring CBD, the Wheaton CBD, the Long Branch and Takoma/Langley areas, much of White Oak, Rockville Pike in Rockville, Olde Town Gaithersburg, Montgomery Village, and a portion of Germantown East. Maps of the OZs are on ©6-10.

The Planning Board recommends eliminating the impact tax exemptions in the former EZs, but it would assign the same exemptions to OZs. The Silver Spring OZ and former EZ areas are nearly the same, so there would be little change either in the benefit to development or foregone impact tax revenue to the County. The Wheaton OZ is generally smaller than the former EZ; much of the area east of Georgia Avenue is not included. The Board recommends retaining the exemptions in existing EZs, so where both an EZ and OZ exist, the exempt area is the sum of the two: this is the case in Long Branch, Takoma/Langley, and Olde Town Gaithersburg. In addition to the OZs in White Oak, Rockville Pike in Rockville, Montgomery Village, and a portion of Germantown East, the Board's proposal would broaden the impact tax-exempt areas to a considerable degree. Note, however, that the Planning Board is *not* recommending exemptions from their proposed Utilization Premium Payment; this is a difference from the former School Facility Payment (SFP), which was exempt in EZs and former EZs until the SFP was discontinued in the 2016-2020 SSP.

Lerch, Early, and Brewer concurs with the Board's proposal. Furthermore, the firm recommends that Glenmont retain its exempt status once its EZ expires in 2023 (©11-12). The Coalition for Smarter Growth also supports it, attributing the hundreds of millions of dollars of investment in Silver Spring between 2006-2016 to the EZ exemption there, which cost the County $5.8 million in revenue during that period (©13-14). Dan Wilhelm supports the OZ exemption for Viva White Oak (©15).

The Executive supports eliminating the former EZ exemption, but he would support grandfathering projects that have secured their building permits (if the County wished to maximize revenue) or those that have already received preliminary plan approval for less impact on developers. Another option he suggests considering is the elimination of the exemption for housing but retaining the exemption for commercial development. The Executive does not support the OZ exemption; he believes that the large federal tax breaks are substantial and that development does not need the additional incentive of exempting impact taxes (©16). MCCPTA supports eliminating the former EZ exemption with a planned phase-out, and it opposes the OZ exemption (©17).

OMB's fiscal analysis estimates that, based on projects currently in the pipeline, eliminating the former EZs would generate $4.4 million annually in impact tax revenue, while adding the OZs would forego $3.6 million annually, for a net gain of $0.8 million per year (©18-21,

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[6] Interested investors must transfer all or a portion of the capital gains to a Qualified Opportunity Fund (QOF). QOFs may invest into any OZ in the U.S., and the benefits to the investor are dependent on when the capital gains were invested in the fund and how long the capital gains remain in the fund.

see especially ©19). Unfortunately, the Council cannot rely on these estimates. On the face of it, they are counterintuitive: since the cumulative exempt area would be much enlarged, with the only reduction on the east side of Wheaton, the foregone revenue would have to be substantial. The analysis could be redone based on the forecasted development in these areas, perhaps using data from COG's most recent Cooperative Forecast. Since OZs would last ten years, basing the growth occurring in these areas between 2020 and 2030 would likely produce a more realistic estimate.

The State of Maryland established EZs to promote job creation, not housing. Nevertheless, the 2016 review of EZs in the County by the Office of Legislative Oversight (OLO)[7] reported that 89 percent of the $14.4 million in school and transportation impact tax exemptions—nearly all in the Silver Spring and Wheaton CBDs—have benefited apartments and condominiums, not office, retail, industrial, or other job-related land uses. About $5.8 million of the $14.4 million exemption has been for Silver Spring since it ceased being an enterprise zone.

OLO's conclusion was that the EZ has had a negligible effect to date on job creation in the Wheaton CBD, Long Branch/Takoma, and Glenmont. Silver Spring is the only enterprise zone in Montgomery County—and in the State—where there has been significant business investment. But Council staff stipulates that this certainly had more to do with the County and State government's direct investment of about $450 million and the government's direct involvement in assembling the land for the Town Center, rather than the $8.3 million in impact tax exemptions over the years.

As for the argument that Silver Spring and Wheaton still cannot match the top-of-the-market rents in Bethesda, Friendship Heights, or White Flint, this is a faulty comparison; following that logic, most of the County should be exempt from impact taxes. The fair comparison is how the former EZs and OZs compare with other areas in the County where there are no EZs or OZs, where developments must pay impact taxes. CountyStat data of rental rates in 2018, by area, is instructive:

Community	*Average Monthly Rent for 2-BR apts., 2018*
1. Chevy Chase	$2,786
2. Potomac	$2,552
3. Bethesda	$2,382
4. North Bethesda	$2,253
5. North Potomac	$2,035
6. Rockville	$1,837
7. Clarksburg	$1,713
8. Silver Spring	**$1,604**
9. Boyds	$1,600
10. Gaithersburg	$1,539
11. Burtonsville	$1,527
12. Wheaton	**$1,496**
13. Sandy Spring	$1,480
14. Germantown	$1,474

[7] Office of Legislative Oversight, The Experience and Effect of County Administered Enterprise Zones, August 2, 2016.

15. Olney	$1,454
16. Montgomery Village	$1,415
17. Kensington	$1,385
18. Damascus	$1,283
19. Derwood	$1,247
20. Takoma Park	$1,196
21. Brookeville	$1,071
22. Spencerville	$1,000

As noted above, rental prices for 2-bedroom apartments in Silver Spring and Wheaton are currently in the middle-to-upper tier. CountyStat's rental data for efficiencies, 1-bedroom, 3-bedroom, and 4-bedroom apartments show the same general results. Council staff's conclusion is that housing exemptions for Silver Spring and Wheaton are no longer warranted and should be phased out.

Council staff recommends not adding a new, more broad-based exemption for OZs, phasing out the exemption for housing in former EZs, but retaining the exemption for non-residential development. The phase-out of the housing exemption is virtually identical to the Planning Board's proposal in the 2016-2020 SSP, except that the Board's proposal would have eliminated the exemption on the school impact tax and not the housing portion of the transportation impact tax.

***Amend lines 49-50 in Appendix N, p. 114 as follows*:**

(6) any development located in an enterprise zone designated by the State or in an area previously designated as an enterprise zone based upon the length of time since the expiration of its enterprise zone status. Within 1 year of its expiration, a full exemption must apply. Within 2 years of its expiration, 25% of the applicable development impact tax must apply. Within 3 years, 50% of the applicable development impact tax must apply. Within 4 years, 75% of the applicable development impact tax must apply. A project within an area previously designated as an enterprise zone must be required to pay 100% of the applicable development impact tax for public school improvements beginning 4 years after its expiration with the exception of Silver Spring CBD and Wheaton CBD, whose enterprise zone status will be treated as expired on November 15, 2020. Any exemption will remain in effect only for the duration of the development project's validity period.

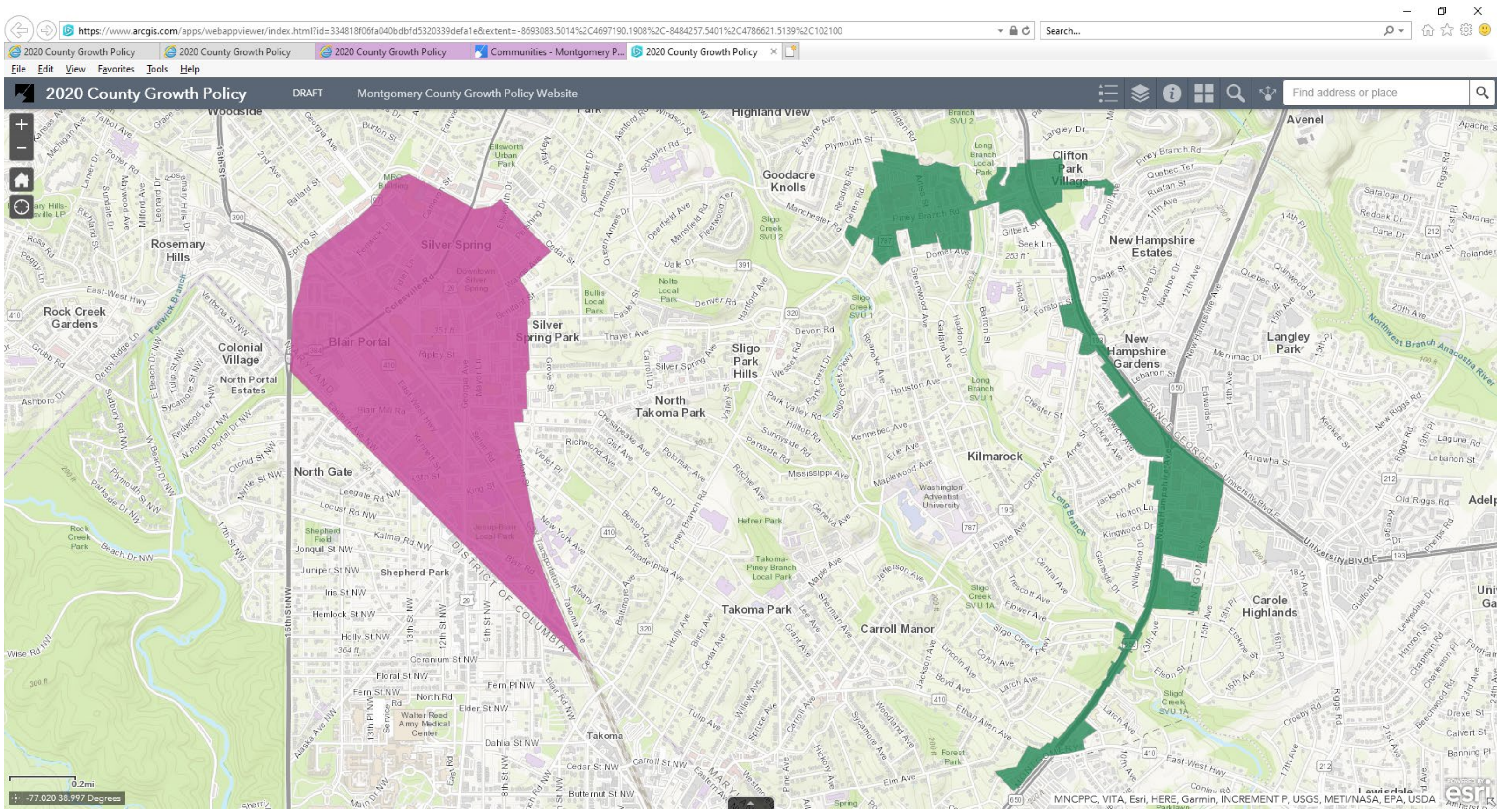
This means that, in Silver Spring and Wheaton, the phase out of the housing exemption would proceed as follows:

