



Committee: Joint
Committee Review: At a future date
Staff: Robert H. Drummer, Senior Legislative Attorney
Pamela Dunn, Senior Legislative Analyst
Glenn Orlin, Senior Analyst
Purpose: To receive testimony – no vote expected
Keywords: #ImpactTax, Development, Impact Tax

AGENDA ITEM 19
September 15, 2020
Public Hearing

SUBJECT

Bill 38-20, Taxation - Development Impact Taxes for Transportation and Public School Improvements – Amendments
Lead Sponsor: Council President at the request of the Planning Board

EXPECTED ATTENDEES

None

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Public Hearing – no vote expected

DESCRIPTION/ISSUE

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.

SUMMARY OF KEY DISCUSSION POINTS

- Do changes to the transportation and school impact tax districts align with County policies?
- Are the proposed changes to the impact tax rates reasonable and should discounts be provided based on the location of development?
- Do the proposed impact tax exemptions for certain uses and in certain locations reflective of County policies, and are they reasonable?

This report contains:

Bill 38-20	©1
Legislative Request Report	©11
Economic Impact statement	©12
Planning Board Impact Tax Recommendations	©16

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M E M O R A N D U M

September 10, 2020

TO: County Council

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

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

PURPOSE: Public Hearing – no Council votes required

Bill 38-20, Taxation - Development Impact Taxes for Transportation and Public School Improvements – Amendments, sponsored by Lead Sponsor Council President at the request of the Planning Board, was introduced on July 29, 2020. A joint Government Operations and Fiscal Policy Committee/Planning, Housing and Economic Development Committee worksession is tentatively scheduled for September 23 at 9:30 a.m.¹

Bill 38-20 would:

1. modify the transportation impact tax districts by adding Chevy Chase Lake, Dale Drive/Manchester Place, Forest Glen, Long Branch, Lyttonsville/Woodside, and Takoma/Langley to the Red Policy Areas;
2. repeal the impact tax exemptions for development in a former Enterprise Zone;
3. add an exemption for a development in a Qualified Opportunity Zone;
4. modify the impact tax exemption for market rate housing units when a project has at least 25% affordable units by:
 - a. requiring 25% of the affordable units to be placed in the MPDU Program; and
 - b. change the exemption for market rate units to a discount to the lowest standard impact tax rate for the applicable dwelling unit;
5. change the school impact tax to one tax rate for all multi-family units;
6. permit a school impact tax credit for any school facility improvement constructed or funded by a property owner with the agreement from MCPS;
7. eliminate the current impact tax surcharge on dwelling units larger than 3500 square feet; and
8. divide the County into 3 school impact areas with different school impact tax rates.

¹# ImpactTax, Development, Impact Tax

Code §33A-15(b)(2) requires the Planning Board to approve and send to the Council a recommended Subdivision Staging Policy by August 1. The Planning Board often recommends other legislative changes concurrent with its recommended changes to the Subdivision Staging Policy (SSP).² Bill 38-20 is one of the Planning Board’s recommended changes to law.

On July 30, the Planning Board transmitted a recommended 2020-2024 Subdivision Staging Policy (SSP) and related legislative changes, including Bill 38-20. In order to provide additional opportunity for the public and the Council to review the Board’s recommendations, Bill 38-20 was introduced before the Planning Board’s final action on the SSP.

This packet contains:	<u>Circle #</u>
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² One of the Planning Board’s recommendations is to change the name of the SSP to the County Growth Policy.

Bill No. 38-20
Concerning: Taxation - Development
Impact Taxes for Transportation and
Public School Improvements -
Amendments
Revised: 7/24/2020 Draft No. 1
Introduced: July 29, 2020
Expires: January 29, 2022
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the request of the Planning Board

AN ACT to:

- (1) update transportation and school impact tax districts;
- (2) establish impact tax rates by school impact tax districts;
- (3) eliminate the school impact tax premium on certain types of dwelling units;
- (4) modify the applicability of development impact tax exemptions for certain uses and in certain locations; and
- (5) generally amend the law governing transportation and school development impact taxes

By amending

Montgomery County Code
Chapter 52, Taxation
Sections 52-41, 52-49, 52-54, 52-55 and 52-58

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Sections 52-41, 52-49, 52-54, 52-55 and 52-58 are amended as**
 2 **follows:**

3 **52-41. Imposition and applicability of development impact taxes.**

4 * * *

5 (c) The following impact tax districts are established:

- 6 (1) *White Flint*: The part of the White Flint Metro Station Policy
 7 Area included in the White Flint Special Taxing District in
 8 Section 68C-2;
- 9 (2) *Red Policy Areas*: Bethesda CBD, Chevy Chase Lake, Dale
 10 Drive/Manchester Place, Forest Glen, Friendship Heights,
 11 Grosvenor, Glenmont, Long Branch, Lyttonsville/Woodside,
 12 Rockville Town Center, Shady Grove Metro Station, Silver
 13 Spring CBD, Takoma/Langley, Twinbrook, and Wheaton CBD;
- 14 (3) *Orange Policy Areas*: Bethesda/Chevy Chase, Burtonsville
 15 Crossroads, [Chevy Chase Lake,] Clarksburg Town Center,
 16 Derwood, Gaithersburg City, Germantown Town Center,
 17 Kensington/Wheaton, [Long Branch,] North Bethesda, R&D
 18 Village, Rockville City, Silver Spring/Takoma Park,
 19 [Takoma/Langley,] White Flint, except the portion that is
 20 included in the White Flint Special Taxing District in Section
 21 68C-2, and White Oak Policy Areas;
- 22 (4) *Yellow Policy Areas*: Aspen Hill, Clarksburg, Cloverly,
 23 Fairland/Colesville, Germantown East, Germantown West,
 24 Montgomery Village/Airpark, North Potomac, Olney, and
 25 Potomac Policy Areas; and

26 (5) *Green Policy Areas: Damascus, Rural East, and Rural West*
27 *Policy Areas.*

28 * * *

29 (g) A development impact tax must not be imposed on:

30 (1) any Moderately Priced Dwelling Unit built under Chapter 25A
31 or any similar program enacted by either Gaithersburg or
32 Rockville[,];

33 (2) any other dwelling unit built under a government regulation or
34 binding agreement that limits for at least 15 years the price or
35 rent charged for the unit in order to make the unit affordable to
36 households earning less than 60% of the area median income,
37 adjusted for family size;

38 (3) any Personal Living Quarters unit built under [Sec. 59-A-6.15]
39 Section 59-3.3.2.D, which meets the price or rent eligibility
40 standards for a moderately priced dwelling unit under Chapter
41 25A;

42 (4) any dwelling unit in an Opportunity Housing Project built under
43 Sections 56-28 through 56-32, which meets the price or rent
44 eligibility standards for a moderately priced dwelling unit under
45 Chapter 25A;

46 (5) [any non-exempt dwelling unit in a development in which at least
47 25% of the dwelling units are exempt under paragraph (1), (2),
48 (3), or (4), or any combination of them;

49 6] any development located in an enterprise zone designated by the
50 State [or in an area previously designated as an enterprise zone];

- 51 (6) any development located in a Qualified Opportunity Zone
- 52 certified by the United States Treasury Department;
- 53 (7) a house built by high school students under a program operated
- 54 by the Montgomery County Board of Education; [and] or
- 55 (8) a farm tenant dwelling.

* * *

57 **52-49. Tax rates.**

* * *

- 59 (g) Any non-exempt dwelling unit in a development in which at least 25%
- 60 of the dwelling units are exempt under Section 52-41(g)(1) must pay
- 61 the tax discounted by an amount equal to the lowest standard impact
- 62 tax rate in the county for that unit type.

* * *

64 **52-54. Imposition and applicability of tax.**

* * *

- 66 (c) The following public school impact tax districts are established, as
- 67 identified in the County Growth Policy:
- 68 (1) Infill Impact Areas;
- 69 (2) Turnover Impact Areas; and
- 70 (3) Greenfield Impact Areas.

- 71 (d) The tax under this Article must not be imposed on:
- 72 (1) any Moderately Priced Dwelling Unit built under Chapter 25A
- 73 or any similar program enacted by either Gaithersburg or
- 74 Rockville[.];
- 75 (2) any other dwelling unit built under a government regulation or
- 76 binding agreement that limits for at least 15 years the price or

77 rent charged for the unit in order to make the unit affordable to
78 households earning equal to or less than 60% of the area median
79 income, adjusted for family size;

80 (3) any Personal Living Quarters unit built under Section 59-
81 3.3.2.D, which meets the price or rent eligibility standards for a
82 moderately priced dwelling unit under Chapter 25A;

83 (4) any dwelling unit in an Opportunity Housing Project built under
84 Sections 56-28 through 56-32, which meets the price or rent
85 eligibility standards for a moderately priced dwelling unit under
86 Chapter 25A;

87 (5) [any non-exempt dwelling unit in a development in which at least
88 25% of the dwelling units are exempt under paragraph (1), (2),
89 (3), or (4), or any combination of them;

90 (6)] any development located in an enterprise zone designated by the
91 State; [or in an area previously designated as an enterprise zone;
92 or]

93 (6) any development located in a Qualified Opportunity Zone
94 certified by the United States Treasury Department; or

95 (7) a house built by high school students under a program operated
96 by the Montgomery County Board of Education.

97 * * *

98 **52-55. Tax rates.**

99 (a) The Council must establish the [Countywide] rates for each school
100 impact tax district [the tax under this Article] by resolution after a
101 public hearing advertised at least 15 days in advance.

- 102 (b) [The tax on any single-family detached or attached dwelling unit must
 103 be increased by \$2 for each square foot of gross floor area that exceeds
 104 3,500 square feet, to a maximum of 8,500 square feet.]
 105 Any non-exempt single-family attached or multifamily unit located in
 106 a Desired Growth and Investment Area, as defined in the County
 107 Growth Policy, must pay the tax at 60% of the otherwise applicable
 108 rate.
- 109 (c) Any Productivity Housing unit, as defined in Section 25B-17(j), must
 110 pay the tax at 50% of the otherwise applicable rate.
- 111 (d) The County Council by resolution, after a public hearing advertised at
 112 least 15 days in advance, may increase or decrease the rates established
 113 under this Section.
- 114 (e) The Director of Finance, after advertising and holding a public hearing
 115 as required by Section 52-17(c), must adjust the tax rates set in or under
 116 this Section effective on July 1 of each odd-numbered year in
 117 accordance with the update to the Subdivision Staging Policy using the
 118 latest student generation rates and school construction cost data. The
 119 Director must calculate the adjustment to the nearest multiple of one
 120 dollar. The Director must publish the amount of this adjustment not
 121 later than May 1 of each odd-numbered year.
- 122 (f) Any non-exempt dwelling unit in a development in which at least 25%
 123 of the dwelling units are exempt under Section 52-41(g)(1) must pay
 124 the tax discounted by an amount equal to the lowest standard impact
 125 tax rate in the County for that unit type.

126 **52-58. Credits.**

- 127 (a) Section 52-47 does not apply to the tax under this Article.

128 (b) A property owner must receive a credit for constructing or contributing
 129 to an improvement of the type listed in Section 52-56(d), including
 130 costs of site preparation.

131 (c) A property owner may receive credit for constructing or contributing to
 132 other physical school facility improvements not listed in Section 52-
 133 56(d) if the Montgomery County School Board agrees to the
 134 improvement.

135 (d) A property owner may receive credit for land dedicated for a school
 136 site, if:

- 137 (1) the density calculated for the dedication area is excluded from
- 138 the density calculation for the development site; and
- 139 (2) the Montgomery County School Board agrees to the site
- 140 dedication.

141 [(b)] (e) If the property owner elects to make a qualified improvement or
 142 dedication, the owner must enter into an agreement with the Director of
 143 Permitting Services, or receive a development approval based on
 144 making the improvement, before any building permit is issued. The
 145 agreement or development approval must contain:

- 146 (1) the estimated cost of the improvement or the fair market value of
- 147 the dedicated land, if known then[,];
- 148 (2) the dates or triggering actions to start and, if known then, finish
- 149 the improvement or land transfer;
- 150 (3) a requirement that the property owner complete the improvement
- 151 according to Montgomery County Public Schools standards; and
- 152 (4) such other terms and conditions as MCPS finds necessary.

153 [(c)] (f) MCPS must:

- 154 (1) review the improvement plan or dedication;
 155 (2) verify costs or land value and time schedules;
 156 (3) determine whether the improvement is a public school
 157 improvement of the type listed in Section 52-56(d), meets the
 158 requirements of subsection (c), or meets the dedication
 159 requirements in subsection [(a)] (d);
 160 (4) determine the amount of the credit for the improvement or
 161 dedication; and
 162 (5) certify the amount of the credit to the Department of Permitting
 163 Services before that Department or a municipality issues any
 164 building permit.

165 [(d)] (g) An applicant for subdivision, site plan, or other development
 166 approval from the County, Gaithersburg, or Rockville, or the owner of
 167 property subject to an approved subdivision plan, development plan,
 168 floating zone plan, or similar development approval, may seek a
 169 declaration of allowable credits from MCPS. MCPS must decide,
 170 within 30 days after receiving all necessary materials from the
 171 applicant, whether any public school improvement which the applicant
 172 has constructed, contributed to, or intends to construct or contribute to,
 173 will receive a credit under this subsection. If during the initial 30-day
 174 period after receiving all necessary materials, MCPS notifies the
 175 applicant that it needs more time to review the proposed improvement,
 176 MCPS may defer its decision an additional 15 days. If MCPS indicates
 177 under this paragraph that a specific improvement is eligible to receive
 178 a credit, the Director of Permitting Services must allow a credit for that
 179 improvement. If MCPS cannot or chooses not to perform any function

180 under this subsection or subsection (c), the Department of Permitting
 181 Services must perform that function.

182 ~~[(e)]~~ (h) (1) A property owner must receive a credit for constructing or
 183 contributing to the cost of building a new single family residence
 184 that meets Level I Accessibility Standards, as defined in Section
 185 52-107(a).

186 (2) The credit allowed under this Section must be as follows:

187 (A) If at least 5% of the single family residences built in the
 188 project meet Level I Accessibility Standards, then the
 189 owner must receive a credit of \$250 per residence.

190 (B) If at least 10% of the single family residences built in the
 191 project meet Level I Accessibility Standards, then the
 192 owner must receive a credit of \$500 per residence.

193 (C) If at least 25% of the single family residences built in the
 194 project meet Level I Accessibility Standards, then the
 195 owner must receive a credit of \$750 per residence.

196 (D) If at least 30% of the single family residences built in the
 197 project meet Level I Accessibility Standards, then the
 198 owner must receive a credit of \$1,000 per residence.

199 (3) Application for the credit and administration of the credit must
 200 be in accordance with Subsections 52-107(e) and (f).

201 (4) A person must not receive a tax credit under this Section if the
 202 person receives any public benefit points for constructing units
 203 with accessibility features under Chapter 59.

204 ~~[(f)]~~ (i) The Director of Finance must not provide a refund for a credit
 205 which is greater than the applicable tax.

206 ~~[(g)]~~ (j) Any credit issued under this Section before December 31, 2015
207 expires 6 years after the Director certifies the credit. Any credit issued
208 under this Section on or after January 1, 2016 expires 12 years after the
209 Director certifies the credit.

210 ~~[(h)]~~ (k) After a credit has been certified under this Section, the property
211 owner or contract purchaser to whom the credit was certified may
212 transfer all or part of the credit to any successor in interest of the same
213 property. However, any credit transferred under this subsection must
214 only be applied to the tax due under this Article with respect to the
215 property for which the credit was originally certified.

216 **Sec. 2. Transition.**

217 The amendments in Section 1 take effect on March 1, 2021 and must apply to
218 any application for a building permit filed on or after March 1, 2021 except that the
219 amendments related to discounts or exemptions for projects with 25% MPDUs must
220 only apply to development for which a preliminary plan application is filed and
221 accepted on or after March 1, 2021.