For subdivisions approved by November 15, 2021: full exemption
For subdivisions approved by November 15, 2022: 75% of exemption
For subdivisions approved by November 15, 2023: 50% of exemption
For subdivisions approved by November 15, 2024: 25% of exemption
For subdivisions approved after November 15, 2024: no exemption.

The recommended phase out for an existing enterprise zone, once it expires, would be:

For subdivisions approved within 1 year of expiration: full exemption
For subdivisions approved within 2 years of expiration: 75% of exemption
For subdivisions approved within 3 years of expiration: 50% of exemption
For subdivisions approved within 4 years of expiration: 25% of exemption
For subdivisions approved after 4 years of expiration: no exemption.

The impact tax exemption for projects providing a minimum of 25 percent affordable units will be covered in the staff report for the October 12 GO Committee meeting.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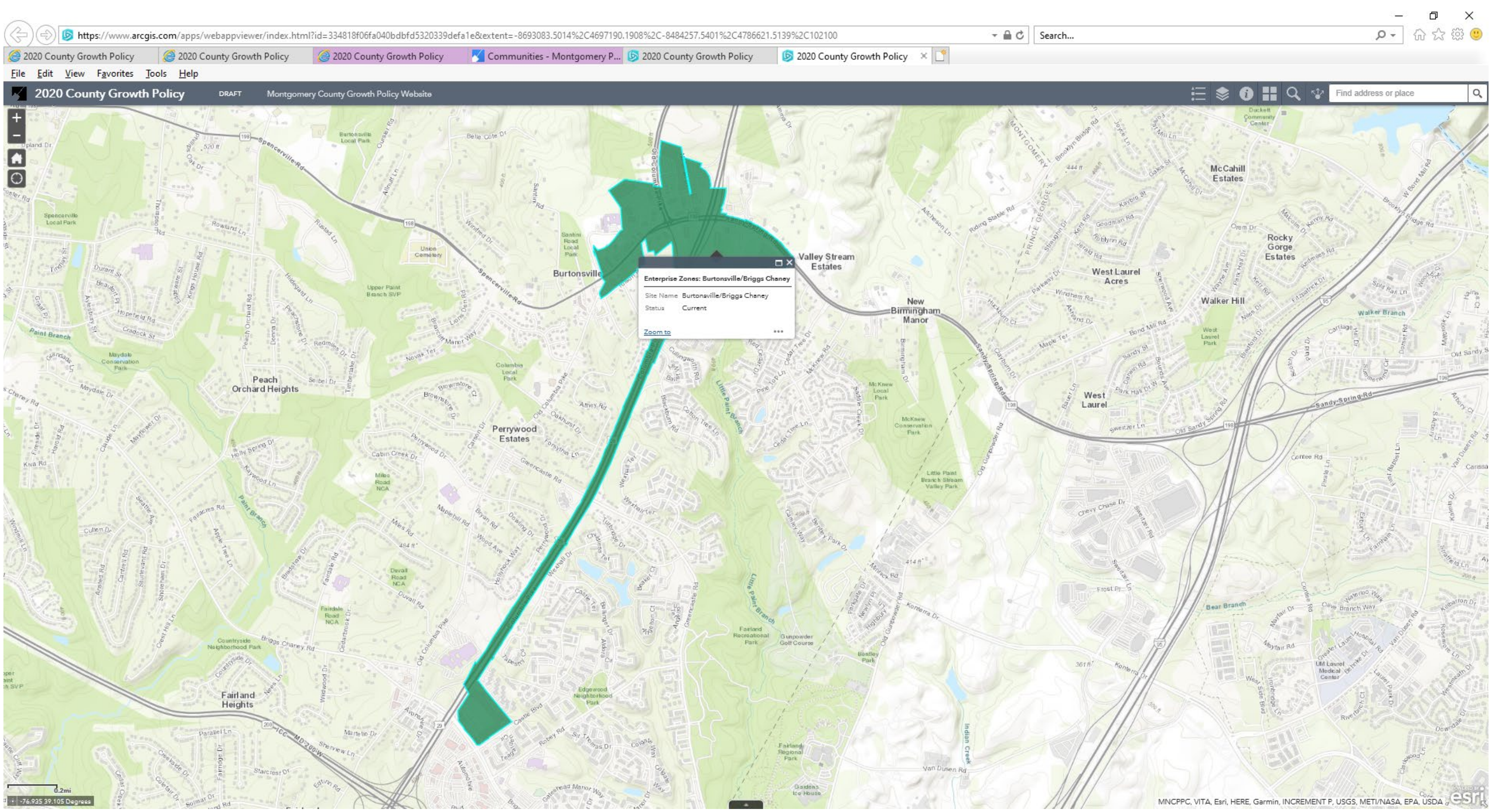