LEGISLATIVE REQUEST REPORT

Bill 38-20

Taxation - Development Impact Taxes for Transportation and Public School Improvements – Amendments

DESCRIPTION:	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.
PROBLEM:	This Bill is part of the Planning Board's recommended changes to the Subdivision Staging Policy.
GOALS AND OBJECTIVES:	Improve the development review process.
COORDINATION:	The Planning Board and Planning Department staff
FISCAL IMPACT:	Office of Management and Budget
ECONOMIC IMPACT:	OLO
EVALUATION:	To be determined.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Pamela Dunn, Senior Legislative Analyst and Robert H. Drummer, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	None.

Economic Impact Statement

Office of Legislative Oversight

Bill 38-20

Taxation – Development Impact Taxes for Transportation and Public School Improvements – Amendments

SUMMARY

While enacting Bill 38-20 would likely have significant and broad economic impacts in the County, the Office of Legislative Oversight (OLO) is unable to determine the nature and magnitude of these impacts due to information, time, and analytical challenges. In particular, the overall change in economic activity that would occur if the Bill is enacted depends on the net change in transportation and school impact tax revenue. However, due to the complexities involved in estimating the Bill's effect on revenues, the Office of Management and Budget (OMB) has requested an extension for the fiscal impact statement. Moreover, Bill 38-20 includes policy changes that are part of the Planning Board's overall changes to the Subdivision Staging Policy (SSP). These other, complementary changes are presented in Expedited Bill 39-20, Taxation – Recordation Tax – Amendments, and the SSP.¹ The complex interactions of these changes to the SSP prevent OLO from being able to conduct an in-depth economic analysis in the confines of a discussion of Bill 38-20 alone. For these reasons, OLO recommends that the economic impacts of Bill 38-20 be discussed during the committee hearing on the Bill.

BACKGROUND

As part of the Planning Board's recommended changes to the SSP, Bill 38-20 proposes changes to the transportation and school impact taxes. The goal of Bill 38-20 is to stimulate housing development in desired growth areas in Montgomery County. On the transportation side, enacting the Bill would modify the impact tax districts and tax exemptions (e.g., removing areas previously designated as enterprise zones and including development within Qualified Opportunity Zones),² and increase the rate for the transportation impact tax for certain non-exempt developments.³ On the school side, the Bill would change the relatively uniform public school impact tax that is currently in place by establishing public school impact tax districts and varying the rates for each district to promote housing development in desired growth areas.⁴ It would also make the same modifications to the tax exemptions as those for the transportation impact tax,⁵ and permit property owners to receive tax

¹ See Montgomery County Council, Expedited Bill 39-20, Taxation – Recordation Tax – Amendments, Introduced on July 29, 2020, Montgomery County, Maryland; and Montgomery Planning, Draft Growth Policy Resolution in *2020-2024 County Growth Policy: Planning Board Draft Appendices*, Montgomery County, Maryland, 86-107.

² Montgomery County Council, Bill 38-20, Taxation – Development Impact Taxes for Transportation and Public School Improvements – Amendments, Introduced on July 29, 2020, Montgomery County, Maryland, 1-3.

³ Ibid, 4.

⁴ Ibid, 4-6.

⁵ Ibid, 4-5.

Economic Impact Statement

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credits for constructing or contributing to physical school facility improvements.⁶ If enacted, these changes would take effect on March 1, 2021.⁷

METHODOLOGIES, ASSUMPTIONS and UNCERTAINTIES

There are several uncertainties that challenge OLO's ability to estimate the economic impacts of enacting Bill 38-20. OLO recommends that these uncertainties be discussion points for future dialogue on the Bill.

A key challenge is that the complex interactions among Bill 38-20, Expedited Bill 39-20, and other changes to the SSP. To illustrate, the economic impacts of enacting Bill 38-20 would greatly depend on the extent to which it would stimulate housing development in the County and where this development would take place. The revised SSP would permit more housing development by eliminating the vast majority of moratoria on developments. Bill 38-20 would attempt to incentivize development in specific areas by modifying the impact tax conditions and rates. However, it is unclear whether these changes would be enough to induce development and, if so, where in the County this development would be more likely to take place.

Moreover, the overall net change in revenues that would occur if Bill 38-20 and/or Expedited Bill 39-20 are enacted would also influence the economic impacts of changes to the impact taxes. To estimate the economic impacts, OLO would need the revenue projections in the fiscal impact statements for Bill 38-20 and Expedited Bill 39-20, which are currently not available. These projections would determine the direction and degree of the individual and combined multiplier effect of the changes to the SSP. As stated above, Bill 39-20 would impact developers' income by modifying the impact taxes. Expedited Bill 39-20 would impact net household income by reducing recordation taxes for first-time homebuyers and increasing these taxes for other purchasers of property.⁸ In this way, the enactment of both Bills could offset or enhance their effects on economic output, earnings, and employment. Secondly, since both Bills target Montgomery County Public Schools' (MCPS) capital budget, the individual and combined net changes in revenues could have differential impacts on capital improvements to schools. Thus, the impact of Bill 38-20 on private contractors and other businesses that would (or would not) be involved in these projects depends on whether Expedited Bill 39-20 is enacted.

Finally, the COVID-19 pandemic and the current economic recession are expected to continue adversely affecting employment, incomes, business operations, supply chains, distribution systems, and other economic conditions in Montgomery County. These crises will influence the considerations raised above, as well as the Bill's impact on the County's priority indicators. For this reason, OLO recommends that future dialogue on Bill 38-20 also considers how

⁶ Ibid, 7.

⁷ Ibid, 10.

⁸ Montgomery County Council, Expedited Bill 39-20, Taxation – Recordation Tax – Amendments, Introduced on July 29, 2020, Montgomery County, Maryland.

Economic Impact Statement

Office of Legislative Oversight

the pandemic and recession might influence the outcomes of this policy, as well as the other changes to the SSP.

No methodologies are used in the subsequent analysis. The assumptions underlying the claims are based on OLO staff judgment.

VARIABLES

The primary variables that could affect the economic impacts of enacting Bill 38-20 are the following:

- Enactment of Expedited Bill 39-20 and other changes to the SSP;
- Net change in transportation and school impact taxes paid by developers;
- Net change in recordation taxes paid by purchasers of property;
- Likelihood of the Bill in stimulating housing development projects;
- Quantity, type, and location of these projects; and
- Net change in capital improvements to schools.

IMPACTS

Businesses, Non-Profits, Other Private Organizations

workforce, taxation policy, property values, incomes, operating costs, private sector capital investment, economic development, and competitiveness

As a change in taxation policy to influence private sector capital investment in housing, the enactment of Bill 38-20 could significantly impact developers and other businesses. Depending on the location of development projects, developers could experience an increase or decrease in transportation and public school impact taxes, which would impact these businesses in cases where projects, both, would and would not have occurred in the absence of enacting Bill 38-20.

For projects that would have occurred in the Bill's absence, developers that receive a tax break would experience a net reduction in operating costs and increase in income. In contrast, developers that pay more in impact taxes would experience a net increase in operating costs and decrease in income. Changes to business operating costs could affect workforce decisions regarding hiring and wages.

OLO believes that the enactment of Bill 38-20 (especially if combined with the end of moratoria) would likely stimulate the occurrence and location of housing developments in the County. That is, there would be projects that would not have otherwise occurred in the absence of the Bill. In these cases, the economic impacts of the Bill would be more significant. Indeed, new development projects would increase the size of developers' workforce, influence property values and economic development in surrounding areas, and possibly improve the County's competitiveness by attracting developers who otherwise would have pursued projects in surrounding jurisdictions. However, as previously discussed, information and time limitations prevent

Economic Impact Statement

Office of Legislative Oversight

OLO from estimating the likelihood and magnitude of the Bill's impacts on the Council's priority indicators.⁹

Residents

workforce, taxation policy, property values, incomes, operating costs, private sector capital investment, economic development, and competitiveness

In cases where the enactment of Bill 38-20 triggers housing development projects, County residents, especially those living near them, would be economically impacted. New developments would influence the supply of affordable housing, employment, property values, economic development, and competitiveness. However, the limitations previously mentioned prevent OLO from performing a more thorough analysis of the likelihood, magnitude, and distribution of these effects on residents.

WORKS CITED

Montgomery County Council. Bill 10-19 Legislative Branch – Economic Impact Statements – Amendments. Enacted on July 30, 2019. Montgomery County, Maryland.

Montgomery County Council. Bill 38-20, Taxation – Development Impact Taxes for Transportation and Public School Improvements – Amendments. Introduced on July 29, 2020. Montgomery County, Maryland.

Montgomery County Council. Expedited Bill 39-20, Taxation – Recordation Tax – Amendments. Introduced on July 29, 2020. Montgomery County, Maryland.

Montgomery Planning. *2020-2024 County Growth Policy: Montgomery County Planning Board Draft*. Montgomery County, Maryland, <https://montgomeryplanning.org/wp-content/uploads/2020/07/County-Growth-Policy-1.pdf>.

Montgomery Planning. *2020-2024 County Growth Policy: Planning Board Draft Appendices*. Montgomery County, Maryland.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent the OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

Stephen Roblin (OLO) drafted this economic impact statement after consultation with Jason Sartori, Countywide Planning and Policy Chief, and Lisa Govoni, Housing Policy Coordinator, with the Montgomery County Planning Department.

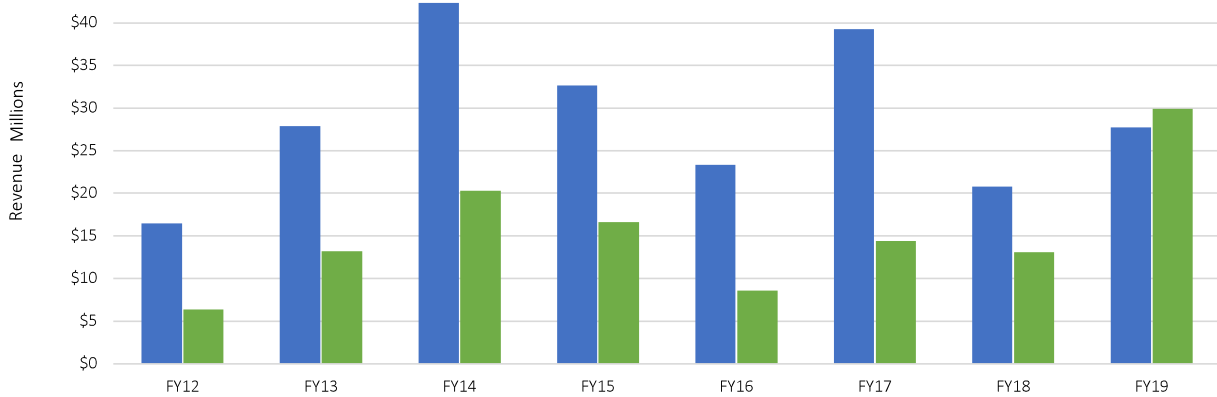
⁹ For the Council's priority indicators, see Montgomery County Council, Bill 10-19 Legislative Branch – Economic Impact Statements – Amendments, Enacted on July 30, 2019, Montgomery County, Maryland, 3.

CHAPTER SIX

TAX RECOMMENDATIONS

Private developers share the responsibility of investing in public schools and roads by paying impact taxes for both. Traditionally, updates to the Subdivision Staging Policy have been conducted concurrently with reviews of development impact taxes. A frequent refrain heard from various stakeholders is the need to generate more funding for the MCPS capital budget. Impact taxes play a role, funding approximately 8 percent of the MCPS capital budget in both FY19 and FY20. Figure 36 demonstrates the amount of both school and transportation impact taxes collected over the last eight years.

Figure 36. Development Impact Taxes Collected Annually, FY12-FY19.



Source: Montgomery County Department of Finance, Controller's Division

School Impact Taxes

Currently, developers pay school impact taxes on all new residential development, whether or not the schools in the area of development are over capacity. The school impact tax helps pay for the construction or expansion of school facilities across the entire county and is currently calculated at 120 percent of the cost of each additional student seat generated by a new housing unit. In addition to the 120 percent factor, the current tax calculation uses countywide student generation rates, by dwelling type, and per student school construction costs provided by MCPS.



Recommendation 6.1: *Change the calculation of school impact taxes to include one tax rate for all multifamily units, in both low-rise and high-rise buildings, based on the student generation rate for multifamily units built since 1990.*

The school impact taxes currently include two different impact taxes for multifamily housing, one for high-rise buildings (five stories or more), and one for low-rise (four stories or less). Montgomery Planning recommends charging one impact tax for multifamily regardless if the units are in low-rise or

high-rise buildings. As discussed earlier in Chapter 4, there is no distinguishable difference in the student generation rates of low-rise and high-rise multifamily units constructed since 1990. This recommendation is consistent with Recommendation 4.13 pertaining to updated student generation rates.



Recommendation 6.2: *Calculate standard school impact taxes at 100% of the cost of a student seat using School Impact Area student generation rates. Apply discount factors to single-family attached and multifamily units to incentivize growth in certain desired growth and investment areas. Maintain the current 120% factor within the Agricultural Reserve Zone.*

In 2016, the County Council changed the calculation of impact taxes, which had previously been calculated at 90 percent of the cost of a student seat, to be calculated at 120 percent of the cost of a student seat. This was done, in part, to compensate for elimination of additional developer payments, that were required when a cluster exceeded certain projected utilization thresholds. With the introduction of Utilization Premium Payments (see Recommendation 4.16) for schools that are identified as overcrowded, the Planning Board recommends setting the calculation of the standard school impact tax rates using a 100 percent factor.

The [Montgomery County Housing Needs Assessment](#) demonstrated that housing cost burden, defined as households who pay more than 30 percent of their income for housing, is rising within the county's transit corridors – many of which connect the county's Activity Centers.⁴⁵ Activity Centers are typically where future housing growth is directed due to proximity to multi-modal transportation and employment centers. Some Activity Centers, however, are not projected for growth and others are experiencing large amounts of growth today without impact tax incentives. The

Planning Board recommends charging 60 percent of the school impact tax for single-family attached (townhouse) and multifamily development in desired growth and investment areas. This would include all Activity Centers located within Infill and Turnover Impact Areas, except for the following:

- Olney Activity Center (large area, little growth, not projected for large amounts of growth);
- Kensington Activity Center (large area, little growth, not projected for large amounts of growth);
- NIH Walter Reed Activity Center (little growth, not projected for large amounts of growth);
- Bethesda Activity Center (already experiencing high levels of growth); and
- Clarksburg Activity Center (already experiencing high levels of growth).

In addition to the select Activity Centers, the Planning Board recommends providing the discounted school impact taxes to development on parcels within a 500 foot buffer of an existing Bus Rapid Transit (BRT) line or planned BRT line with construction funding included in the county's adopted Capital Improvements Program. At this point in time, this includes the planned BRT routes along US 29, MD 355 and Veirs Mill Road. This approach will help encourage a desired type of growth in these areas by helping to lower development costs. Not only is this consistent with smart and sustainable growth principles, it can help reduce the cost burden in these areas by both increasing the housing supply generally and increasing the amount of affordable housing. Figure 37 shows the location of the desired growth and investment areas relative to the School Impact Areas.

⁴⁵ Activity Centers are identified by the Metropolitan Washington Council of Governments in conjunction with local planning agencies. The 23 Montgomery County Activity Centers are concentrated in urban centers, towns and along major transportation corridors

Figure 37. Map of School Impact Areas and Designated Growth and Investment Areas.

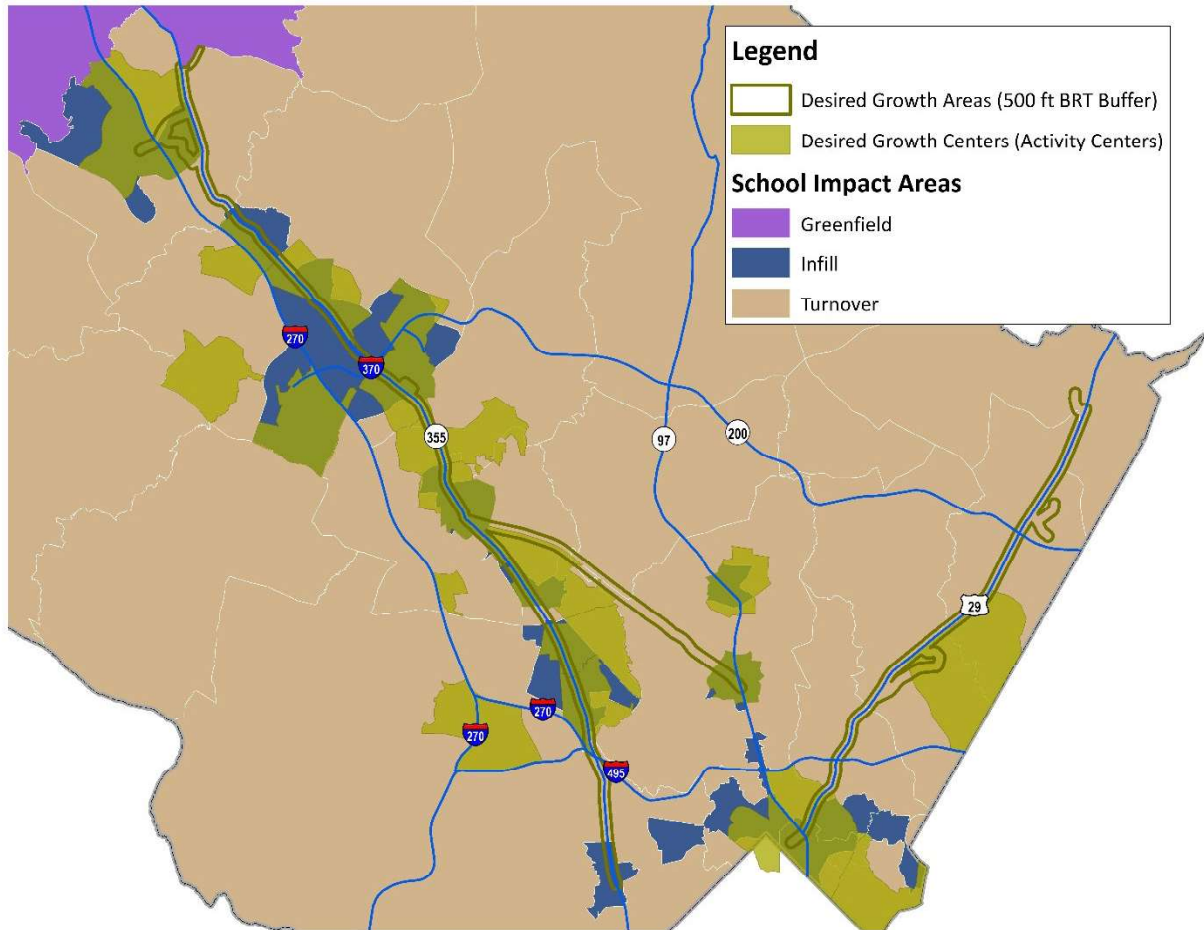
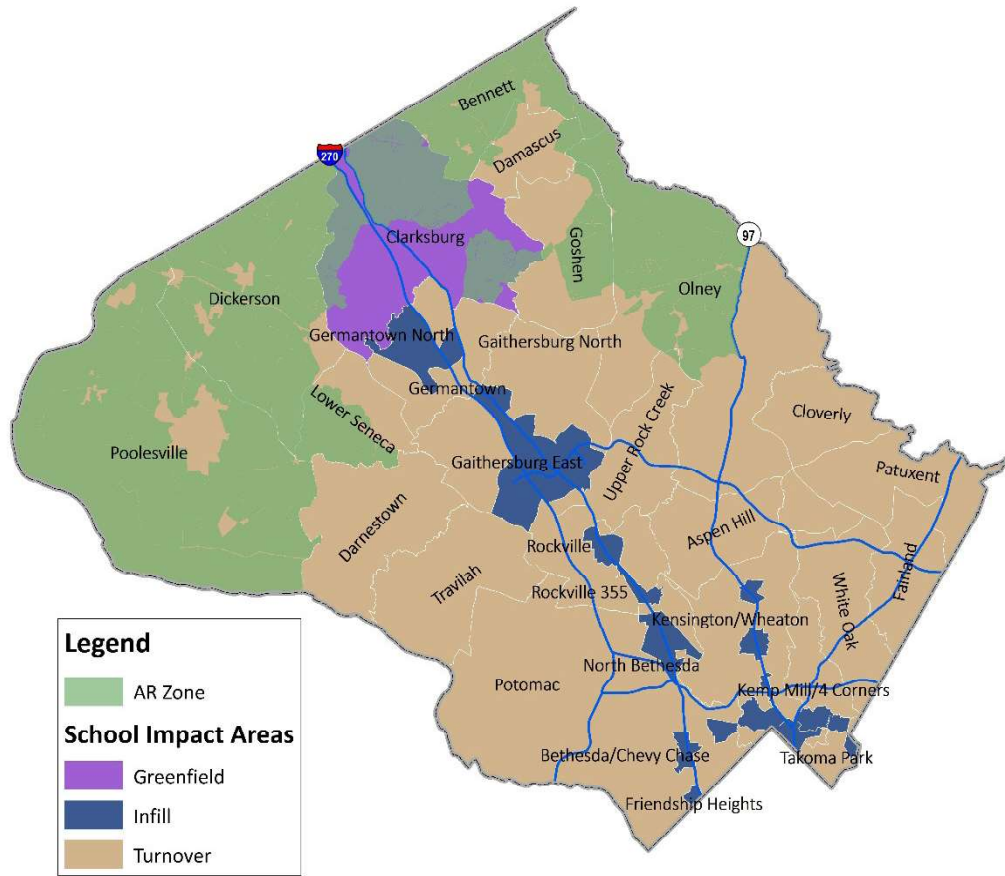


Figure 38. Map of School Impact Areas and the AR Zone.



Maintaining the current 120 percent factor for school impact taxes collected on housing units built within the Agricultural Reserve zone recognizes that we do not want to encourage growth in these areas. This zone already limits development density to one unit per 25 acres and does not see large scale development anyway. Figure 38 shows the location of lands in the Agricultural Reserve zone relative to the School Impact Areas.

Table 16 provides a comparison of the proposed per unit school impact taxes based on the Planning Board’s recommendations, compared to the current rates.

Table 16. Proposed Context Sensitive School Impact Tax Rates.

			Single-family Detached	Single-family Attached	Multifamily Low-Rise	Multifamily High-Rise
Current Countywide Rates			\$26,207	\$27,598	\$21,961	\$6,113
Proposed Rates	Infill Impact Areas	Standard	\$19,707	\$17,311	\$4,370	
		Desired Growth	\$19,707	\$10,387	\$2,622	
	Turnover Impact Areas	Standard	\$21,582	\$23,928	\$9,688	
		Desired Growth	\$21,582	\$14,357	\$5,813	
	Greenfield Impact Areas	AR Zone	\$25,898	\$28,714	\$11,626	
		Standard	\$33,809	\$28,691	\$24,898	
		AR Zone	\$40,571	\$34,429	\$29,878	



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

Impact tax credits are currently available for the value of dedicated land and any improvements that add classroom capacity. This recommendation allows a credit for other school facility condition improvements (roof replacements, HVAC system upgrades, etc.) made or paid by the developer.

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. As demonstrated in Figure 39, student generation data show that there is no relationship between the size of a single-family unit and the number of public school students generated. In other words, larger single-family homes do not necessarily generate more students compared to smaller-sized homes.



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

Figure 39. Single-Family Detached Student Generation Rates by Gross Floor Area.

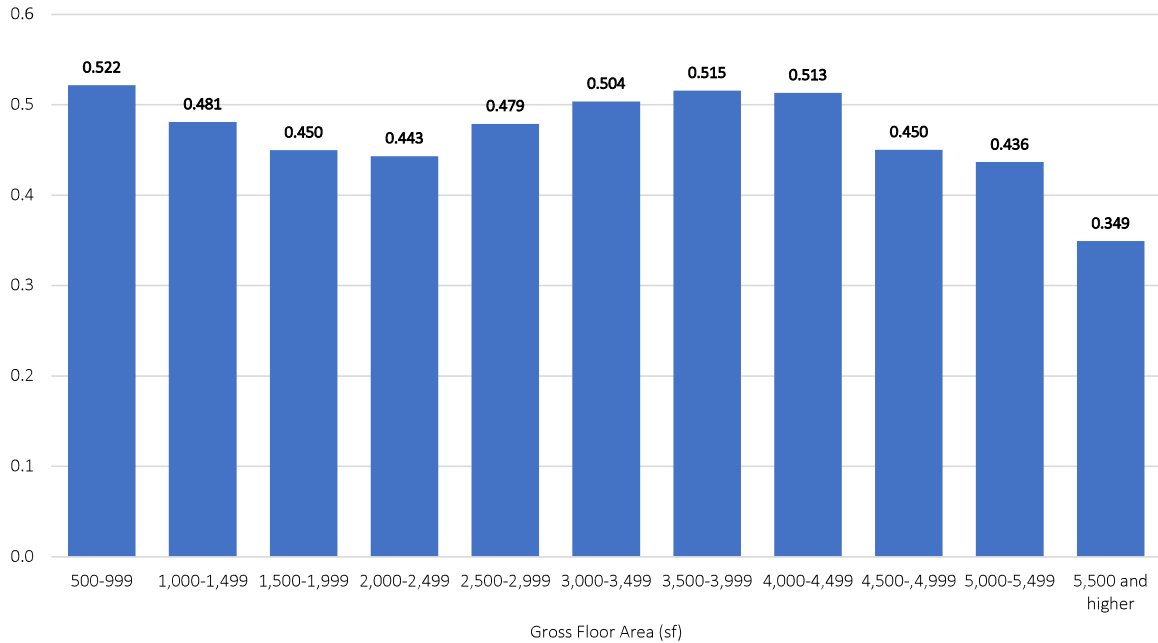
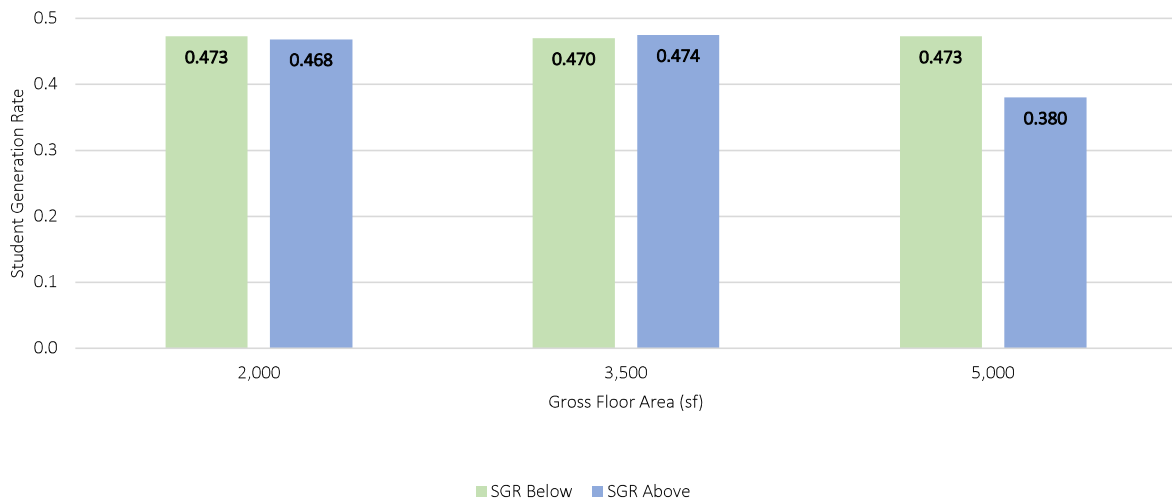


Figure 40 further highlights the difference between home size above and below three different thresholds: 2,000 square feet, 3,500 square feet and 5,000 square feet. These data demonstrate no connection between the size of the home and the number of public school students living in the home.

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



Impact Tax Exemptions on Residential Uses

Table 17 identifies the school and transportation impact tax exemptions that currently apply to residential uses, and indicates which the Planning Board recommends amending.

Table 17. Exemptions to Development Impact Taxes.

Current Exemption	School	Transportation	Recommended
1 Any Moderately Priced Dwelling Unit (MPDU)	Exempt	Exempt	Maintain
2 Any dwelling unit for which the price or rent charged is limited for at least 15 years to make the unit affordable to households earning equal to or less than 60% of the area median income, adjusted for family size	Exempt	Exempt	Maintain
3 Any Personal Living Quarters unit that meets the price or rent eligibility standards for an MPDU	Exempt	Exempt	Maintain
4 Any dwelling unit in an Opportunity Housing Project, which meets the price or rent eligibility standards for an MPDU	Exempt	Exempt	Maintain
5 Any dwelling unit built by high school students under a program operated by the Board of Education	Exempt	Exempt	Maintain
6 Any farm tenant dwelling	Not exempt	Exempt	Maintain
7 Any dwelling unit in a development that is age-restricted for seniors 55 and older	Technically not exempt, but rate set to \$0	Not exempt	Maintain
8 Any development located in an Enterprise Zone designated by the state or in an area previously designated as an Enterprise Zone	Exempt	Exempt (including commercial uses)	Amend to excluded former Enterprise Zones and add Qualified Opportunity Zones
9 Any otherwise non-exempt dwelling unit in a development in which at least 25% of the dwelling units are exempt under number 1, 2, 3 or 4 above	Exempt	Exempt	Amend to limit the exemption and require the affordable units be placed in the MPDU program

The Planning Board recommends maintaining the exemptions identified as numbers 1 through 6 above. Exempting impact taxes on these affordable units helps make them more financially viable to the developer and supports the construction of affordable housing in the county.

Communities that are age-restricted for residents 55 and older can still have school-aged residents, although a quick review of 2018 countywide enrollment data revealed that there are very few MCPS students residing in age-restricted units. The need for housing that meets the needs of

older adults, however, will grow significantly in Montgomery County in the years to come, largely because of the aging baby boom generation population increasing the county’s already large base of residents 55 and older.

The Planning Board does have recommendations on the final two exemptions pertaining to Enterprise Zones and providing 25 percent affordable units, described below.

Enterprise Zone Exemptions

The Maryland Enterprise Zone program designates areas of the state meeting certain requirements as targets for employment growth. A business owner in an Enterprise Zone may apply for income tax credits based on the number of jobs created by the business within the zone. Property tax credits are also available for businesses that hire new employees or invest in capital improvements. The Enterprise Zone designations are for a period of 10 years. In Montgomery County there are former Enterprise Zones in Wheaton (expired in 2019) and the Silver Spring CBD (expired in 2006), and current Enterprise Zones in Olde Towne Gaithersburg (expires in 2028), Glenmont (expires in 2023), Long Branch/Takoma Park (expires in 2023), and Burtonsville/Briggs Chaney (expires in 2027).



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

The purpose behind exempting Enterprise Zones from impact taxes was to encourage revitalization and support economic growth within the zone by making development more affordable. In 2007, the County Council increased the transportation and school impact taxes significantly. Recognizing that the Silver Spring CBD's Enterprise Zone designation had recently expired, and the district was only just beginning to experience the desired redevelopment, the Council chose to extend the impact tax exemptions to former Enterprise Zones. Fourteen years have passed since the expiration of the Silver Spring CBD Enterprise Zone designation, and both Silver Spring and Wheaton have experienced strong revitalization efforts.