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Burtonsville
Valley Stream Estates
New Birmingham Manor
West Laurel Acres
Walker Hill
West Laurel
McCahill Estates
Rocky Gorge Estates
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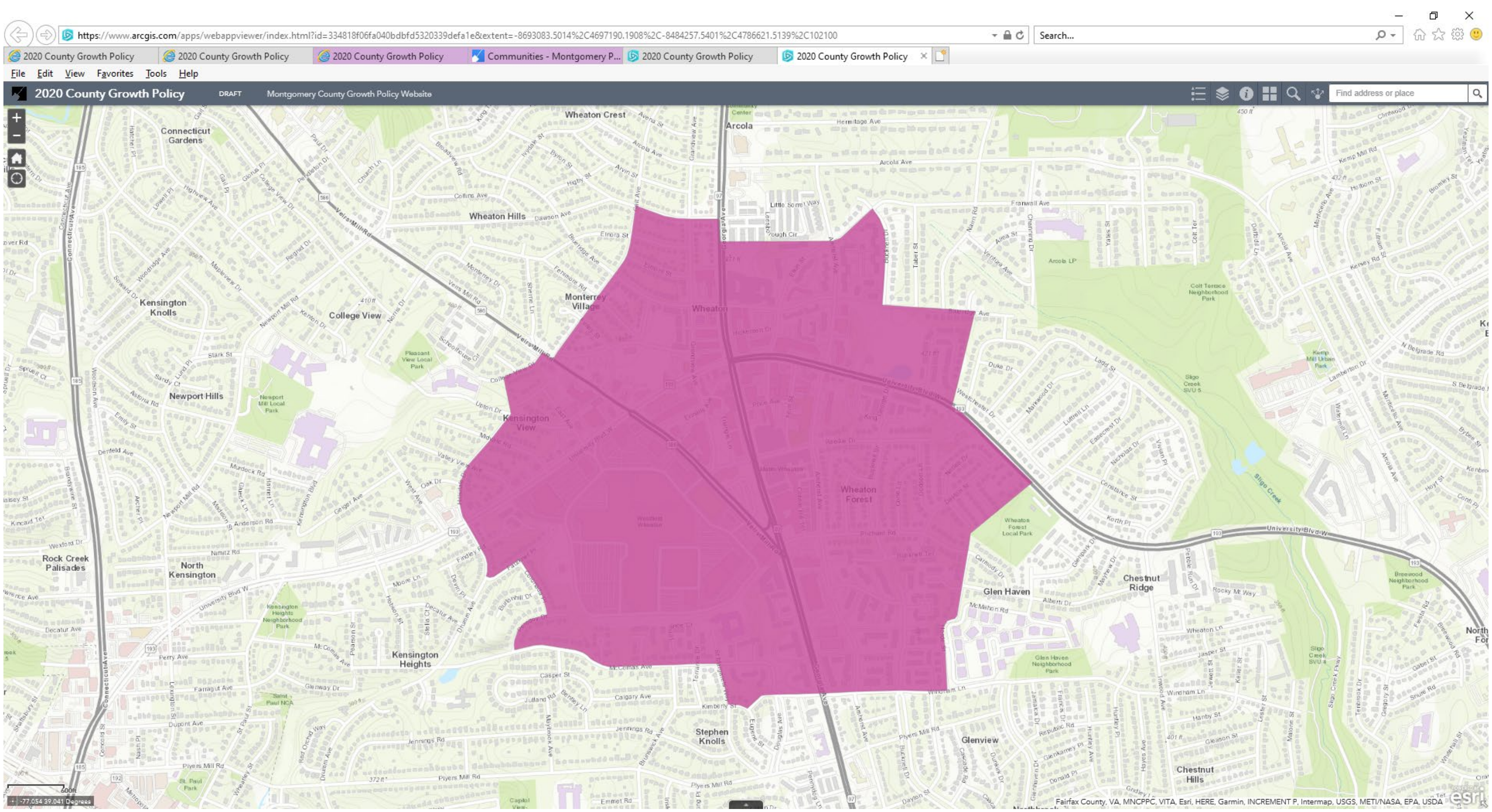
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Connecticut Gardens
Wheaton Hills
Kensington Knolls
College View
Monterey Village
Wheaton
Newport Hills
Kensington View
Wheaton Forest
Rock Creek Palisades
North Kensington
Glen Haven
Chestnut Ridge
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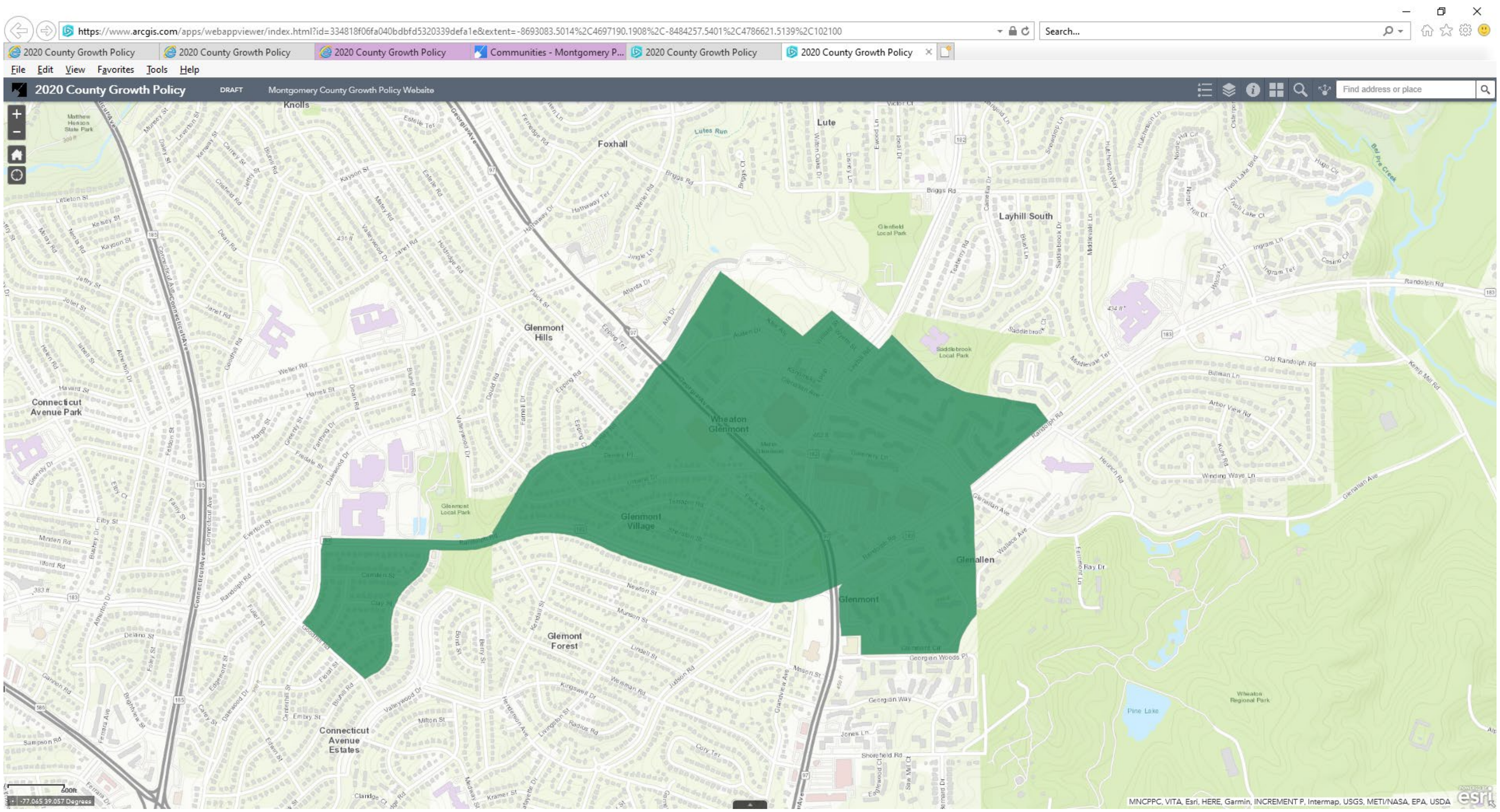
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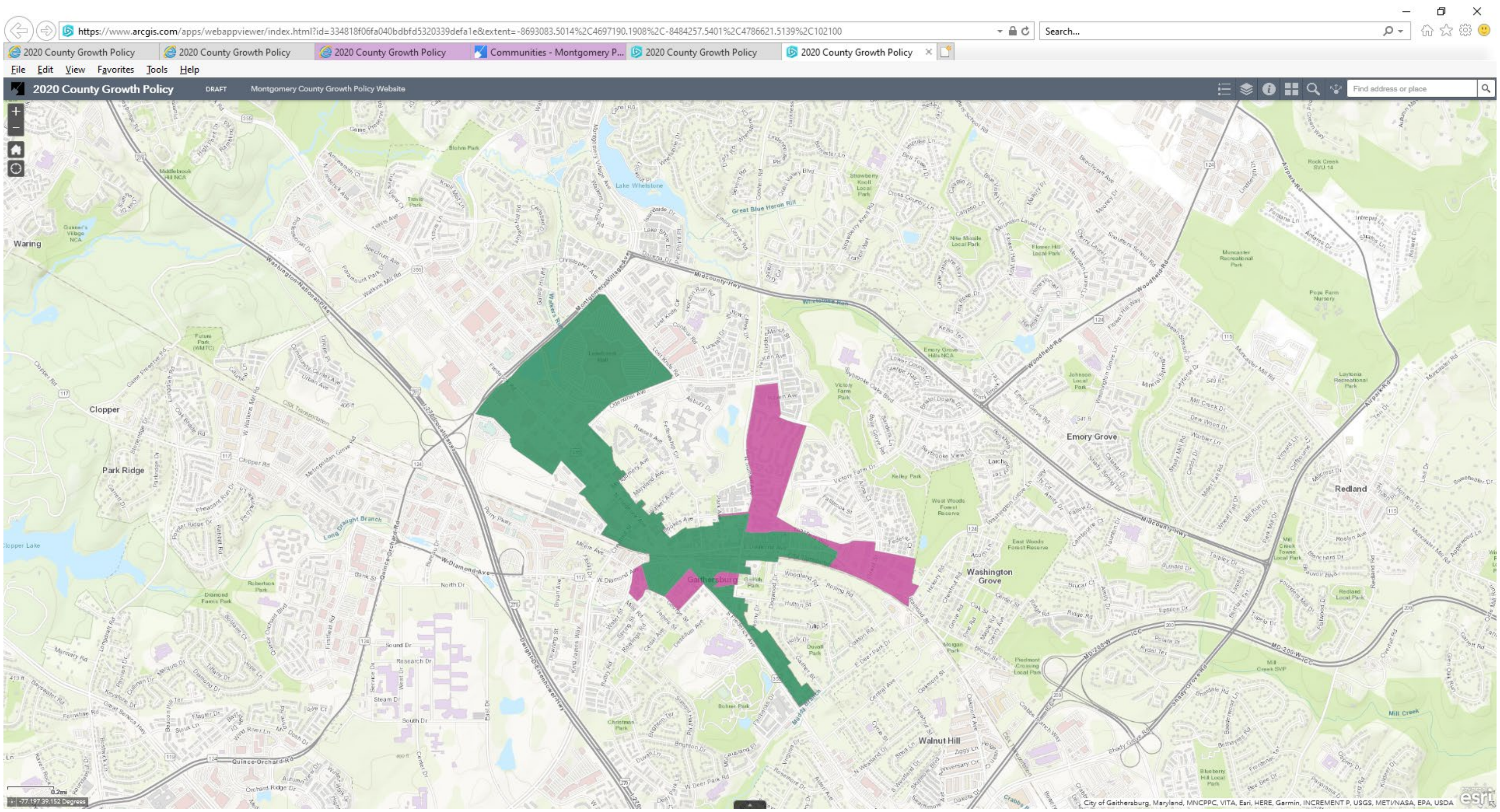
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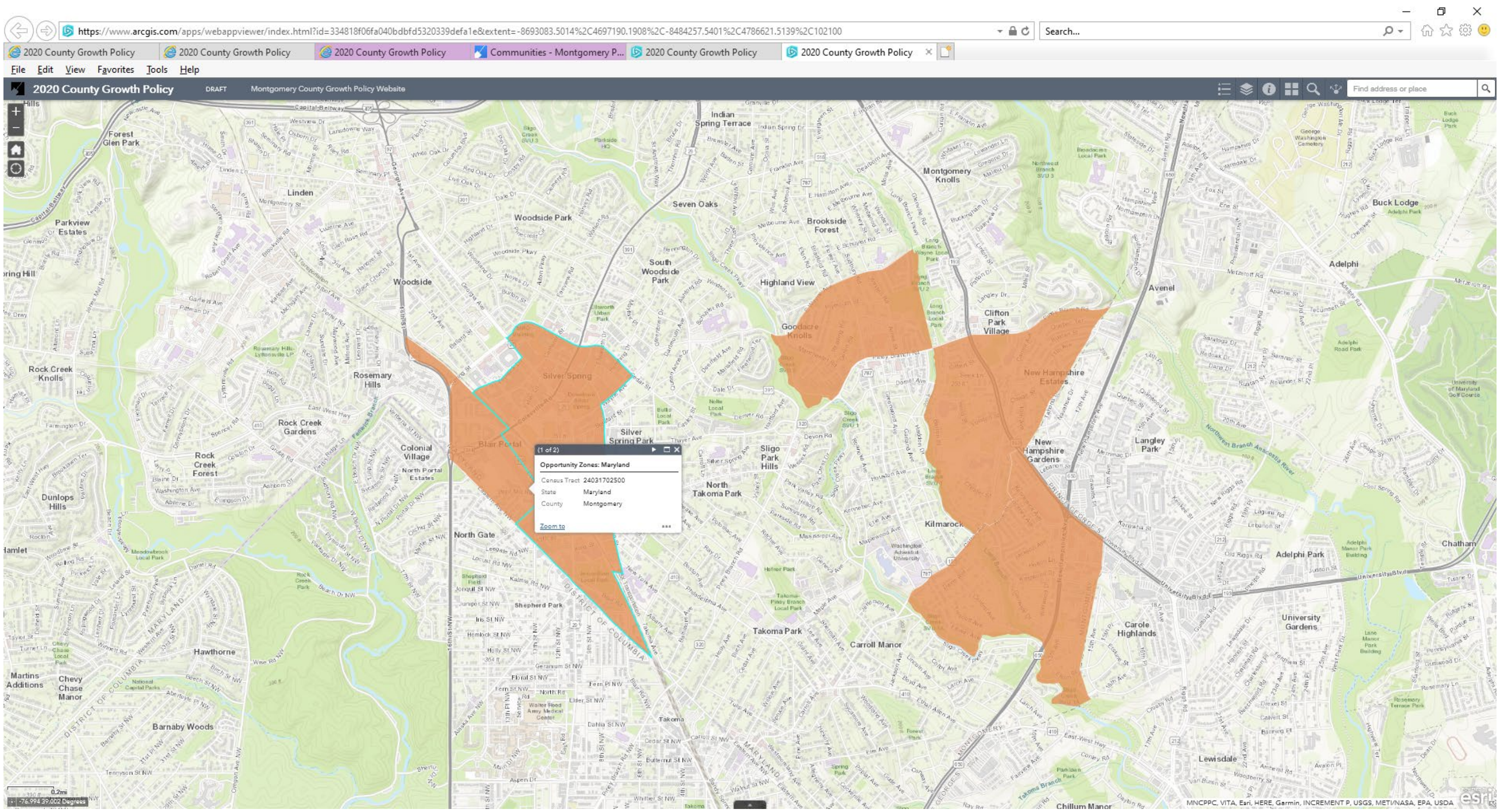
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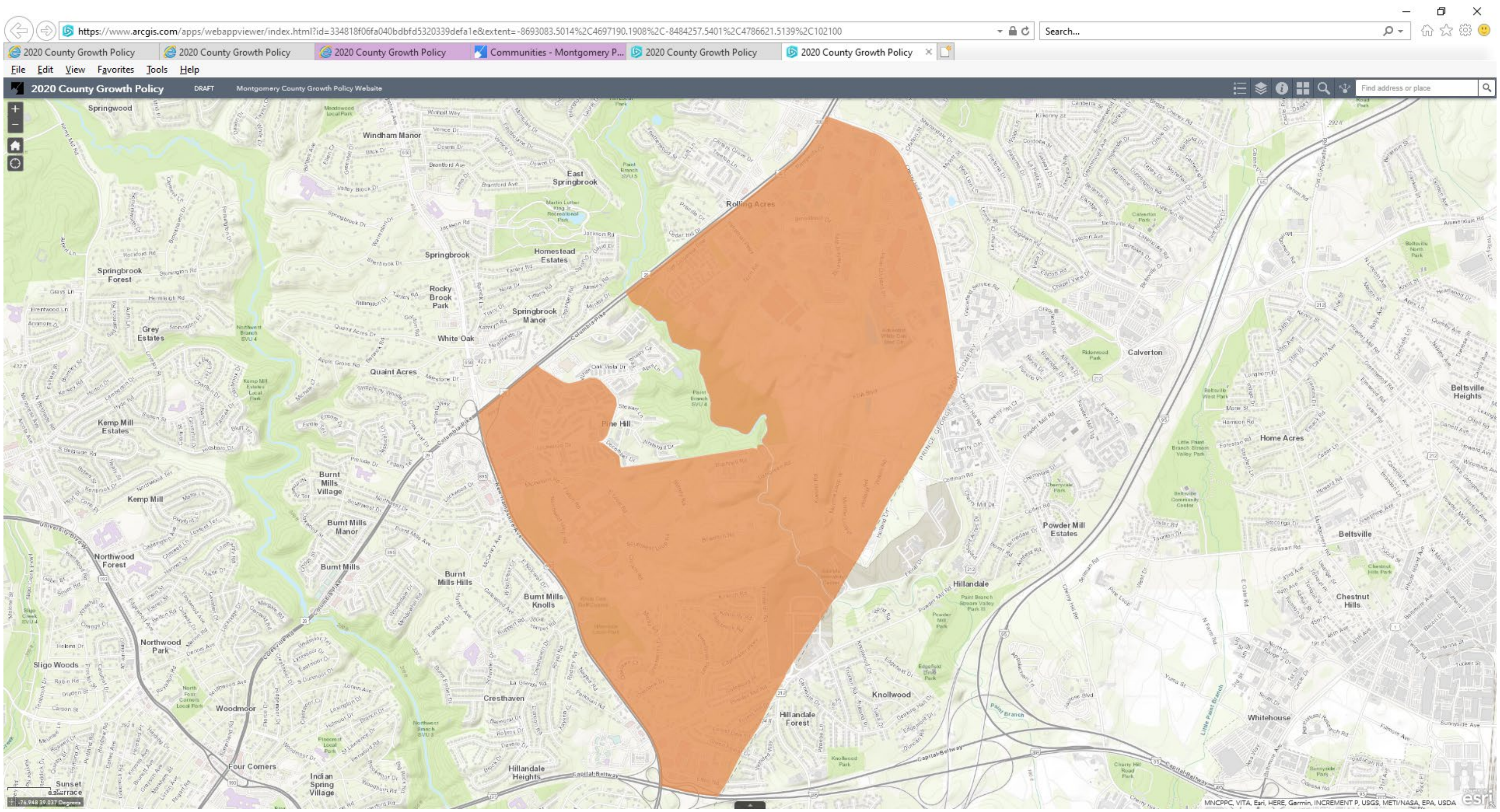