Both former Enterprise Zones are also located within Desired Growth Areas. The Planning Board recommends applying an impact tax discount to development within identified Desired Growth Areas, as discussed in Recommendation 6.2. Most of both areas are also located within Qualified Opportunity Zones. In Recommendation school Infill Impact Areas and transportation Red Policy Areas, where

impact taxes are lowest. Therefore, reintroducing impact taxes to these former Enterprise Zones is not expected to hinder development in either area but will help generate funds needed to support the school and transportation CIP projects from which these areas benefit.

Opportunity Zone Exemptions

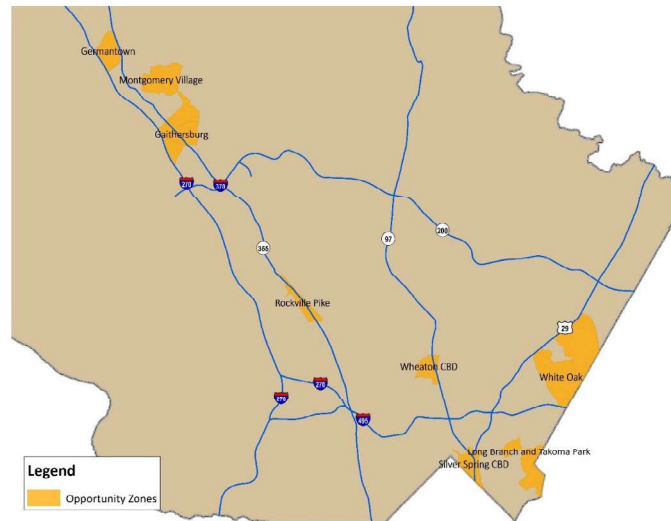
An Opportunity Zone is an economically distressed community where private investments may be eligible for capital gain tax incentives. They were created in 2017 as part of the federal Tax Cuts and Jobs Act. The program requires state-nominated areas to be certified by the US Treasury Department. There are 14 census tracts in the county that have been certified as Qualified Opportunity Zones. These have been aggregated into the areas shown in Figure 41. Once a designation is made, it remains for 10 years.

In many ways these are similar to Enterprise Zones, which are state designated areas that provide property tax credits to businesses that create new jobs. While the Opportunity Zone program is relatively new, the county can still use the designations to help target investments, and the Planning Board recommends incentivizing growth in these areas by exempting development in Qualified Opportunity Zones from all impact taxes.



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

Figure 41. Qualified Opportunity Zones in Montgomery County.



25 Percent Affordable Housing Exemptions

The benefits of Montgomery County’s inclusionary zoning program, the Moderately Priced Dwelling Unit (MPDU) Ordinance, are well documented. Enacted in 1973, the MPDU law requires any development with 20 or more residential units to include a minimum of either 12.5 percent or 15 percent of all units to be set aside as affordable. The units are rented or sold to households earning between 65 and 70 percent of the area median income, which makes them affordable to households (of four) earning between \$82,000 and \$88,000 per year. Currently, over 4,500 MPDUs are under a control period.

The benefits of the units also extend beyond providing housing for Montgomery County households. The Century Foundation’s [Housing Policy Is School Policy](#) found that low- and moderate-income children housed in MPDUs in Montgomery County and attending lower-poverty schools significantly outperformed (in reading and math) their lower- and moderate-income peers that did not live in MPDUs.

In 2015, the County Council amended the impact tax law to provide a new exemption based on

the amount of affordable housing in a project. If 25 percent of the residential units qualify for an affordable housing impact tax exemption (those identified as number 1, 2, 3 or 4 in Table 17), then all residential units in the project receive the exemption. Since that time, over twenty projects in various stages of the application process have either used the waiver or signaled their intent to do so. Nine projects have gone to building permit and had a total of over \$30 million in transportation and school impact taxes waived. Six have received Planning Board approval, and six projects are in the early stages of the application process but have signaled their intent to use the waiver. In total, if all twenty-one projects use the waiver potentially over \$100 million in total impact taxes will have been waived.⁴⁶ Of note, together the twenty-one projects will create over 600 additional MPDUs beyond what would otherwise have been required. In the past five years, the MPDU program has created on average around 220 MPDUs per year (both rental and for-sale).

At least nine of the projects have a homeownership component, creating affordable and attainable homeownership opportunities that are sorely needed. The [Montgomery County Housing Needs Assessment](#) noted that the household income required to afford the county's median home value is higher than the county's median household income.⁴⁷ The Housing Needs Assessment also noted a receding supply of market-rate units since 2014. In that year, the county had a surplus of 5,700 units affordable to households at 65 percent of AMI. By 2018, that number receded to a surplus of only 800 units. If this trend continues, there will be a gap of available units in the 65 percent range. Increased MPDU production can help fill this anticipated gap. The MPDU program also helps fill a critical need for households earning below 60 percent of AMI. One-third of MPDUs serve households below 60 percent of AMI, mainly through partnerships with non-profits and the Housing Opportunities Commission.

The benefit provided to a developer by this exemption varies by type of unit and by geography (currently due to the transportation policy areas but also due to the school impact areas in the future). Since the adoption of this exemption, the County Council has also modified the Moderately Price Dwelling Unit (MPDU) law to increase the MPDU requirement for new development projects to 15 percent in areas with high median incomes.



Recommendation 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.*

The Montgomery County Planning Board recognizes the importance of balancing county priorities, including affordable housing production and schools and transportation infrastructure. The suggested modifications to the impact tax exemption seek to strike a balance between the existing county priorities of incentivizing affordable housing production and ensuring adequate schools and transportation infrastructure.

Recommendation 6.7 advances the following amendments to the impact tax code:

1. **Exemption Rate.** The exemption is allowed county-wide for projects that provide 25% MPDUs, and the exemption is only equal to the lowest possible standard impact tax rate for unit type.
2. **MPDU Program.** Requiring the affordable housing units constructed to be placed in the MPDU program ensures the control period on the units is maximized. The MPDU program safeguards the affordability of rental units for a control period of 99 years, whereas other affordable housing programs have much shorter control periods.
3. **Transition clause.** The Planning Board recommends that amendments made to the impact tax exemptions apply to any development for which a preliminary plan application is filed and accepted after the amendments take effect. (Amendments to the impact tax rates would apply to any application for a building permit filed on or after the effect date of the impact tax bill.)

Figure 42 and Figure 43 demonstrate how the Board's proposed revisions to this exemption would be applied for school and transportation impact taxes, respectively.

⁴⁶ These totals are estimated using the current impact tax rates, not the rates proposed in this report by the Planning Board.

⁴⁷ In 2018, the household income required to afford the median home value was \$125,000 and the actual median income was \$108,000.

Figure 42. Application of the 25% MPDU School Impact Tax Exemption.

		Single-family Detached			Single-family Attached			Multifamily		
		Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay
Infill	Standard	\$19,707	\$19,707	\$0	\$17,311	\$17,311	\$0	\$4,370	\$4,370	\$0
Impact Areas	Desired Growth	\$19,707	\$19,707	\$0	\$10,387	\$17,311	\$0	\$2,622	\$4,370	\$0
	Standard	\$21,582	\$19,707	\$1,875	\$23,928	\$17,311	\$6,617	\$9,688	\$4,370	\$5,318
Turnover Impact Areas	Desired Growth	\$21,582	\$19,707	\$1,875	\$14,357	\$17,311	\$0	\$5,813	\$4,370	\$1,443
	AR Zone	\$25,898	\$19,707	\$6,191	\$28,714	\$17,311	\$11,403	\$11,626	\$4,370	\$7,256
Greenfield Impact Areas	Standard	\$33,809	\$19,707	\$14,102	\$28,691	\$17,311	\$11,380	\$24,898	\$4,370	\$20,528
	AR Zone	\$40,571	\$19,707	\$20,864	\$34,429	\$17,311	\$17,118	\$29,878	\$4,370	\$25,508

Figure 43. Application of the 25% MPDU Transportation Impact Tax Exemption.

	Single-family Detached			Single-family Attached			Multifamily Low-rise			Multifamily High-rise			Multifamily Senior		
	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay
Red Policy Area	\$7,838	\$7,838	\$0	\$6,413	\$6,413	\$0	\$4,986	\$4,986	\$0	\$3,561	\$3,561	\$0	\$1,424	\$1,424	\$0
Orange Policy Area	\$19,591	\$7,838	\$11,753	\$16,030	\$6,413	\$9,617	\$12,465	\$4,986	\$7,479	\$8,904	\$3,561	\$5,343	\$3,561	\$1,424	\$2,138
Yellow Policy Area	\$24,490	\$7,838	\$16,652	\$20,038	\$6,413	\$13,625	\$15,582	\$4,986	\$10,596	\$11,130	\$3,561	\$7,569	\$4,452	\$1,424	\$3,028
Green Policy Area	\$24,490	\$7,838	\$16,652	\$20,038	\$6,413	\$13,625	\$15,582	\$4,986	\$10,596	\$11,130	\$3,561	\$7,569	\$4,452	\$1,424	\$3,028





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

This recommendation affirms the current policy in response to Bill 34-19 Housing Impact Fairness Act,⁴⁸ which would have applied school impact taxes to single-family homes that replace demolished homes. Currently, impact taxes are not paid on the replacement homes, as long as construction on the new home begins within a year of the demolition of the original home.

Montgomery Planning analysis of student generation rates among recently torn down and rebuilt homes shows that they generate slightly fewer students on average than other single-family homes that have recently been sold (regardless of the home's

age). The 848 replacement homes built across the county between 2014 and 2018 were generating, on average, 0.557 students per home, or 20.6 percent more students per home than the average single-family detached home across the county (regardless of year built), however, a review of single-family detached homes sold between 2014 and 2018 revealed that they were generating 0.622 student per home on average in 2018, or 11.7 percent more than replacement homes.

Furthermore, when a single dwelling unit replaces another single-dwelling unit, the net housing impact is zero. Over the life of the new home, it will be expected to generate as many students on average in any given year as the original home.

⁴⁸ Bill 34-19 was introduced on October 15, 2019 by lead sponsor Councilmember Evan Glass and co-sponsor Councilmember Will Jawando. The bill would apply the school impact tax on certain replacement homes and create an excise tax for replacement homes that exceed the square footage of the original home. The bill does not alter the applicability of the transportation impact tax. The purpose of the bill is to increase revenue for affordable housing initiatives and public school capital projects.





Committee: Directly to Council
Committee Review: At a future date
Staff: Pamela Dunn, Senior Legislative Analyst
Glenn Orlin, Senior Analyst
Purpose: To receive testimony – no vote expected
Keywords: #SubdivisionStagingPolicy, SSP, recordation tax, impact tax

AGENDA ITEMS 3D, 18-20
September 15, 2020
Public Hearing
ADDENDUM

SUBJECT

Resolution to approve the 2020-2024 Subdivision Staging Policy (SSP)--**ADDENDUM**

EXPECTED ATTENDEES

Hearing sign-ups

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

DESCRIPTION/ISSUE

This addendum includes the County Executive's recommendations and the MCPS Superintendent's comments on the Draft SSP and the associated impact tax and recordation tax bills proposed by the Planning Board. It also includes Councilmember Riemer's proposal to temporarily exempt bioscience facilities from the SSP transportation test.

SUMMARY OF KEY DISCUSSION POINTS

N/A

Councilmembers may wish to have a copy of the SSP Draft and Appendices at hand during the Planning Board's briefing, the public hearing, and all subsequent Committee and Council worksessions.

This report contains:

County Executive's recommendations	© 1-51
MCPS Superintendent's comments	© 52-54
Councilmember Riemer's SSP proposal to temporarily exempt bioscience	© 55-56

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OFFICE OF THE COUNTY EXECUTIVE
Rockville, Maryland 20850

Marc Elrich
County Executive

September 10, 2020

Dear President Katz, PHED Committee Chair Riemer, and Councilmembers,

In accordance with Sec. 33A-15 (c), I am submitting extensive comments and specific policy guidance on the Planning Board Draft for the 2020-2024 SSP.

Introduction

Based on the Executive Branch's thorough review, including detailed analysis by OMB, Finance, and MCDOT, I conclude that I cannot support the Planning Board Draft of the SSP because I simply do not understand why we would do anything that reduces or destabilizes existing revenue sources such as impact taxes or general fund recordation taxes at this time. I recommend instead that the Council let the current SSP remain in place, which will happen automatically once the November 15th deadline for adopting a new SSP passes. Minor modifications to the current SSP noted below could also enhance revenues for infrastructure.

The current proposal is set in another time—before Covid-19. **This SSP proposes rate structure changes that, without changes in exemptions and new funding sources, will result in a loss of \$43.9M dollars from FY21-FY-26 through deep cuts and discounts in the school impact taxes and the elimination of a surcharge, seriously diminishing our ability to provide adequate public facilities.** I know that you share my concern about proposals that could result in millions of dollars in lost revenue for transportation and school facilities.

The Planning Board Draft's disregard for the requirements of the Adequate Public Facilities Ordinance (APFO) is demonstrated not only by its deep tax cuts but also by its treatment of school adequacy. The Planning Board's recommendations tolerate much higher levels of school overcrowding than currently permitted through recommended changes in technical standards (4.6--"snapshot" test), revenue reductions, raising the standard for moratorium in Clarksburg from greater than 120% to greater than 125%, and, finally, by eliminating the emergency button—moratorium—from the rest of the county. As a result, if this SSP is approved, there will be more school overcrowding and no mechanism to manage the overcrowding in most of the county.

In the discussion below, this letter delineates three overriding problems with the Planning Board Draft: 1) It does not meet the SSP's primary purpose – to provide policies for adequate infrastructure to accompany new development, instead, it is an attempt, at great cost, to

incentivize housing in locations where incentives are not needed; 2) it removes the county's ability to manage school overcrowding, except in Clarksburg; and 3) its new transportation recommendations are premature, because the recommendations are based on documents that haven't been completed yet, and are therefore not available for review by either the County Executive or the County Council. There are other transportation concerns, too, that are discussed later.

Fiscal Background

On July 6, I sent the County Council, and on July 28, the Council approved, a FY21 Savings Plan to address the shortfall in revenues due to the pandemic and subsequent economic shutdown. That shortfall in revenues - over \$1 billion during the next six years - will have long-term consequences due to the current charter limit.

These reduced revenues are occurring at a time when we know we don't have enough funding to address current needs or other infrastructure investments needed to grow our economy and maintain our status as a desirable place to live. **For example, legislation to increase State Aid for school construction will require expensive match requirements at the same time that we are ramping down our General Obligation bond borrowing to rein in debt service costs.**

On July 10, the County Executive and County Council President announced that the county has again maintained its Triple-A bond rating. Building on this solid foundation, the county must continue its long tradition of responsible fiscal stewardship through prudent spending policies, careful management of the tax dollars we receive, and investment in job creation.

Statutory Background: Adequate Public Facilities and the SSP

The purpose of the SSP (or "Growth Policy") is to evaluate the adequacy of the infrastructure – schools, transportation and more – to support new development. Under the APFO, the Planning Board "may only approve a preliminary plan when it finds that public facilities will be adequate. Public facilities and services to be examined for adequacy include roads and transportation facilities, sewer and water service, schools, police stations, firehouses, and health clinics." Sec. 50 4.3.J.2. Requirements for adequate public facilities have been in place since 1973, and are also codified in the Maryland Code, Land Use, Section 9-1902.

As you know, the Subdivision Staging Policy (SSP) should provide the means to assure adequate public facilities for new development. The SSP assesses the needs of the county, especially for schools and transportation infrastructure, and the impact of new projects on that infrastructure, and then requires developers to pay their fair share through the payment of impact taxes.

- 1. The Planning Board Draft ignores the requirements of the Adequate Public Facilities Ordinance and reduces school impact taxes without evidence that it is solving any problem.**

The Planning Board Draft is nothing like past SSPs. This new policy ignores the statutory requirements of adequate public facilities. **It gives up necessary revenues. Without approval of changes in impact tax exemptions and a new Utilization Premium Payment, OMB's**

estimate is an impact tax revenue decline of \$43.9M for FY21-FY26. These reductions are the result of eliminating a surcharge, substantially reducing impact taxes rates, and then discounting them an additional 60% in some places in the county. These discounts mean that developers are not paying their fair share of the impact of their new developments on infrastructure. It is essential that the costs of new development be shared fairly and that county residents are not asked to shoulder an unfair portion of infrastructure costs.