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East Springbrook
Rolling Acres
Springbrook
Homestead Estates
Springbrook Forest
Grey Estates
Rocky Brook Park
Springbrook Manor
White Oak
Quaint Acres
Calverton
Beltsville Heights
Pine Hill
Kemp Mill Estates
Home Acres
Burnt Mills Village
Kemp Mill
Burnt Mills Manor
Powder Mill Estates
Beltsville
Northwood Forest
Burnt Mills
Burnt Mills Hills
Burnt Mills Knolls
Hillandale
Chestnut Hills
Northwood Park
Sligo Woods
Woodmoor
Cresthaven
Knollwood
Hillandale Forest
Whitehouse
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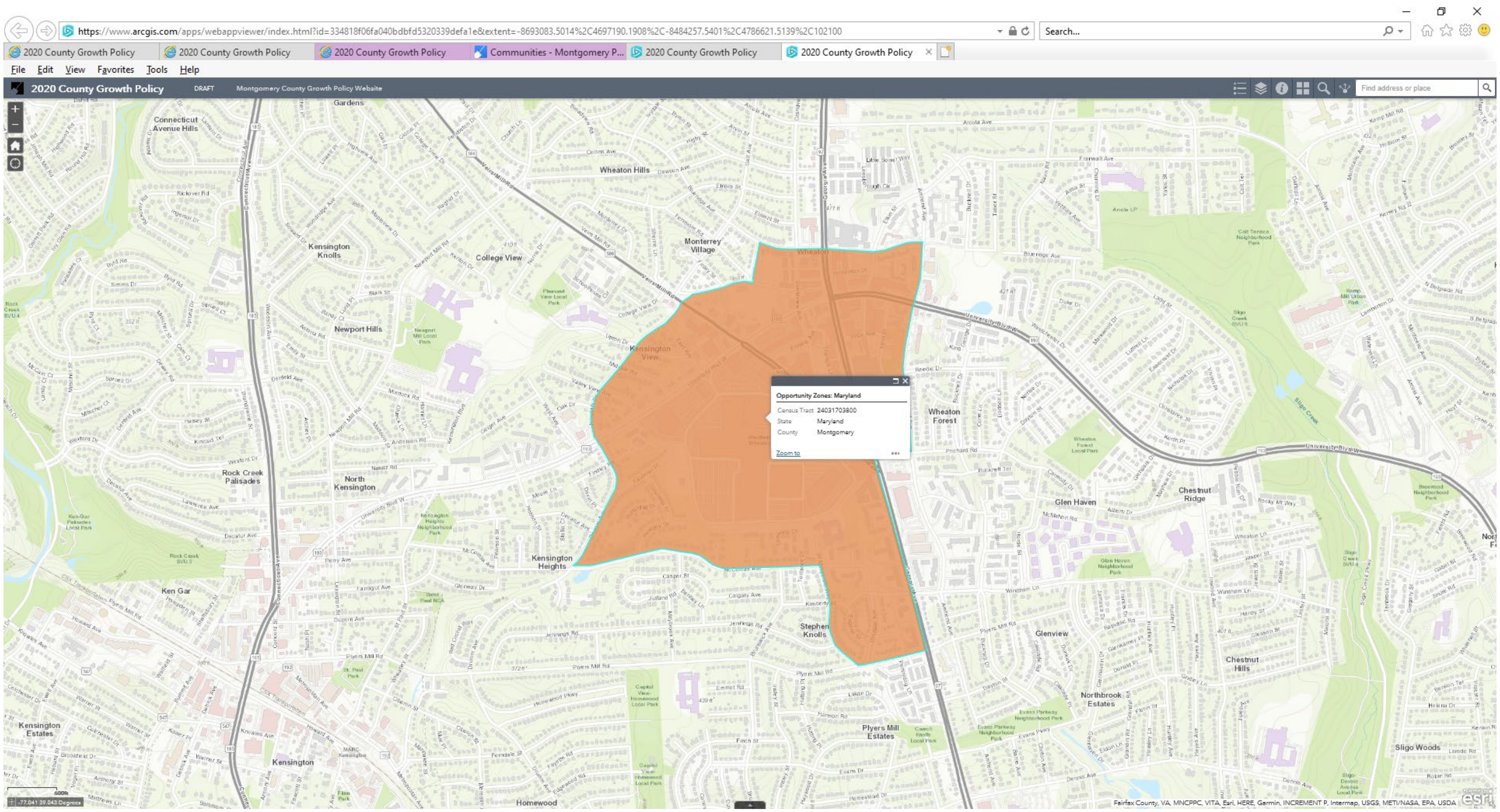
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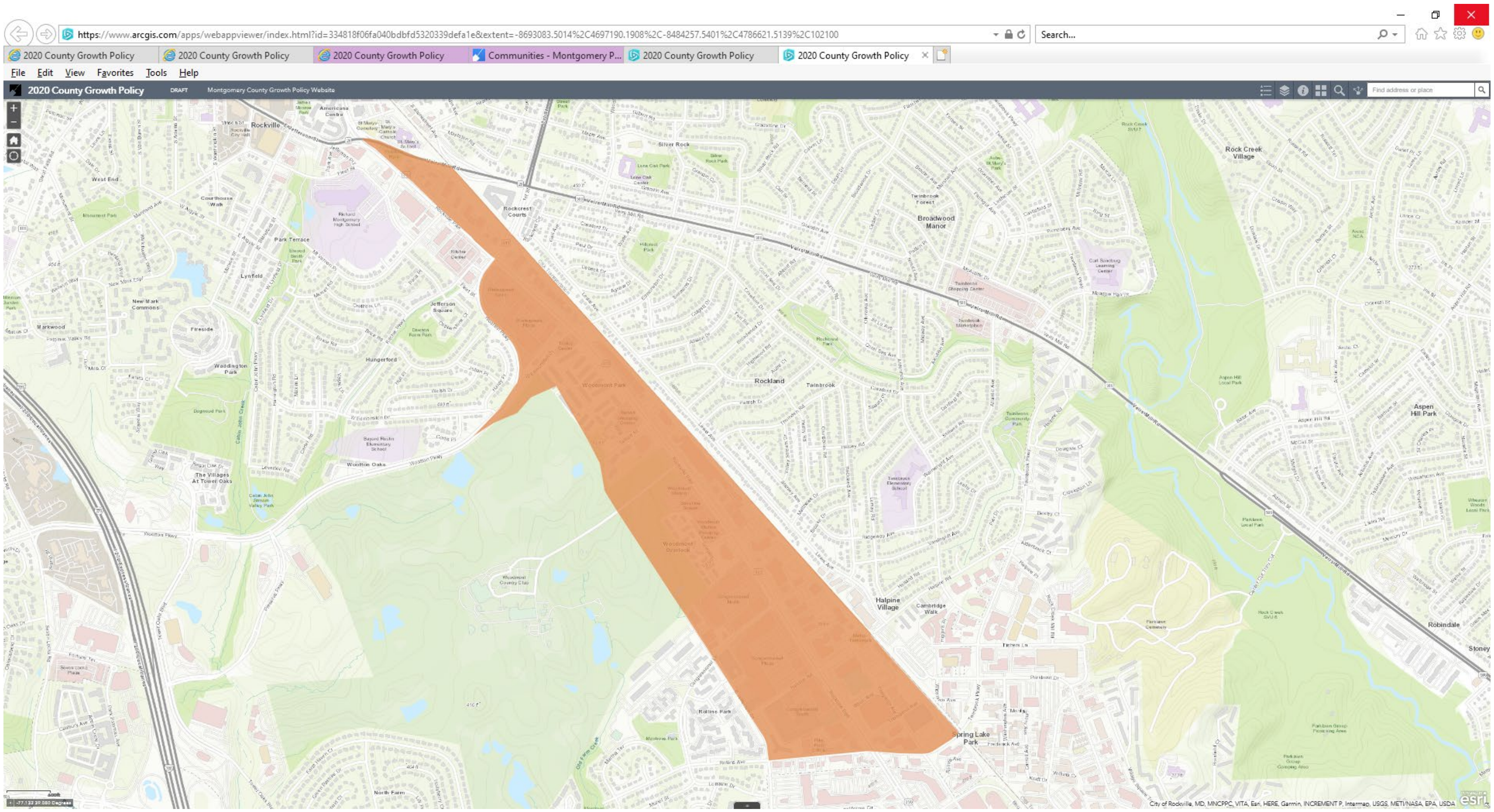
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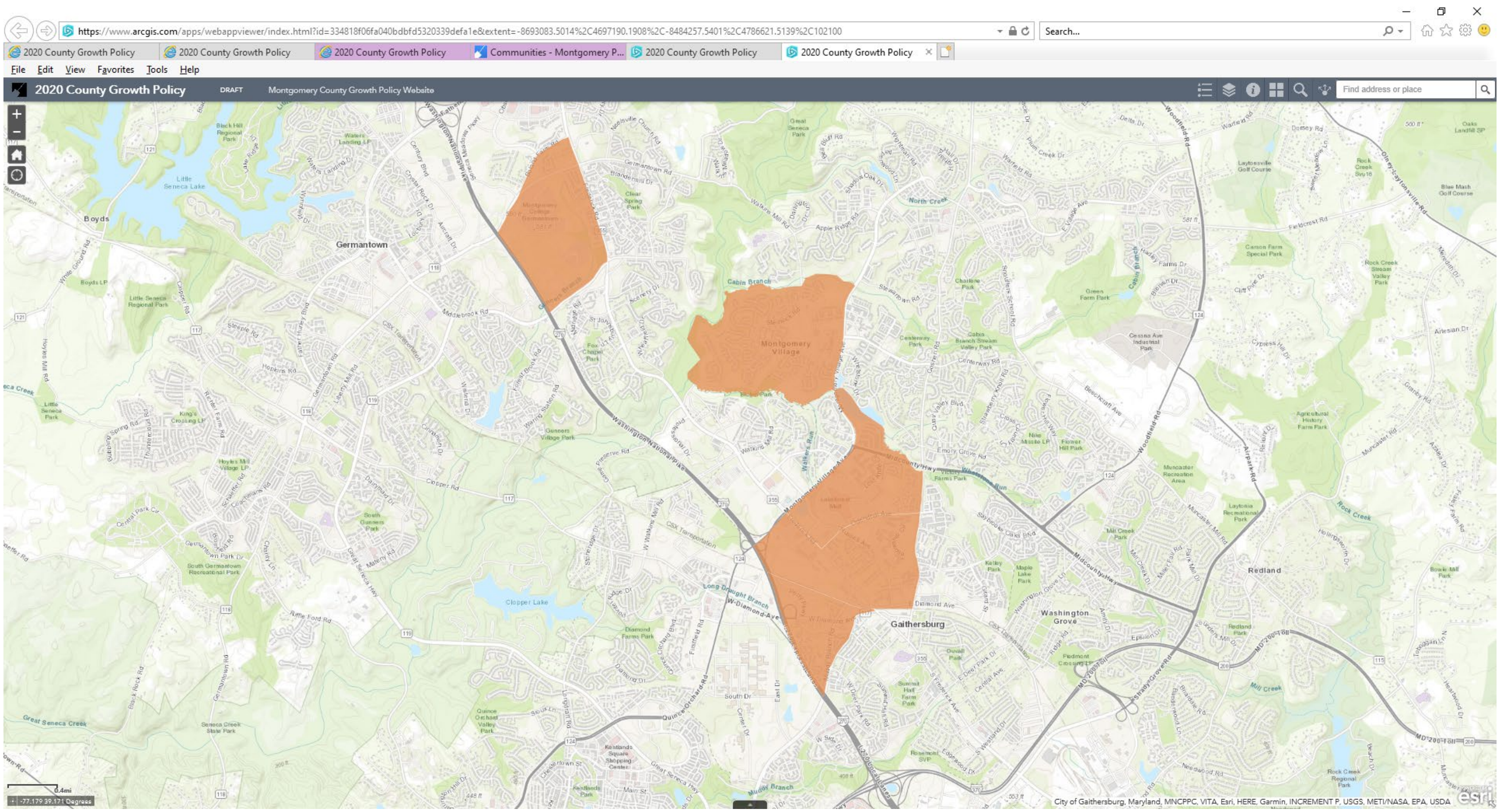
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6.3 *Allow a school impact tax credit for any school facility improvement constructed or funded by a property owner with MCPS's agreement.*

Comments: We support this recommendation. Credits for land dedication should be allowed to continue and any school facility condition improvements – whether or not they add classroom capacity – should be given credit.

6.4 *Eliminate the current impact tax surcharge on units larger than 3,500 square feet.*

Comments: We support this recommendation.

Tax Recommendations: Impact Tax Exemptions on Residential Uses

6.5 *Eliminate the current impact tax exemptions for development in former Enterprise Zones.*

6.6 *Any development located in a Qualified Opportunity Zone certified by the United States Treasury Department is exempt from development impact taxes.*

Comments: It is important to note that Glenmont is not yet a Former Enterprise Zone, but is within an Enterprise Zone that expires June 2023, unless extended (thus not an immediate issue but still within the life of this Growth Policy). Glenmont is not in an Opportunity Zone. Thus, if Recommendation 6.5 is adopted, and if the Glenmont Enterprise Zone is not extended beyond 2023, then Glenmont would become a Former Enterprise Zone and would lose its exemption status. Glenmont needs to keep its exemption. Making certain that Glenmont retained the exemption status for its overall viability appeared to be extremely important to the Planning Board and its Staff. This should be addressed as part of the Council's review (a likely oversight at the Planning Board level). Otherwise, we can support Recommendation 6.5 (elimination of the exemption for Former Enterprise Zones) but only provided that Recommendation 6.6 (exemption for Opportunity Zones), which we support, is adopted. If Recommendation 6.6 is not adopted, then we oppose the recommended elimination of the exemption for Former Enterprise Zones.

Silver Spring and Wheaton, the Former Enterprise Zones, are not yet self-sustaining and need to be exempt. These areas, with their fragile market and lower rent structure, are not able to absorb either the existing or the proposed new impact taxes. The impact tax exemption is what allows the equalization of the market place between the Former Enterprise Zones and other areas of the County, such at Bethesda or White Flint. The construction cost for buildings is the same in all four areas, but the rental return in Silver Spring and Wheaton is far below that of Bethesda or White Flint. The impact tax exemption is what allows Silver Spring and Wheaton to make their lower rental rates economically viable, by reducing the cost economics of the project in a way that it can be sustained by a lesser income stream from those lower rents.

The Silver Spring Former Enterprise Zone essentially is coterminous with the CBD and the new Opportunity Zone boundaries. The fact that Silver Spring and Wheaton received

Opportunity Zone designations reflects that the Former Enterprise Zones are not ready to lose the benefits of having been Enterprise Zones. To be designated as an Opportunity Zone requires being composed of Low Income Community Census Tracts ("LICCT"). Downtown Silver Spring, essentially a single census tract, is sufficiently below the Washington Metropolitan Statistical Area Average Median Income, and therefore, qualifies as an Opportunity Zone. Silver Spring and Wheaton are not finished with needing the benefits of the exemption.

Projects that have been approved in Silver Spring have relied upon the impact tax exemption as a part of their economic model. Several of these projects have been approved with multiple phases, intending to be implemented over time. Portions are begun and other portions remain for the future. However, that phasing process and long gestation and development process was expected from the outset. These projects should not be adversely affected economically by the retrospective application of a change in the impact tax structure.

While many projects have site plan review, and therefore would, in theory, be protected in the recommended grandfathering, the likelihood is that over the course of the development process, site plan amendments will be required, as is often the case with long term multi-phased projects. Regardless of the final decision on the merits of the exemption, and applying it to post-January 1, 2021 site plans, the eventual action, if implemented, should make clear that amendments to previously approved site plans do not change the grandfather protections of those projects.

Existing applications and approvals should be protected in a manner that allows these existing in-progress projects to proceed to completion using the previous tax exemption rules. This equitable reasoning should apply to any of the tax exemptions if they are to be removed. They should remain available in their previous form to those projects which were approved while the exemption was a part of the law, and upon which law the application relied.

Regarding the other current impact tax exemptions, we support maintaining all current exemptions. Finally, for dwelling units for seniors age 55 and above, we support converting the classification from "rate set at $0" to "exempt."

6.7 Modify the current impact tax exemptions applied to all housing units when a project includes 25% affordable units to:

1. *require the affordable units be placed in the county's or a municipality's MPDU program, and*
2. *limit the exemption amount to the lowest standard impact tax in the county for the applicable dwelling type.*

Comments: We opposed the Planning Staff's original version of this recommendation because it removed the potential exemption from the Greenfield Impact Area and it required the project to include two times the standard share of MPDUs applicable to the project location. The Planning Board Draft recommendation above removed those two provisions, but added Section 2, which limits the exemption amount. We support the removal of the doubling requirement and allowing the Greenfield Impact Area to claim the exemption, but do not support the limitation of the exemption amount (Section 2). The reduced value of the exemption does not seem to

Coalition for Smarter Growth
DC • MD • VA

September 14, 2020

Montgomery County Council
100 Maryland Ave
Rockville, MD 20850

2020-2024 Subdivision Staging Policy

Testimony for September 15, 2020

Jane Lyons, Maryland Advocacy Manager

Good evening, Council President Katz and Councilmembers. My name is Jane Lyons and speaking on behalf of the Coalition for Smarter Growth, the leading organization in the DC region advocating for more walkable, inclusive, transit-oriented communities. We strongly support the Planning Board's recommendations for the 2020 SSP to encourage sustainable growth, support new housing, and maintain a high-quality school system.

1. **We strongly support the elimination of automatic housing moratoria throughout most of the county.**

The recommendation to create School Impact Areas correctly takes into consideration the distinct development contexts of different areas and how those contexts impact school enrollment. The current moratorium policy assumes that the majority of new student generation comes from new development. However, we now know from the data that stopping development does not actually solve school overcrowding – less than 30 percent of school enrollment growth can be attributed to new development. Most new students come from young families moving into existing single-family homes – not from new apartment buildings.

The moratorium worsens housing affordability, hinders economic development, and prevents sustainable land use. Rather than locating in a transit-oriented neighborhood, households and businesses alike are pushed into less desirable areas for growth. We should do all we can to encourage new housing in major transit and job hubs, not ban it – especially during a recession.