In the Planning Board Draft, adequate public facilities are not the primary goal as they should be. Instead, the range of impact taxes is designed to encourage housing in some locations while discouraging it in others. That policy goal should be achieved through the master planning process, not by reducing the amount of money available for necessary infrastructure. There's no evidence that this is solving any problem, and there's no evidence that reducing the impact taxes would reduce the price of apartments or spur developers to build new housing types when they are making profits on the housing that they are building now. Furthermore, if the increased impact taxes in areas such as Clarksburg act as a disincentive as intended, that will result in significant revenue losses not included in OMB's analysis.

The Planning Board Draft never discusses the reality of existing investment behavior and the market. In Montgomery County, there is ample evidence that the greatest demand for new housing and for space to locate businesses is in and around our transportation cores, and more specifically areas along the Red Line. Yet the Planning Board eschews any analysis of markets, and simply assumes that reducing the costs to developers through lower impact taxes will result in less expensive housing being built in selected locations of the county.

The Planning Board Draft's assumption that housing is not locating in the areas where the county wants it is also problematic. **In fact, it appears that substantial housing is going to the locations desired by the county.** Initially, Planning targeted the county's 23 Activity Centers, as defined by COG, for reduced impact taxes, in order to incentivize housing in those ACs. OMB worked with Planning to analyze the consequences of this recommendation, and the proposal as a whole. OMB's analysis showed that 66% of growth was already going to the Activity Centers. Instead of revising the SSP to reflect this new information, the Planning Board reduced the list of locations where it believed development should go, changing Bethesda to a non-desired area for housing. But even the Draft's revised list suggests that substantial growth is already occurring in the county's preferred locations. And when one looks at the revised list plus Bethesda, the results are even better.

There are other, cost neutral ways to reduce the costs of development that will not affect the county's finances. The Planning Board can and should be reducing the parking requirements in new developments. These requirements are particularly costly in Activity Centers that are already transit accessible, and reduced parking forwards our long-term environmental goals to reduce the use of automobiles. Currently, the Executive Branch is reviewing how to reduce the time to process development approvals, which will further reduce costs of development projects. Both of these changes are substantive and beneficial and will not leave the county chasing infrastructure as it did for so many years because of inadequate resources partially caused by developers not paying their fair share.

2. Clarksburg should not be singled out from the rest of the county with different rules for the adequacy of its schools. There must be an emergency button to pause school overcrowding throughout the entire school system.

This SSP developed its own unique groupings of Infill, Turnover, and Greenfield that has different results for different parts of the county, largely because of the 60% discount. Consequently, the Draft recommends much higher school impact tax rates for Clarksburg than elsewhere, and Clarksburg (and Bethesda, too) is designated a non-Desired Growth Area, even though Clarksburg is also a COG approved Activity Center.

This new tax structure is likely to be challenged by affected developers as arbitrary, because, as a result of the discounts, the tax rates in many places aren't commensurate with the new infrastructure needed for the new development. How can the county argue that the undiscounted taxes in Clarksburg are this developer's fair share, while the significantly reduced taxes in another part of the county are the fair share of the developers there? In fact, the actual cost of providing infill infrastructure, like sidewalks, land for parks and schools, is greater in the denser, more urban areas of the county than in places like Clarksburg. And yet Clarksburg would be designated for far greater impact tax assessments.

Clarksburg is also singled out for special treatment for school adequacy—it is the only area that is recommended for a policy of moratorium. The County Executive believes that it is wrong to offer some MCPS students in one geographic location greater protection from school overcrowding than students living in other parts of the county. As explained in greater detail in the recommendations, the County Executive supports a policy of moratorium for the entire county. The Utilization Premium Payments (UPPs) are neither a substitute for moratorium nor an adequate offset to the lost impact taxes. The amounts are too low, and they are triggered too late when overcrowding is already greater than 120%, and school capacity is a crisis. If the Council chooses to use them, UPPs should kick in much earlier, when a school's capacity is at 105%.

3. The Transportation recommendations are premature and should not move forward until the County Executive and the Council have all of the materials that the Planning Board cites as support for its recommendations, the most critical being the Predictive Safety Analysis.

The Transportation recommendations are incomplete and are another reason that the Council should not take this SSP up between now and November 15.

In the Planning Board Draft at p. 68, of the eight planning documents identified to be used to design roads near new development, only three have been completed: the Bicycle Master Plan, the High Injury Network, and the Bicycle Level of Traffic Stress Map. The others, the Pedestrian Master Plan, the Predictive Safety Analysis, the Pedestrian Level of Comfort Map, the Vision Zero Toolkit, and the Complete Streets Design Guide are still in progress. The most important of these is the Predictive Safety Analysis.

The County Executive recommends deleting all references to the Predictive Safety Analysis in the Planning Board Draft, and in the proposed Resolution, including all of TL2.1 Safety System Adequacy, because it does not exist, and has not been implemented or validated.

There is also a problem with Recs. 5.11 through 5.14, whereby the Planning Board Draft appears to restore Policy Area Review for master plans, but nothing is included in the proposed Resolution. It is critical to have the appropriate mechanism to evaluate the adequacy of master plans. The Planning Board needs to explain this discrepancy.

Additionally, the rationale for differentiated transportation impact tax across the county is not based on the cost of adequate infrastructure; again, the taxes are an attempt to incentivize development in certain parts of the county over other parts. While I agree that development should occur in areas closest to transit, that development is guided through the master planning process, not by insufficiently funding infrastructure.

4. Finally, the County Executive does not recommend reductions in school impact taxes and will not support an increase in the recordation tax to make up for the lost impact tax revenues.

The County Executive is concerned that this substantial change in the revenue structure for paying for infrastructure for new development significantly reduces and destabilizes impact tax revenues, a funding source that cannot be used in any other context. The current impact taxes assure that each new development pays its fair share of the cost of new infrastructure. Using the increased recordation tax revenues for infrastructure shifts the burden of new infrastructure costs to residents and forecloses the use of recordation tax revenues for other urgent county needs in this unprecedented time.

OMB points out that while the increase in the recordation tax was proposed in an effort to offset any impact tax losses, the Planning Board has simultaneously proposed a first-time homebuyer exemption. There are significant challenges in determining the impact of the first time homebuyer exemptions – but it is clear that it will not only negate a significant portion of the increased funds for the capital budget and the housing initiative fund, but it will also reduce recordation taxes coming to the general fund at a time of extreme fiscal stress.

Additional Tax Considerations and a First Glance Analysis of the Tax Implications

The proposed SSP recommendations imply a complex web of financial increases and decreases in County funding sources that are difficult to definitively predict. Since the Council may decide to pick and choose between various options, the fiscal analysis has been segmented to reflect the major changes. Reductions in impact tax revenues due to a new rate structure including the elimination of a surcharge and desired growth area discounts are estimated to result in an estimated \$7.3 million annual reduction in impact taxes (\$43.9 million over a six-year CIP).

These losses are partially offset by proposed changes in existing impact tax exemptions (\$3.5 million/year on net). 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 and I are currently exploring further enhancements to the Planning Board's recommendation for fall Council consideration.

Elimination of the exemption for former enterprise zones also makes sense given our tremendous infrastructure needs – particularly for impact taxes for school construction. Unfortunately, the elimination of the former enterprise zone exemption is effectively negated by the Board’s recommendation to provide exemptions to developers in opportunity zones where significant federal tax breaks are already in place.

The Planning Board has also proposed a new Utilization Premium Payment based on a percent of the appropriate impact tax that could yield an estimated \$4 million a year when school enrollment would be over 120 percent of capacity. The timing of these payments, however, is an issue. Waiting until schools are above 120 percent of their enrollment capacity will simply provide too little too late.

It is important to know the limitations of our ability to accurately forecast future impact taxes and related revenues based on the Planning Board recommendations. Two approaches have been used to estimate impacts – 1) a forecast based on prior history, and 2) an analysis of projects that are in the development pipeline. The forecast approach assumes that prior development patterns will continue. With the proposed rate structure, impact tax rates would increase significantly in Clarksburg. Based on substantial prior development in Clarksburg, the forecast methodology assumes that Clarksburg impact taxes will cover the significant reductions in impact taxes from other parts of the County. If these same development patterns do not occur, our revenue losses could be considerable. Similarly, the pipeline analysis assumes a ten-year buildout period. If these projects move faster or slower – or not at all, that will also affect revenues.

As noted above, OMB is also analyzing the proposed changes in the recordation taxes. While the proposed rate increase would generate additional income, a preliminary analysis of a proposed first-time homebuyer exemption appears to largely offset this increase – and will certainly result in a decrease in funding for the general fund – precisely when we need the revenues.

While not directly related to the SSP, there are several additional changes to the impact tax law that I would like Council to consider while other impact tax legislative changes are under consideration. The first relates to improving our partnerships with Gaithersburg and Rockville to facilitate the productive use of transportation impact taxes collected for development projects within the municipalities. We are in the process of setting up meetings with local officials and staff to discuss refinements to our partnership, and we will update you on our progress. In addition, language to clarify eligible costs for roads will be helpful in ensuring that credits are only granted for projects that improve transportation capacity.

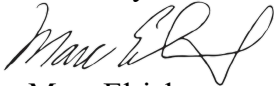
Conclusion

Adequate public facilities are a critical part of building a thriving and successful community. If school capacity is disregarded and there’s no concern about managing congestion, then we risk losing our perceived edge in education and we confirm to businesses and residents alike that we’re not serious about transportation. If competitiveness is the issue vis a vis our neighbors, then we should consider how our neighbors raised the money to meet their infrastructure needs. I think that what we will find is that their focus was not on ways to reduce the revenues coming

from development – rather, the opposite – they looked for ways to ensure the resources needed to provide the infrastructure for a growing community.

I have attached OMB’s PowerPoint, as well as Executive branch comments on each of the 44 recommendations in the Planning Board Draft. These attachments substantiate that the county is better served by the current SSP than by a new SSP that loses substantial impact tax revenues instead of providing needed funding for adequate roads and transportation facilities, sewer and water service, schools, police stations, firehouses, and health clinics for Montgomery County residents and their children.

Sincerely,

A handwritten signature in black ink, appearing to read "Marc Elrich". The signature is fluid and cursive, with the first name "Marc" written in a larger, more prominent script than the last name "Elrich".

Marc Elrich

c: Glenn Orlin, Senior Analyst, County Council
Pam Dunn, Senior Legislative Analyst, County Council

County Executive Comments on the Planning Board Draft for the 2020-2024
County Growth Policy—September 10, 2020

Index of Recommendations

Recommendation	Page
<i>Policy Recommendations: County Growth Policy</i>	
<p>3.1 <u>Change the name of the Subdivision Staging Policy to the County Growth Policy.</u></p> <p>The CE agrees.</p>	34
<i>Schools Recommendations: School Impact Areas</i>	
<p>4.1 <u>Classify county neighborhoods into School Impact Areas based on their recent and anticipated growth contexts. Update the classifications with each quadrennial update to the County Growth Policy.</u></p> <p>The CE opposes these classifications as irrelevant to an SSP that provides adequate public facilities. The CE also questions their usefulness even for the purpose for which they were created.</p> <p>This division is only necessary to implement the schedule of impact fees and discounts that the Planning Board recommends in order to encourage certain housing types in certain parts of the county. It is not being used for the purposes of the SSP—to diagnose infrastructure problems, and provide for adequate public facilities. What do these divisions add to the SSP requirement to evaluate school overcrowding attributable to new development?</p> <p>4.2 <u>Classify all Red Policy Areas (Metro Station Policy Areas and Purple Line Station Policy Areas) as Impact Policy Areas.</u></p> <p>MCDOT recommends deferring classifying the Purple Line Stations to Red Policy Areas, and the CE supports that recommendation.</p> <p>It is preferable to wait until the Purple Line is ready to be operational. Developments under construction should be reviewed under current provisions and not the proposed new provisions for the Red Policy Area. The county should also wait in order to get the benefit of the University of Maryland’s review of the Purple Line Corridor planned land use and TOD opportunities.</p>	37
<i>Schools Recommendations: Annual School Test and Utilization Report</i>	
<p>4.3 <u>By January 1, 2021, the Planning Board must adopt a set of Annual School Test Guidelines which outline the methodologies used to conduct the Annual School Test and to evaluate the enrollment impacts of development applications and master plans.</u></p> <p>The CE believes that to the extent that the Planning Board uses new methodologies in the Annual School Test, those should be disclosed now, and reviewed by the County Council. Planning Staff should also consult with MCPS.</p>	43
<p>4.4 <u>The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle and high school, for the purposes of determining school utilization adequacy.</u></p>	43

The CE is open to discussing borrowing as a general policy to ameliorate school overcrowding. Borrowing needs to be discussed by the County Executive, the Council and MCPS to develop a policy that is workable and benefits the students and the school.

The CE opposes borrowing that is done ad hoc to allow particular projects to proceed that would otherwise be in moratorium, as described below.

At the SSP work sessions the Planning Board had a long discussion about finding that school X had adequate capacity if a nearby school Y had unused capacity, or was overcrowded, but less overcrowded than X school. The Planning Board has added a special test for Clarksburg in Recommendation 4.11 whereby a school could be considered adequate based on the capacity of a school 10 miles away being at 105% capacity. The CE does not support that proposal.

4.5 [The Annual School Test will evaluate projected school utilization three years in the future using the following school utilization adequacy standards:](#)

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School Adequacy Standards		Adequacy Status		
Projected Utilization	Projected Seat Deficit	Greenfield Impact Areas	Turnover Impact Areas	Infill Impact Areas
> 120%	N/A	UP Payment Required	UP Payment Required	UP Payment Required
> 125%	≥ 115 seats for ES ≥ 188 seats for MS N/A for HS	Moratorium		

The CE supports the Draft’s use of three years rather than the current five years because it is much easier to predict school enrollment three years out.

Moratorium: The CE does not support having moratoria for school overcrowding only in Clarksburg. The CE supports moratoria in all parts of the County when school infrastructure is not adequate to keep up with projected development. It is one school system, and it should be treated as such.

Standard for Moratorium: The CE does not support <125% as the standard for moratorium in Clarksburg. Staff recommended <120% but the Planning Board raised it to <125%. There needs to be a better understanding of the rationale for this increase.

As currently drafted, except in Clarksburg, there is no outer limit to school overcrowding that would require the disapproval of a preliminary plan under the APFO. The only significance of the <120% standard is that when overcrowding reaches that percentage, a developer must pay Utilization Premium Payments (UPPs) in addition to the impact taxes. The fees are the same whether the overcrowding is at 120% or 150%.