2. **We support reducing the school impact tax to 100 percent of the cost of a seat, maintaining the current rate in the Ag Reserve, and lowering the rate to 60 percent in desired growth areas.**

In these cases, it is worth lowering impact taxes in order to expand the overall, long-term tax base and promote growth in the places we want to see it. Montgomery County has one of the highest school impact taxes in the region. Even at this comparatively high rate, school impact fees only funded approximately 8 percent of the Montgomery County Public Schools (MCPS) capital budget in both FY19 and FY20. For FY21, impact taxes are only 6 percent of the MCPS capital budget, while recordation taxes fund nearly 24 percent of the budget. In short, reducing the school impact tax for areas where we desire growth will not make or break the MCPS capital budget, but impact taxes *do* play a significant role in whether new home projects pencil out. Even if a project can move forward at the existing tax rate, the increased cost is ultimately passed onto buyers through higher housing prices.

3. **We are concerned by the proposed Utilization Premium Payments.**

We should not charge developers for impacts *not* caused by their project. If a school is already overcrowded, it is because of past student enrollment growth and points to a larger failure to adequately fund schools. This recommendation will not build schools, just as the past School Facility Fees provided marginal funding at best – Utilization Premium Payments will only deter economic development. However, we would support increasing the school impact tax from 60 percent to 100 percent for projects located in Activity Centers with overcrowded schools.

4. **We support progressive increases to the recordation tax.**

While we do not think the Utilization Premium Payments have a strong nexus, the recordation tax does. Since over 70 percent of new students come from neighborhood turnover and recordation taxes account for nearly a quarter of the MCPS capital budget, it makes sense to target home purchases to fund school capacity projects.

We especially support an increase that is progressive, thus increasing the recordation tax more on homes over $1.5 million, and expanding the first-time homebuyer exemption. If increasing the recordation tax is not feasible, we recommend instead adjusting the distribution of recordation tax revenue to increase the share going to schools and affordable housing

5. **We support impact tax exemptions for Opportunity Zones.**

Impact taxes are a tool to either incentivize or disincentivize economic development, while helping to pay for necessary infrastructure. Short-term tradeoffs can result in long-term benefits. For example, between 2006 and 2016, the downtown Silver Spring exemption only cost the county $5.8 million while helping incentivize hundreds of millions of dollars in investment. The success of somewhere like downtown Silver Spring is far from certain, and this exemption will bring new investment to Long Branch, Takoma Park, White Oak, Wheaton, White Flint, Gaithersburg, Germantown, and Montgomery Village.

6. **We support the recommendations in the transportation component.**

We especially support the Planning Board's recommendations to eliminate the LATR study requirement for motor vehicle adequacy in Red Policy Areas and increases in intersection delay standards for Orange and Yellow Policy Areas. These technical changes will support Vision Zero by reducing traffic deaths and support transit-oriented development around the county's Metro, Purple Line, and bus rapid transit stations.

Thank you.

From: Dan Wilhelm
To: Orlin, Glenn; Casey Anderson ; Wright, Gwen; Sartori, Jason; Friedson"s Office, Councilmember; Navarro"s Office, Councilmember; Katz"s Office, Councilmember; Jawando"s Office, Councilmember; Riemer"s Office, Councilmember; Dunn, Pamela
Cc: Hucker"s Office, Councilmember
Subject: Support Opportunity zoning Exemption
Date: Wednesday, October 07, 2020 9:24:58 AM

[EXTERNAL EMAIL]

Dear GO/PHED Committee Members:

I am writing to strongly encourage you to approve the impact tax exemption for Opportunity Zoned properties. My rationale is:

As Jonathan Genn indicated the other day, the Viva White Oak project is not economical without it.

This exception would apply to all Opportunity Zoned properties in the county. At the hearing, other developers (including Wheaton) also indicated they needed the exemption to be economical viable. Because the zone is in economically depressed areas, I would expect most other the other areas also need the exception to be economical. Developers can only rent or sell properties at the prevailing market rate for their area and surely the price/rent is low in these areas. As a result they don’t have the margin to cover a high impact tax. Recall that the LATR/LATIP cost still applies. Presently Viva White Oak is the primary property in east county affected but other properties within the master plan area northeast of New Hampshire Ave would also benefit in the future. LABQUEST and many others in the area have been supportive of this development for more than a decade.

Contrary to the County Executive’s claim, the County can’t lose this revenue since the projects will not be built without the exemption.

The County is ignoring the much larger revenue sources if the project are built:

- Income Taxes if the residents are new to the county
- Real Estate Taxes
- Tangible Personal Property Taxes
- Business and Individual Income Taxes
- Recordation Taxes
- Hotel Room Tax
- Admission and Amusement Taxes

These taxes are much larger than any impact taxes and they are recurring, not one time.

The opportunity zone was created by congress in 2017 to stimulate investment in low-income communities. This is the same idea as the enterprise zone whose goal is to create jobs and spur economic development. The enterprise zone is exempt from impact taxes and therefore the opportunity zone should also be exempt. The county equity program also plays into this.

Several Albert Einstein Quotes apply here:

The measure of intelligence is the ability to change.

Nothing happens until something moves.

Dan Wilhelm

	impact taxes by unit type.	
Tax Recommendations: Impact Tax Exemptions on Residential Uses		
6.5	Eliminate the current impact tax exemptions for development in former Enterprise Zones. **The CE supports this recommendation.** **OMB:** Generally agree. Support grandfathering in projects/units that have been approved through building permit only (if seeking to maximize future impact tax revenue) or through preliminary plan approval for less impact on developers. Also consider removing the exemption on residential only and retaining it for non-residential development.	95
6.6	Any development located in a Qualified Opportunity Zone certified by the United States Treasury Department is exempt from development impact taxes. CE does not support this exemption. Qualified Opportunity Zone property owners already have significant federal tax advantages and do not need this incentive to develop.	95
6.7	Modify the current impact tax exemptions applied to all housing units when a project includes 25% affordable units to: 1. require the affordable units be placed in the county's or a municipality's MPDU program, and 2. limit the exemption amount to the lowest standard impact tax in the county for the applicable dwelling type. OMB--The Planning Board's recommendation to reduce the amount of subsidy provided for market rate units when developers double the number of Moderately Priced Dwelling Units is a step in the right direction to help ensure that we make the best use of resources devoted to affordable housing. Executive branch staff are analyzing possible additional changes in this exemption to ensure the most efficient delivery of affordable housing units.	97
6.8	Continue to apply impact taxes on a net impact basis, providing a credit for any residential units demolished. **The CE agrees with OMB.** **OMB:** Support in part. Credit (full or partial) should only be given if demolished unit had previously paid impact taxes. If it did not, then it should be subject to impact tax payment at the applicable rate.	99

6.3: Allow a school impact tax credit for any school facility improvement constructed or funded by a property owner with MCPS agreement.

MCCPTA supports this recommendation and we hope that MCPS will take advantage of opportunities for effective and economical source of capital improvements.

6.4: Eliminate the current impact tax surcharge on units larger than 3,500 square feet.

MCCPTA supports this recommendation. It makes sense to match the Impact tax to the measurable impact.

6.5: Eliminate the current impact tax exemptions for development in former Enterprise Zones.

MCCPTA supports this recommendation. In 2016, Council rejected this proposal and committed to an assessment of how to phase in impact taxes in former enterprise zones. Nothing was done. MCCPTA proposes that we adopt the 2016 plan to phase in impact taxes.

Enterprise Zones were established to stimulate commercial activity, and a legacy exemption on residential housing is unwarranted.

6.6: Any development located in a Qualified Opportunity Zone certified by the United States Treasury Department is exempt from development impact taxes.

MCCPTA opposes the introduction of any new impact tax exemptions as part of this policy.

6.7: Modify the current impact tax exemptions applied to all housing units when a project includes 25% affordable units to:

1. require the affordable units be placed in the county's or a municipality's MPDU program, and
2. limit the exemption to the lowest standard impact tax in the county for the applicable dwelling type.

MCCPTA is concerned by the arbitrary and inconsistent impact of this policy on housing costs and would like to see the equity impact statement.

6.8: Continue to apply impact taxes on a net impact basis, providing a credit for any residential units demolished.

Credit should be provided for inhabitable units (not vacant/blighted/condemned).

6.9: Incorporate progressive modifications into calculation of the Recordation Tax to provide additional funding for school construction and the county's Housing Initiative Fund.

MCCPTA supports this as a means to capture impact costs of turnover, but not as an offset for impact tax discounts.

Fiscal Impact Statement
Bill 38-20, Taxation – Development Impact Taxes for Transportation and Public School Improvements - Amendments

1. Legislative Summary

Bill 38-20 would amend transportation and school impact tax district designations and the impact tax rates that apply in these districts. Bill 38-20 would also modify the applicability of development impact tax exemptions for certain uses and in certain locations, and generally amend the law governing transportation and school development impact taxes. This Bill is part of the Planning Board's recommended changes to the Subdivision Staging Policy.

The Planning Board recommends tax changes to be included in Bill 38-20 as follows:

- Apply one tax rate for all multifamily units in both low-rise and high-rise buildings;
- calculate the standard school impact taxes at 100% of the cost of a student seat using the newly created School Impact Area student generation rates, but apply a discount to single-family attached and multifamily units to incentivize growth in certain Desired Growth and Investment Areas (DGA), and maintain the current 120% factor within the Agricultural Reserve Zone; Type text here
- allow a school impact credit for any school facility improvement constructed or funded by a property owner if the Montgomery County School Board agrees to the improvement;
- eliminate the school impact tax surcharge of $2 for each square foot of gross floor area that exceeds 3,500 s.f. to a maximum of 8,500 s.f.;
- eliminate the current impact tax exemptions from development in former Enterprise Zones;
- exempt any development in a qualified Opportunity Zones certified by the U.S. Treasury Department; and
- limit the exemption for any non-exempt dwelling unit in a development with 25% MPDUs to require paying the applicable tax discounted by an amount equal to the lowest standard impact tax rate by housing type.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

Bill 38-20 does not impact County expenditures related to the reporting and collection of impact taxes to reflect the proposed changes. The Office of Management and Budget (OMB) assumed the impact tax collection and reporting administered and managed by the Department of Permitting Services would be implemented within existing appropriations.

To estimate the potential changes in County revenues, OMB and the Department of Finance collaborated with Planning staff to collect data and then develop a systematic approach to evaluate each component in those proposed tax changes. We evaluated the historical/actual impact tax collections between FY15 and FY20 under the newly proposed school impact area framework, analyzed the macro-level effects on school and transportation impact tax collections resulting from the rate and structure changes, and then utilized a forecasting model developed by Finance and evaluated the pipeline data of unbuilt residential projects in the County to provide an illustrative example of the potential financial implications of the proposed impact tax rate and structure changes based on specific pipeline project locations in the County. A detailed analysis of anticipated tax changes related to the Planning Board's Subdivision Staging Policy recommendations, including changes in Bill 38-20, is presented in Attachment 1(©1-30). This analysis was included in the County Executive's comments on the proposed Subdivision Staging Policy.

Below (Table 1) summarizes the projected changes in County revenues that could be expected. Note that the forecasting analysis assumes that existing development patterns continue over the next six years, and the pipeline analysis also assumes that projects currently submitted or approved will be fully built out as is. However, future development may significantly shift as a result of the pandemic or changes in the housing market or overall economy.

Table 1. Estimated Revenue Changes from Planning Board's Recommendations on Impact Taxes and Related Fees

	No.	Planning Board's Recommendations	Estimated Revenue Changes	Annual Estimate
School Impact Taxes	6.1	Apply one tax rate for all multifamily units in both low-rise and high-rise buildings.	Forecast data shows an average \$4.4M in revenue loss per year if using one-rate for multifamily units. (This amount is incorporated into the figures in 6.2 below.)	
	6.2	•Calculate the standard school impact taxes at 100% of the cost of a student seat using "new" School Impact Area student generation rates. •Apply a discount (60%) to single-family attached and multifamily units to incentivize growth in certain desired growth and investment areas (DGA). •Maintain the current 120% factor within the Agricultural Reserve Zone.	Forecasting indicates a loss of \$4M in revenue loss per year if using the proposed rates. The estimate includes all unit types in all school impact areas. For Pipeline analysis, the revenue loss could be greater, estimated at \$7.3M. The annual estimate uses the average between \$4M and \$7.3M.	(5,650,000)
	6.3	Allow school impact tax credit for any school facility improvement constructed or funded by a property owner with MCPS' agreement	No fiscal impact analysis can be performed due to data limitation.	
	6.4	Eliminate School Impact Tax Surcharge on units larger than 3,500 sf	Surcharge generated from single-family units was \$1.66M per year between FY15 and FY20. If eliminated, it would likely result in approximately \$1.66M in revenue loss if historical development patterns are maintained.	(1,660,000)
	4.16	Require Utilization Premium Payments for a school projected utilization exceeds 120% three years in the future	If the UPP was applied over the past six years, \$3M in revenue per year could have been generated. If UPP are applied to Pipeline projects, it's estimated that \$4M or more could be generated per year.	4,000,000
Tax Exemptions	6.5	Enterprise Zone Exemptions - Eliminate the current tax exemptions in former EZ	If eliminating exemption for former EZ, pipeline analysis suggested that County could gain \$4.4M per year under the current rate, but only collect \$2.5M from proposed rates.	2,500,000
	6.6	Opportunity Zone Exemptions - Exempt any development in Opportunity Zones	Pipeline analysis suggests that revenue loss would be \$3.6M per year under current rates compared to \$2.2M under proposed rates. Due to the drastic rate changes, the exemption effect in OZ would be less under proposed rates.	(2,200,000)
	6.7	25% Affordable Housing Exemptions - Limit the exemption amount to the lowest standard impact tax by housing type and place the affordable units in the MPDU Program.	Using the case study of 14 projects, the proposed rates and 25% MPDU limitation are likely to generate an additional \$31.5M for all projects. Assuming those projects would take 5 years to build out, the average revenue generated per year would be \$6.3M. If take 10 years to build out, the average revenue would be only \$3.15M.	3,150,300

NOTE: Additionally, the Planning Board proposed a new Utilization Premium Payment (UPP) fee that developers would pay when a school's projected utilization three years in the future exceeds 120%. Although this requirement is not part of the Bill 38-20 amendments, the potential payments collected from the UPP charges were developed based on a percentage of the proposed impact tax rates, and they would have a fiscal impact on County revenues. For this reason, they are included here.

3. **Revenue and expenditure estimates covering at least the next 6 fiscal years.**

   As discussed in Question #2, OMB and Finance used the historical FY15-FY20 data to estimate future revenues over the next six fiscal years with the following steps:

   - Utilizing Finance's forecasting model to establish a "baseline" under the assumption of development patterns to be continued over the next six years in similar trends and under current rate structure;
   - applying a differential between the proposed rates and the average historical rates to each school impact area; and
   - forecasting the potential revenue that could have been generated if the recommended rate changes were applied, and the resulting difference indicates the likelihood of change in macro tax collections projected over the next six years.

   The forecasting under the proposed rates indicates that the County is likely to collect $24M (or 12.7%) less in school impact taxes than that of the baseline forecast under the current tax rates over the next six fiscal years. This could represent an average of $4M in revenue loss per year. When analyzing 416 projects currently existing in Planning's pipeline dataset, OMB estimated that those projects, if fully built out within a 10-year timeframe, the average revenue collected per year within the proposed rates would be $7.3M less than the current rates. Additionally, the elimination of the surcharge for single-family units would likely result in an average of $1.66M in revenue loss per year based on the historical data analysis. Without taking into consideration other changes in exemptions and new funding sources, the proposed rate structure changes with reduced and discounted taxes would likely result in a loss of $43.9M dollars from FY21-FY26.

   These reductions in impact tax revenues are partially offset by proposed changes in existing impact tax exemptions ($3.5 million/year on net). These exemption changes relate to reductions in the 25% MPDU exemption ($3,150,300/year) and elimination of impact tax exemptions in former enterprise zones ($2,500,000/year). However, the revenue increase related to the elimination of the former enterprise zone exemption is almost fully negated by the proposed new exemption for Opportunity Zones – some of which are former Enterprise Zones ($2,200,000).

4. **An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

   Not applicable.

5. **An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

   Not applicable.

6. **Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

   Bill 38 – 20 does not authorize future spending.

7. **An estimate of the staff time needed to implement the bill.**

   Not applicable.

8. **An explanation of how the addition of new staff responsibilities would affect other duties.**

   Not applicable.

9. **An estimate of costs when an additional appropriation is needed.**

   Not applicable.

10. **A description of any variable that could affect revenue and cost estimates.**

    Estimating impact taxes is very challenging. Impact tax revenues would vary depending on how the currently approved projects move forward and how, or if, developers respond to the amended tax rates for newly established school impact areas and desired growth areas, exemption changes, and the new UPP requirement. It is difficult to predict future shifts in market demand and individual developer's decision-making.

11. **Ranges of revenue or expenditures that are uncertain or difficult to project.**

    Revenue generated from impact tax collections is generally difficult to project due to market volatility or other conditions which can impact the timing and scope of individual projects. As previously noted, it is difficult to estimate how many developers may adjust their development plans as each project's cost/benefit analysis is unknown to the County.

12. **If a bill is likely to have no fiscal impact, why that is the case.**

    Not applicable.

13. **Other fiscal impacts or comments.**

    Not applicable.

14. **The following contributed to and concurred with this analysis:**

    Dennis Hetman, Department of Finance
    Mary Beck, Office of Management and Budget
    Pofen Salem, Office of Management and Budget
    Estela Boronat de Gomes, Office of Management and Budget

Jennifer Bryant, Acting Director Office of Management and Budget	09/11/20 Date