The CE does not support reduced, discounted impact taxes with UPPs that result in

<p>the developer not paying his fair share of the infrastructure costs of new development. If, however, the Council approves a tax scheme that includes the proposed UPPs, these payments should be required when overcrowding reaches greater than 105%.</p> <p>THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.</p>	
<p>4.6 The Annual School Test will establish each school service area’s adequacy status for the entirety of the applicable fiscal year.</p> <p>This is a return to the “snapshot” test that resulted in exacerbating overcrowding as many schools got closer to the margin of 120%. The CE does not support the snapshot test. The CE supports a cumulative test that tracks enrollment throughout the year because it is more accurate in capturing SGRs.</p> <p>THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.</p>	45
<p>4.7 The Annual School Test will include a Utilization Report that will provide a countywide analysis of utilization at each school level.</p> <p>The CE does not understand the purpose of a countywide Utilization Report.</p>	46
<p>4.8 The Utilization Report will also provide additional utilization and facility condition information for each school, as available.</p> <p>The CE only supports in-kind developer contributions that add to school capacity, not air conditioning or improvements like that. There also need to be objective standards so that the contribution can be measured, and compared to other in-kind contributions.</p>	47
<p>Schools Recommendations: Residential Development Moratorium</p>	
<p>4.9 Moratoria will only apply in Greenfield Impact Areas. The Planning Board cannot approve any preliminary plan of subdivision for residential uses in an area under a moratorium, unless it meets certain exceptions.</p> <p>As stated before, the CE does not support leaving moratorium in place only in Clarksburg. He believes that there must be an emergency button—an outside limit on school overcrowding—that stops residential development in any area of the county where schools are severely overcrowded. As currently written, there is no outside limit or cap for overcrowding in the county, except in Clarksburg.</p> <p>The CE also does not support the Planning Board’s weakening of this recommendation for moratorium in Clarksburg by deleting the word “automatic” to describe moratoria, and carving out complicated exceptions that increase school overcrowding.</p> <p>THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.</p>	45

<p>4.10 Exceptions to residential development moratoria will include projects estimated to net fewer than one full student at any school in moratorium, and projects where the residential component consists entire of senior living units.</p> <p>The CE has no objection.</p> <p>4.11 Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 3, 5, or 10 network miles (ES, MS, or HS, respectively) of the proposed subdivision and has a projected utilization less than or equal to 105 percent.</p> <p>The CE opposes this exception because it increases school overcrowding.</p> <p>THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.</p>	<p>45</p>
<p>4.12 Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.</p> <p>The County Executive supports the recommendation of DHCA.</p> <p>DHCA—The existing exception would be helpful to retain, with the limitations that Student Generation Rate calculation of under 10 students and the property must provide 50% affordable housing.</p> <p>4.13 Calculate countywide and School Impact Area student generation rates by analyzing all single-family units and multifamily units built since 1990, without distinguishing multifamily buildings by height.</p> <p>It is important to have the most accurate SGRs possible for two reasons: 1) in order to anticipate overcrowding early enough to remedy it, and 2) in order to assure that the developer pays his fair share.</p> <p>The CE does not support merging multi-family buildings when calculating SGRs.</p> <p>Multi-family--The Planning Board Draft, p.54, notes “a major difference” between the SGR when high and low-rise multi-family are counted separately. When calculated separately, low-rise generates on average 3.58 times more students than high rise. The result is an overall higher SGR than when the SGR is calculated for all multi-family units, low and high, without distinguishing between high and low-rise. This discrepancy needs to be resolved. Otherwise, the Planning Staff should continue to calculate high and low rise multi-family separately.</p> <p>Single-Family--Planning Staff recognizes that for single family homes, there is a debate about how to count new houses that were built as a result of tear downs. The Planning Board is of the view that students from new houses/teardown are part of turnover, so long as the new home is built less than a year after the teardown. Using this categorization, 23.3% of all new students are attributable to new development. (SSP work session, June 18, 5:36:26--5:40:50) Planning Staff has calculated what the percentage would be if new homes/teardown</p>	<p>47</p>

were included as new construction--27.6%--an additional 4.3%. (Staff Presentation to Planning Board, March 26)There were 848 homes in this category.

The CE agrees with ULI’s recommendation that new homes/teardown be counted as new construction, and any students generated counted in the SGR.

The ULI said, in part:

The panel understands the interpretation of the staff research and recommendation. However, the panel suggests that the county take into consideration the following in revising the policy: • The impact fee is a single event from a funding perspective; the generation of that fee on what is essentially a “new construction” event (despite the fact that an existing home is being replaced) is important in terms of generation of revenue. • The imposition of an impact fee is a progressive revenue source; the cost of that fee can, and probably will be, rolled into a future mortgage, amortizing the fee over a long period of time.

Schools Recommendations: Student Generation Rate Calculation

Recommendation	Page
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Schools Recommendations: Development Application Review

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4.14 Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to require a development application to be retested for school infrastructure adequacy when an applicant requests an extension of their Adequate Public Facilities validity period.	58
The CE agrees.	

4.15 Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS’ official positions.	58
The CE agrees.	

4.16 Require applicants to pay Utilization Premium Payments when a school’s projected utilization three years in the future exceeds 120 percent. in Turnover and Infill Impact Area when a school’s projected utilization three years in the future established	59
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Table 12. Utilization Premium Payment Calculation Factors.

School Level	Payment Factor
Elementary School	25% of the standard impact tax for the School Impact Area and dwelling type
Middle School	15% of the standard impact tax for the School Impact Area and dwelling type
High School	20% of the standard impact tax for the School Impact Area and dwelling type

The CE supports developers paying their fair share of impact taxes, i.e., an amount that reflects their contribution to increased school enrollment. Impact taxes should be

<p>increased in this SSP so that Utilization Premium Payments are not necessary, and this recommendation rejected. If, however, the Council approves these payments than the payments should be required when overcrowding is greater than 105%, not greater than 120%.</p>	
<p>Transportation Recommendations: Vision Zero Resources</p>	
<p>5.1 Design roads immediately adjacent to new development to account for all identified recommendations from applicable planning documents including Functional Plans, Master Plans and Area Plans.</p> <p>MCDOT has two comprehensive observations about this SSP’s transportation proposals:</p> <ul style="list-style-type: none"> • The new analyses proposed for new development are largely information-gathering with few clear actionable results. . • The motor vehicle analyses continue to use old analysis methodologies that are not giving more practical understanding of traffic operations, and are constraining developments and master plans. The analysis methodology should continue to be explored and updated as appropriate within the current SSP. <p>The CE agrees with these observations. The CE is also concerned that the transportation impact taxes are too low in the Red Policy Areas, and would support an increase in those impact tax rates due to the need and relatively high cost of providing transportation improvements in the more urbanized areas of the County.</p> <p>Furthermore, the CE does not support the recommendation in Sec. 5.1 because it needs clarification, and for the reasons below. The transportation recommendations need more work, and it is premature to consider them at this time. This recommendation requires the roads to be designed to account for all identified recommendations from applicable planning documents, as described above. However, in the Planning Board Draft at p. 68, of the eight planning documents identified, only three have been completed, the Bicycle Master Plan, the High Injury Network, and the Bicycle Level of Traffic Stress Map. The others, the Pedestrian Master Plan, the Predictive Safety Analysis, the Pedestrian Level of Comfort Map, the Vision Zero Toolkit, and the Complete Streets Design Guide are still in progress.</p> <p>The CE recommends deleting all references to the Predictive Safety Analysis; it should be struck from the document, because it has not been implemented or validated, and it should also be struck from Sec. TL.2.1 Safety System Adequacy in the proposed Resolution. Appendix L.</p> <p>Page 68 states that “it is critical that any capacity-based mitigation strategy does not negatively impact the safety of any roadway user.” This statement needs to be restated or deleted, as its goal, as written, is unattainable. The question is how to effectively balance competing needs to create a safe environment for all road users, and to attain Vision Zero for pedestrians, while allowing the roads to be used for the effective movement of vehicles. The county will need to rethink its signalization for cars and for pedestrians, as well as other road safety solutions.</p>	<p>68</p>

<p>1st bullet on p. 68 - Need to include a reference to what these TDM measures are, and how they translate into meeting required mitigation needs. Need to define how collision mitigation strategies, TDM, ped/bike, and transit treatments translate into satisfying vehicular mitigation requirements.</p> <p>Same for Recommendation 5.2. The set of bullets for Rec 5.1 and the set for Rec 5.2 appear to convey largely the same information and intent. This overlap may result in conflict and confusion, as developers use the 1st set of bullets to address mobility metrics and the 2nd set of bullets to address safety metrics. References to "Predictive Safety Analysis" should be replaced with "Systematic Safety Analysis" or similar wording. Their methodology develops an expected number of crashes based on the current built environment and crash history, it does not predict the crash rate or density in the future.</p>	
<p>Transportation Recommendations: Mitigation Priorities</p>	
<p>5.2 Prioritize motor vehicle mitigation strategies designed to improve travel safety.</p> <p>While the recommendation is to prioritize motor vehicle mitigation strategies, in fact, the Planning Board prioritizes non-motorized strategies to mitigate congestion such as payment in lieu, and bike, pedestrians, and transit/TDM strategies. The Planning Board needs to explain what the TDM measures are, and how they translate into satisfying mitigation requirements.</p>	68
<p>Transportation Recommendations: Development Review Committee</p>	
<p>5.3 Given the additional focus on Vision Zero principles in the development review process, designate a Vision Zero representative to the Development Review Committee to review the development application and Vision Zero elements of LATR transportation impact studies and to make recommendations regarding how to incorporate the conclusions and safety recommendations of LATR transportation impact studies.</p> <p>The CE understands this position would be a MCDOT representative, and agrees with that.</p> <p>Planning Board also asked if this recommendation was necessary or redundant. DOT Vision Zero staff are already included in DOT's internal Development Review Committee reviews. Consequently, this recommendation would have no substantive effect on what DOT already does.</p>	70
<p>Transportation Recommendations: Transportation Impact Study Approach</p>	
<p>5.4 Introduce a Vision Zero Impact Statement for LATR studies pertaining to subdivisions that will generate 50 or more peak-hour person trips.</p> <p>CE agrees with comments from MCDOT.</p> <p>1st Bullet – Need to consider what action this prompts from developers; how is this information used? Does it prompt any changes in what actions are required whether they have frontage that is or isn't within the HIN? Need to avoid information-gathering of info that we already have.</p>	70

<p>2nd Bullet – The Vision Zero impact statement should not include crash analysis. For one, it can be a huge lift and is not an expertise that developers have. Second, this is likely to backfire on Planning's intentions to push for safety improvements as savvy developers will argue that the crash volume along their frontage does not warrant them paying for changes to the built environment. Master plans and the pending Complete Streets Design Guide should be driving what is required for improvements regardless of the current or "predicted" crash rates.</p> <p>2nd and 4th Bullets – Need to consider what action this prompts from developers; how is this information used? How does this analysis affect conditioned treatments?</p> <p>5th Bullet – Same. Need to consider what action this prompts from developers; how is this information used? How does a speed study affect conditioned treatments? Do we intend to database these speed studies for future reference? (If so, we need to ensure our Traffic Division (DTEO) has access to these studies.)</p> <p>6th Bullet – So far, it is unclear as to what conditions can be imposed on developers. How do we pick & choose projects and needs, particularly if off-site? We need more definition to this and metrics to guide implementation.</p>	
<p>5.5 For LATR studies of new development generating 50 or more peak-hour weekday person trips, couple current multi-modal transportation adequacy tests with options that can be implemented over time utilizing Vision Zero-related tools and resources currently available and under development.</p> <p>The CE agrees with the comments of MCDOT. See Sec. 5.1. above.</p> <p>When the appropriate set of tools (described in the Vision Zero Resources section above) are operational, the current multi-modal transportation adequacy tests should be updated as described above.</p> <p>We would like to see this Recommendation improve the definition of adequacy for things such as ADA compliance, lighting adequacy, transit needs, pedestrian accessibility, etc.</p> <p><i>SAFETY SYSTEM ADEQUACY</i> – This section needs to be deleted or significantly revised as the current requirements are overly complex and unlikely to have the intended outcome Planning envisions. First, it is overly reliant on a tool, the "Predictive" Safety Analysis, that does not yet exist, so it cannot be assumed in this document that it will produce a valid safety performance function (SPF) for any roadway. Incorporating tools that have not been implemented or validated, such as the predictive safety analysis, should be struck from the document.</p> <p>In addition, by not increasing the estimated number of crashes, this leads the developer to do nothing or the absolute minimum to meet this threshold instead of making meaningful investments called for in the various master plans. It also would allow the developer off</p>	70

<p>the hook if the estimated crashes were near zero.</p> <p>It assumes too much power of the SPF and the calculated crash modification factor (CMF) that you can perfectly quantify the safety benefit down to the decimal. Treatments listed in the Crash Modification Factor Clearinghouse can have multiple CMFs because the Clearinghouse is not based on meta-analyses like other clearinghouses, but may be based on one small study done at one location.</p> <p>The Safety System Adequacy should be based on whether or not the current and proposed buildout of the property meets the requirements of the relevant master plan, ped/bike master plan, and the recommended design in the Complete Streets Guide. Basing the safety system adequacy on hard requirements such as those listed in the guides and plans rather than a convoluted equation that a savvy developer can bend to avoid making improvements is key to making this section work.</p> <p><i>MOTOR VEHICLE SYSTEM ADEQUACY</i> – This document appears to rely heavily on Critical Lane Volume Thresholds or Highway Capacity Manual (HCM) delays to determine roadway adequacy. In more congested areas, these metrics alone may not tell the whole operational story, and may mask some operational issues that contribute to significant safety concerns. Having language that calls for assessing existing vehicular queues by movement for a project’s study area, as well as expected queues with background and build out trips included, would help to reduce situations where excessive queuing and blocking of the roadway network lead to undesirable operations that impact the safety of pedestrians, bicyclists, transit users, and vehicles.</p>	
<p>Transportation Recommendations: Transportation Impact Study Scoping</p>	
<p>5.6 Eliminate the LATR study requirement for motor vehicle adequacy in Red Policy Areas (Metrorail Station Policy Areas and Purple Line Station Areas).</p> <p>The CE opposes eliminating LATR Study in Red Policy Areas until Unified Mobility Program is implemented to share in the infrastructure improvement costs. Red Areas have pedestrian safety, bicycle network gaps, transit capacity needs as well as NADMS goals to achieve.</p> <p>5.7 Expand the application of the Critical Lane Volume (CLV) analysis methodology as a screening tool to determine the necessity for the application of the more robust Highway Capacity Manual (HCM) analysis methodology for the motor vehicle transportation adequacy analysis.</p> <p>The County Executive opposes this recommendation.</p>	<p>74</p> <p>74</p>
<p>Transportation Recommendations: Transit Corridor LATR Intersection Congestion Standard</p>	
<p>5.8 Increase the intersection delay standards to 1,700 CLV and 100 seconds/vehicle for transit corridor roadways in Orange and Yellow policy areas to promote multi-modal access to planned Bus Rapid Transit service in transit corridors.</p>	<p>75</p>

The County Executive opposes this recommendation.	
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Recommendation	Page
<p>5.9 Place all Purple Line Station policy areas (existing and proposed) in the Red policy area category.</p> <p>This move increases the congestion delay standard and reduces the transportation impact tax. The County Executive opposes this change as premature. See 4.2 above.</p>	79
<p>5.10 Continue producing the Travel Monitoring Report (formerly the Mobility Assessment Report) on a biennial schedule as a key travel monitoring element of the County Growth Policy.</p> <p>Agree</p>	72
Transportation Recommendations: Policy Area Review	
<p>5.11 The proposed auto and transit accessibility metric is the average number of jobs that can be reached within a 45-minute travel time by automobile or walk access transit.</p> <p>This metric is recommended in the Planning Board Draft but not in the Council Resolution. While a policy area test is important, the measure as recommended in the Planning Board Draft is insufficient to evaluate the adequacy of master plans.</p>	82
<p>5.12 The proposed metric for auto and transit travel times is average time per trip, considering all trip purposes.</p> <p>See comment for 5.11.</p>	83
<p>5.13 The proposed metric for vehicle miles traveled per capita is daily miles traveled per “service population,” where “service population” is the sum of population and total employment for a particular TAZ.</p> <p>See comment for 5.11.</p>	84
<p>5.14 The proposed metric for non-auto driver mode share is the percentage of non-auto driver trips (i.e., HOV, transit and nonmotorized trips) for trips of all purposes.</p> <p>See comment for 5.11.</p>	85
<p>5.15 The proposed metric for bicycle accessibility is the Countywide Connectivity metric documented in the 2018 Montgomery County Bicycle Master Plan (page 200). The CE takes no position on this recommendation.</p>	85
<p>5.16 Define the boundary of the Forest Glen Metro Station Policy Area. MCDOT suggests that the boundary only go to the Beltway to the south.</p>	86
<p>5.17 Expand the boundary of the Grosvenor Metro Station Policy Area. Agree</p>	86
<p>5.18 Establish the proposed Lyttonsville/Woodside Purple Line Station policy area as a Red policy area.</p> <p>MCDOT recommends deferring the decision to make the Purple Line station a Red Area until the Purple Line is operational.</p>	87

5.19	<p>Establish the proposed Dale Drive/Manchester Place Purple Line Station policy area as a Red policy area.</p> <p>MCDOT recommends deferring the decision to make the Purple Line station a Red Area until the Purple Line is operational. The CE agrees with this recommendation.</p>	
Tax Recommendations: School Impact Taxes		
6.1	<p>Change the calculation of school impact taxes to include one tax rate for all multifamily units, in both low-rise and high-rise buildings, based on the student generation rate for multifamily units built since 1990.</p> <p>The CE does not support this change in the calculation of SGRs for multifamily units. See answer to 4.13.</p>	79
6.2	<p>Calculate standard school impact taxes at 100% of the cost of a student seat using School Impact Area student generation rates. Apply discount factors to single-family attached and multifamily units to incentivize growth and maintain the current 120% factor within the Agricultural Reserve Zone, in certain desired growth and investment areas.</p> <p>The CE does not support the reduction of revenue that this formula represents. First, the CE supports the current standard of 120% to calculate the cost of a student seat. The CE does not agree that the UPPs represent sufficient revenue to justify a 10% reduction in the standard. The additional 10% was to help pay for land for school sites. There has been no change in the need for land for schools.</p> <p>As discussed in his letter, the County Executive does not support the reduced impact tax rates and discounts, because this revenue is needed to deal with the county's schools and other important infrastructure.</p>	89
6.3	<p>Allow a school impact tax credit for any school facility improvement constructed or funded by a property owner with MCPS's agreement.</p> <p>The CE does not support this recommendation as currently written.</p> <p>The SSP needs to describe a process for a developer to make a school facility improvement and receive an impact tax credit. Any improvement must add student capacity.</p> <p>OMB: Support credit only for school improvements that add student capacity. While an argument can be made that credits for facility capital maintenance (e.g., replacing components in existing schools) may “preserve” capacity, expanding capacity is the greater priority. Credits for such improvements can be explored in future SSPs.</p>	92
6.4	<p>Eliminate the current impact tax surcharge on units larger than 3,500 square feet.</p> <p>The CE opposes this recommendation.</p> <p>OMB: Do not support. The bulk of new SFD homes built since FY15 have been larger than 3,500 SF (90% of total, almost 2300 units) and have been subject to the surcharge. SFD homes continue (along with SFA) to generate the bulk of schools</p>	92

impact taxes by unit type.		
Tax Recommendations: Impact Tax Exemptions on Residential Uses		
6.5	<p>Eliminate the current impact tax exemptions for development in former Enterprise Zones.</p> <p>The CE supports this recommendation.</p> <p>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.</p>	95
6.6	<p>Any development located in a Qualified Opportunity Zone certified by the United States Treasury Department is exempt from development impact taxes.</p> <p>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.</p>	95
6.7	<p>Modify the current impact tax exemptions applied to all housing units when a project includes 25% affordable units to:</p> <ol style="list-style-type: none"> 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. <p>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.</p>	97
6.8	<p>Continue to apply impact taxes on a net impact basis, providing a credit for any residential units demolished.</p> <p>The CE agrees with OMB.</p> <p>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.</p>	99

Recommendation	Page
<i>Tax Recommendations: Recordation Tax</i>	
<p data-bbox="235 268 1243 369">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.</p> <p data-bbox="290 413 1252 726">The CE does not support an increase in the recordation tax in order to offset the revenues lost from the impact taxes charged to developers. The SSP is the vehicle for assessing developers with their commensurate share of new infrastructure needs, and that is what should be done in this SSP. The Planning Board's recommendation to add an exemption for the first \$500,000 of the sales price for first time homebuyers will result in significant reductions in recordation tax proceeds – particularly in the general fund which was not recommended for a rate increase. Further analysis is required to determine the net impact of these proposed changes.</p>	101

2020 Subdivision Staging Policy (SSP) – Forecast and Analysis of Impact Taxes and Recordation Taxes

Office of Management and Budget
and Department of Finance
September 1, 2020

Goals of the Analysis

- Prepare the fiscal impact analysis in response to Bill 38-20 (Development Impact Tax Amendment) and Bill 39-20 (Recordation Tax Amendment), introduced by the Council on July 28, 2020.
- Evaluate the historical/actual impact tax collections between FY15 and FY20 under the new school Impact Area framework.
- Analyze the macro-level effects on school and transportation impact tax collections resulting from the rate and structural changes as proposed by the Planning Board:
 - Utilize a forecasting model developed by the Department of Finance;
 - Evaluate the pipeline data of unbuilt residential projects in the County to provide an illustrative example of the potential impact rate changes would have on specific locations in the County.

Planning Board's Impact Tax Recommendations (part I)

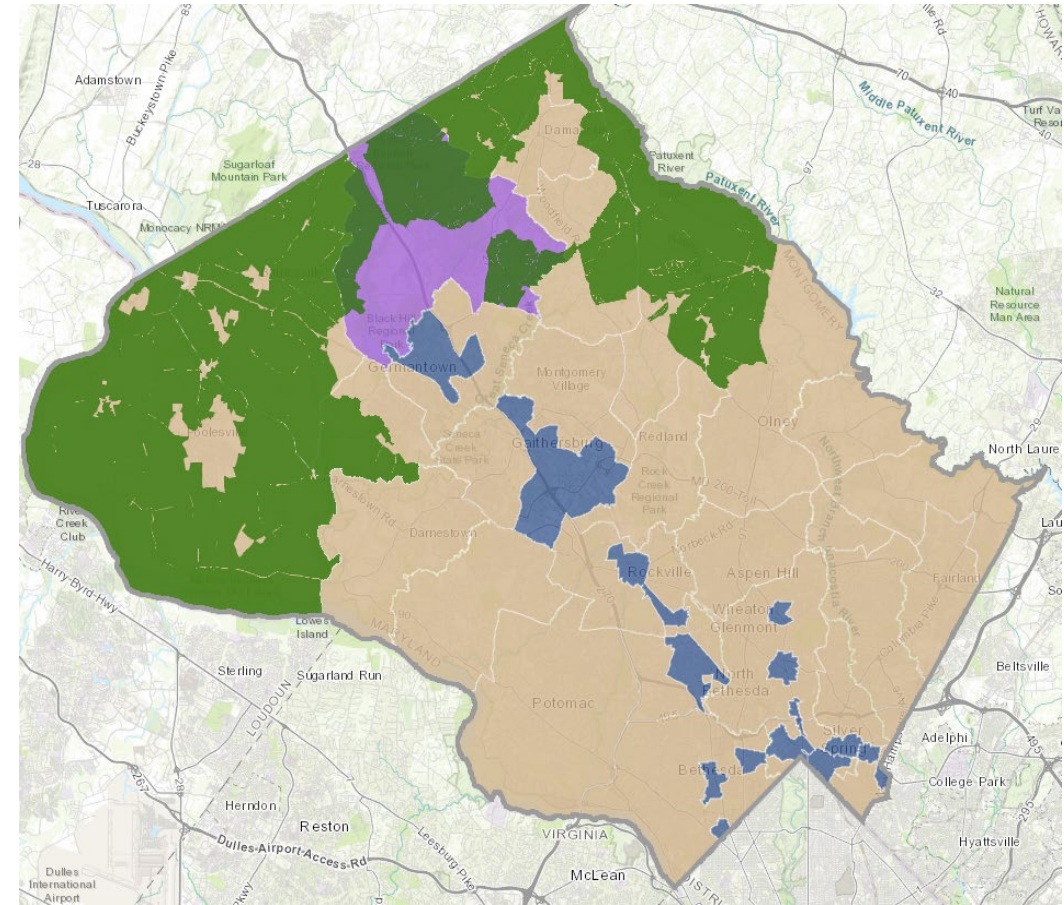
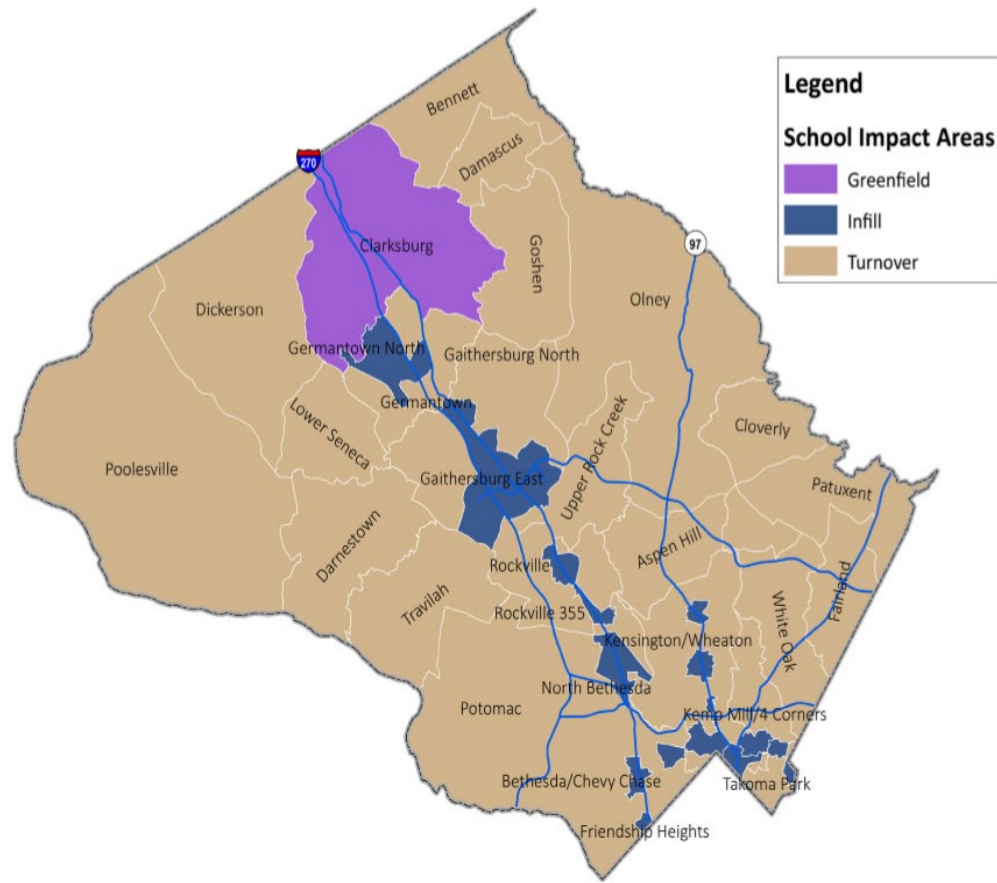
	No.	Recommendations	Notes
School Impact Taxes	6.1	Apply one tax rate for all multifamily units in both low-rise and high-rise buildings.	<ul style="list-style-type: none"> • Currently two different impact taxes for MF housing - \$21,961 for Low-rise (four stories or less) and \$6,113 for High-rise (five stories or more). • Charge one impact tax for multifamily due to no distinguishable difference in the student generation rates in those multifamily units constructed since 1990.
	6.2	<ul style="list-style-type: none"> • 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 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 	<ul style="list-style-type: none"> • The current rate is 120% of the cost of a student seat. Planning Board recommends the rate at 100% due to the introduction of Utilization Premium Payments. • Discounted rate (60%) is applied to certain Desired Growth Areas (=18 Activity Centers).
	6.3	Allow a school impact tax credit for any school facility improvement constructed or funded by a property owner with MCPS's agreement.	A tax credit is allowable for school facility improvements (i.e., roof replacements; HVAC upgrades).
	6.4	Eliminate School Impact Tax Surcharge (\$2/sf) on units larger than 3,500 sf.	The surcharge elimination is based on the data of no relationship between the size of a single-family unit and the number of public school students generated. Planning Board believes the increase in student generation rate is not sufficient to warrant the surcharge.
	4.16	Require applicants to pay " <u>Utilization Premium Payments</u> " when a school's projected utilization three years in the future exceeds 120%.	<ul style="list-style-type: none"> • Require payments to be made when the developer applies for a building permit if the schools serving a residential development project are overcapacity. • If multiple schools serving the project site exceed the capacity, then payments are required for each school.

Note: Recommendation 6.1 through 6.4 are included in Bill 28-20

Planning Board's Impact Tax Recommendations (part II)

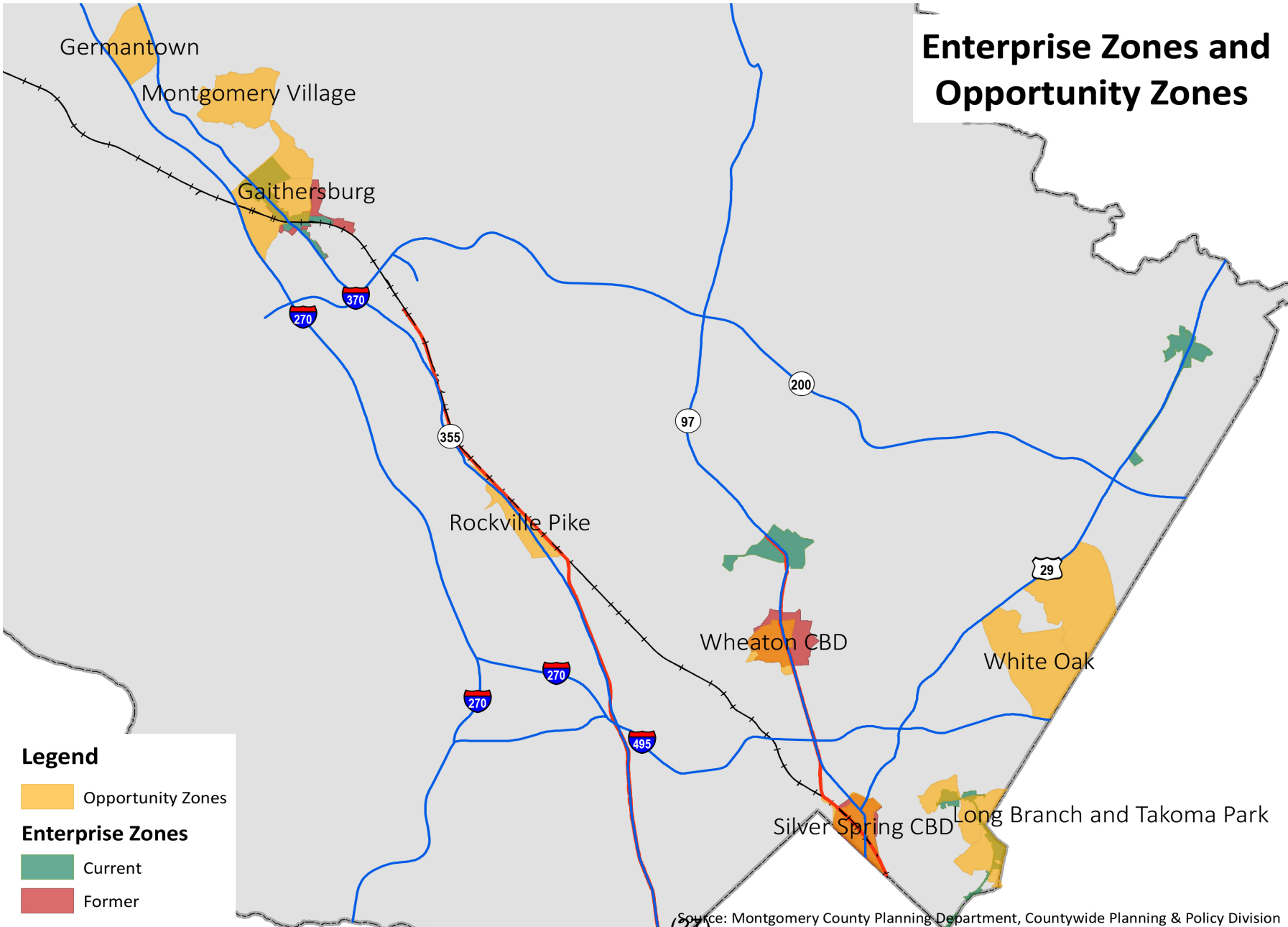
	No.	Recommendations	Notes
Tax Exemptions on Residential Uses	6.5	Enterprise Zone Exemptions -- Eliminate the current impact tax exemptions from development in former Enterprise Zones.	<ul style="list-style-type: none"> • Exemption will be eliminated from former Enterprise Zones (i.e., Silver Spring and Wheaton CBDs) and added to Qualified Opportunity Zones. • Most of Silver Spring and Wheaton CBDs are located within Qualified OZ.
	6.6	Opportunity Zone Exemptions - Exempt any development in Opportunity Zones	<ul style="list-style-type: none"> • 14 Census tracts in the County are certified as Qualified OZ. • Same as EZ, designated by the State to provide property tax credits to businesses that create new jobs. • Assume exemption for school and transportation impact taxes could incentivize growth in OZ.
	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.	<ul style="list-style-type: none"> • Exemption is only equal to the lowest standard impact tax rate by unit type for projects that provide 25% MPDUs. • Require all affordable units to be placed in the MPDU program to maximize the control period. • Any applicable taxes for a building permit filed on or after the impact tax bill's effect date will be collected.
	6.8	Continue to apply impact taxes on a net impact basis, providing a credit for any residential units demolished	<ul style="list-style-type: none"> • Planning Board supports the current policy that the replacement house will not pay impact taxes if it's rebuilt within one year. If the rebuilt changes its housing type (i.e., from a single-family detached to multi-family building or single-family attached), it would get an impact tax credit equivalent to that of the single-family detached unit that was demolished but would pay the difference.
Recordation Tax	6.9	Modify calculation of the Recordation Tax to provide additional funding for school construction and the Housing Initiative Fund	<ul style="list-style-type: none"> • Increase \$0.50 for each \$500 that the sale price exceeds \$100,000 and \$500,000 to the MCPS CIP. • Charge \$1.00 for each \$500 that the sale price of a single-family home exceed \$1M to the HIF for the increasing need in rental assistance.

Proposed School Impact Areas



 Agricultural Reserve (AR) Zone

Enterprise Zones and Opportunity Zones



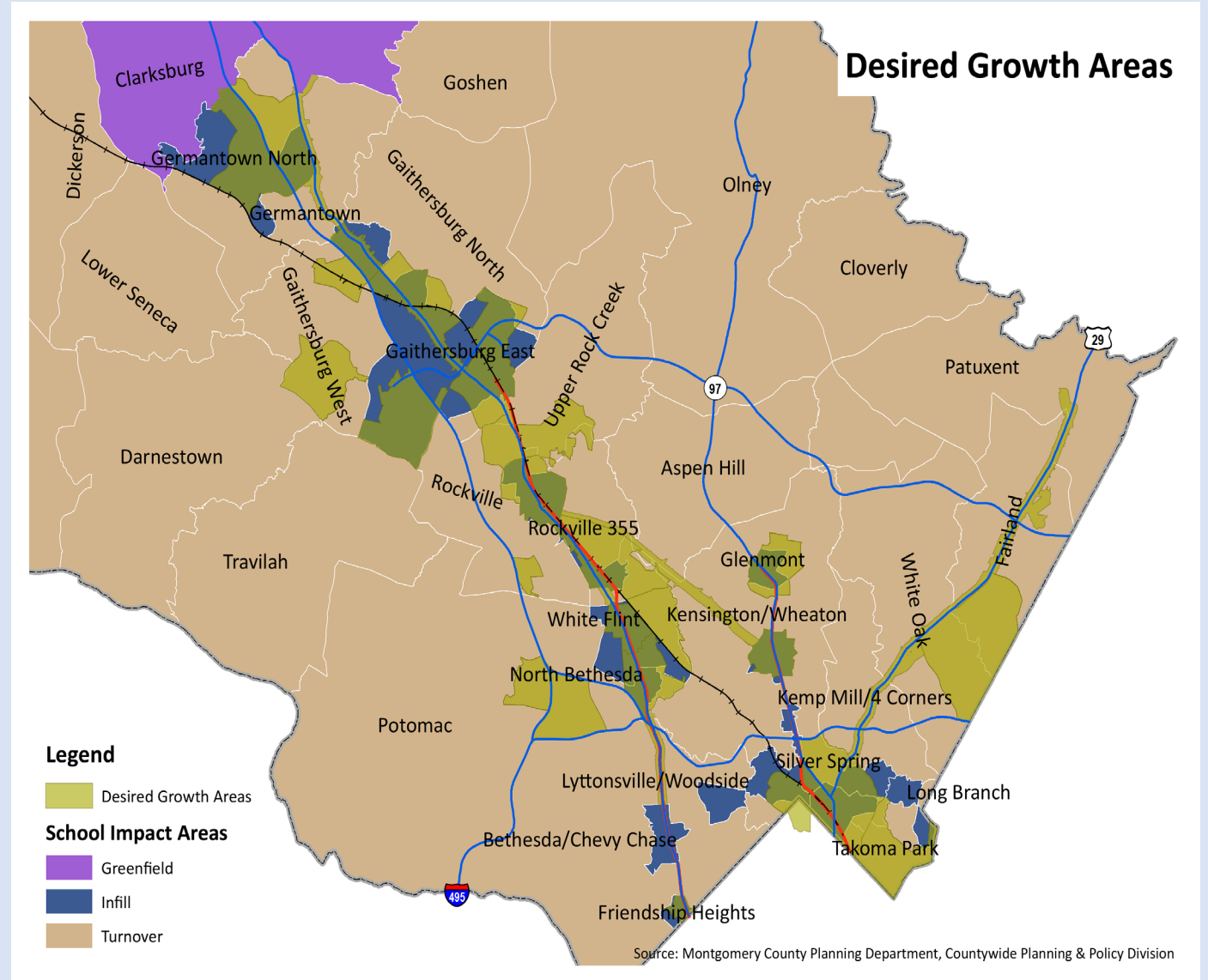
Legend

- Opportunity Zones
- Enterprise Zones**
 - Current
 - Former

Source: Montgomery County Planning Department, Countywide Planning & Policy Division

Desired Growth Areas

- Planning Board expects future housing growth will occur in Activity Centers (AC) due to proximity to multi-modal transportation and job centers. 23 ACs are identified, and they are concentrated in urban centers, towns, and along major transportation corridors.
- Desired Growth Areas (DGA) include all ACs located within Infill and Turnover Impact Areas, except for 5 ACs:
 - Olney and Kensington ACs (large area, little growth, not projected for large amount of growth);
 - NIH Walter Reed AC (little growth, not projected for large growth);
 - Bethesda and Clarksburg ACs (already experience high level of growth).
- No DGA in Greenfield School Impact Area.
- DGA also includes development on parcels within a 500 ft. buffer of an existing BRT line or planned BRT lines with construction funds in County CIPs (i.e., US29, MD355, Veirs Mill Road).



Collections of Development Impact Taxes, CY10-FY19

Impact Taxes	Total (CY10-19)	Annual Average	Notes
Transportation Impact Taxes	108,156,423	10,815,642	Exclude Transportation Impact Taxes collected from Rockville and Gaithersburg.
School Impact Taxes	250,391,718	25,039,172	Exclude School Facility Payments.
Total Development Impact Taxes	358,548,141	35,854,814	
Transportation Impact Taxes Waived	66,717,143	6,671,714	Exemption of school impact taxes is not reported in the DPS annual report.
<i>EZ Exemption</i>	20,578,666	2,057,867	Includes tax exemptions from Silver Spring (\$1.9M/yr, or 58%), Wheaton (\$835K/yr, or 41%), and Burtonsville (\$244K for 2018 only, 1%).
<i>MPDU/Affordable Units Exemption</i>	21,698,133	2,169,813	The exemption for 25% MPDUs began in 2018. The reported amount was \$1.41M for 2018 (i.e., development in Germantown, Sandy Spring, and Silver Spring) and \$3.78M for 2019 (i.e., in Germantown, Clarksburg, & Silver Spring).
<i>Other Residential Exemption</i>	1,688,039	168,804	Include Ancillary Buildings and Opportunity Housing Projects
<i>Non-Residential Exemption</i>	22,752,304	2,275,230	Include buildings owned by Governments or by private owners with tax refunds

Source: Annual Report of Revenue Collected from Development Impact Tax, Department of Permitting Services

- The exemption of total transportation taxes represents 19% of the total impact taxes collected over the past decade.

Historical Collections of School Impact Taxes by School Impact Areas

	FY15	FY16	FY17	FY18	FY19	FY20	Total	Annual Average	%
Infill - Non-DGA	\$1,275,582	\$348,162	\$1,625,805	\$1,804,634	\$3,094,868	\$496,043	\$8,645,094	\$1,440,849	
Infill - DGA	\$10,541,129	\$7,131,677	\$9,419,584	\$1,572,871	\$6,085,436	\$9,603,838	\$44,354,535	\$7,392,423	
Infill - subtotal	\$11,816,711	\$7,479,839	\$11,045,389	\$3,377,505	\$9,180,304	\$10,099,881	\$52,999,629	\$8,833,272	32%
Turnover - Non-DGA	\$11,293,764	\$8,414,023	\$11,651,535	\$7,450,266	\$7,697,872	\$3,660,831	\$50,168,292	\$8,361,382	
Turnover - DGA	\$536,700	\$502,381	\$2,066,435	\$518,727	\$1,408,814	\$1,481,135	\$6,514,192	\$1,085,699	
Turnover - AR Zone	\$90,766	\$118,020	\$91,827	\$397,442	\$618,014	\$152,988	\$1,469,057	\$244,843	
Turnover - subtotal	\$11,921,230	\$9,034,424	\$13,809,797	\$8,366,435	\$9,724,700	\$5,294,954	\$58,151,541	\$9,691,923	35%
Greenfield – Non-DGA	\$9,300,235	\$6,061,900	\$11,011,658	\$9,982,571	\$9,886,214	\$6,484,207	\$52,726,785	\$8,787,798	
Greenfield- AR Zone	\$58,892	-	\$77,028	\$30,874	\$146,142	-	\$312,936	\$52,156	
Greenfield - subtotal	\$9,359,127	\$6,061,900	\$11,088,686	\$10,013,445	\$10,032,356	\$6,484,207	\$53,039,721	\$8,839,954	32%
Total:	\$33,097,068	\$22,576,163	\$35,943,872	\$21,757,385	\$28,937,360	\$21,879,042	\$164,190,891	\$27,365,148	100%

Source: Building Permit Data from Montgomery County Planning Department

- Of the \$164M collected between FY15 and FY20, total impact tax collections were relatively even among three school impact areas. However, nearly one-third of school impact taxes were generated from Greenfield/Clarksburg (32%), followed by Turnover Non-DGA (31%), and Infill-DGA (27%).
- Desired Growth Areas are expected to receive a discount rate of 60% when compare to Non-DGAs of each school impact area.

Historical Collections of School Impact Taxes by Desired Growth Areas

	FY15	FY16	FY17	FY18	FY19	FY20	Total	Annual Average	%
Non-DGA	\$ 21,869,581	\$ 14,824,085	\$ 24,288,998	\$ 19,237,471	\$ 20,678,954	\$ 10,641,081	\$ 111,540,171	\$ 18,590,028	68%
DGA	\$ 11,077,829	\$ 7,634,058	\$ 11,486,019	\$ 2,091,598	\$ 7,494,250	\$ 11,084,973	\$ 50,868,727	\$ 8,478,121	31%
AR Zone	\$ 149,658	\$ 118,020	\$ 168,855	\$ 428,316	\$ 764,156	\$ 152,988	\$ 1,781,993	\$ 296,999	1%
Total:	\$ 33,097,068	\$ 22,576,163	\$ 35,943,872	\$ 21,757,385	\$ 28,937,360	\$ 21,879,042	\$ 164,190,891	\$ 27,365,148	100%

Source: Building Permit Data from Montgomery County Planning Department

- While more than two-thirds of school impact taxes were collected from Non-DGA, DGA (with a very small geographic area) collected nearly one-third of taxes (\$31%, \$51M).
- Only 1% of tax collection came from Agricultural Reserve Zone.

Historical Collections of School Impact Taxes by Unit Type

- Nearly 76% of taxes (\$125M) were collected from new construction of single-family homes, split between SFD (\$73M) and SFA (\$52M).
- Of those single-family new construction units, 63% of taxes were collected from Non-DGA areas.
- Most new single-family detached (51%) homes built since FY15 were above 5,000 s.f.
- Tax collections from low-rise multi-family (\$16.7M) were slightly less than high-rise multi-family (\$22.1M).

	FY15	FY16	FY17	FY18	FY19	FY20	Total	Annual Average
SFD - Non-DGA	\$15,317,485	\$9,669,402	\$15,526,425	\$11,042,839	\$10,074,426	\$6,361,843	\$67,992,420	\$11,332,070
SFD - DGA	\$1,181,499	\$469,083	\$200,567	\$519,508	\$352,745	\$484,849	\$3,208,251	\$534,709
SFD - AR Zone	\$149,658	\$118,020	\$168,855	\$428,316	\$764,156	\$152,988	\$1,781,993	\$296,999
SFD - subtotal	\$16,648,642	\$10,256,505	\$15,895,847	\$11,990,663	\$11,191,327	\$6,999,680	\$72,982,664	\$12,163,777
SFA - Non-DGA	\$5,105,397	\$4,889,495	\$7,152,493	\$6,791,413	\$7,346,615	\$4,000,120	\$35,285,533	\$5,880,922
SFA - DGA	\$3,066,210	\$3,471,597	\$3,647,345	\$1,572,090	\$3,252,878	\$2,042,556	\$17,052,676	\$2,842,113
SFA - subtotal	\$8,171,607	\$8,361,092	\$10,799,838	\$8,363,503	\$10,599,493	\$6,042,676	\$52,338,209	\$8,723,035
MF Low-Rise - Non-DGA	\$724,407	-	\$1,095,940	\$251,207	\$3,257,913	\$279,118	\$5,608,585	\$934,764
MF Low-Rise - DGA	\$414,573	\$1,512,342	\$5,040,347	-	\$527,082	\$3,669,078	\$11,163,422	\$1,860,570
MF LR - subtotal	\$1,138,980	\$1,512,342	\$6,136,287	\$251,207	\$3,784,995	\$3,948,196	\$16,772,007	\$2,795,335
MF High-Rise - Non-DGA	\$722,292	\$265,188	\$514,140	\$1,152,012	-	-	\$2,653,632	\$442,272
MF High-Rise - DGA	\$6,415,547	\$2,181,036	\$2,597,760	-	\$3,361,545	\$4,888,490	\$19,444,378	\$3,240,730
MF HR - subtotal	\$7,137,839	\$2,446,224	\$3,111,900	\$1,152,012	\$3,361,545	\$4,888,490	\$22,098,010	\$3,683,002
Total:	\$33,097,068	\$22,576,163	\$35,943,872	\$21,757,385	\$28,937,360	\$21,879,042	\$164,190,891	\$27,365,148

Note: Housing units constructed in AR zone are only single-family detached.

Planning Board's Proposed School Impact Tax Rate Changes

	Current Countywide		Infill			Turnover				Greenfield			
		SGR	Standard	Desired Growth	SGR	Standard	Desired Growth	AR Zone	SGR	Standard	Desired Growth	AR Zone	SGR
Single-family Detached	\$ 26,207	0.450	\$ 19,707	\$ 19,707	0.419	\$ 21,582	\$ 21,582	\$ 25,898	0.457	\$ 33,809	\$ -	\$ 40,571	0.724
Single-family Attached	\$ 27,598	0.494	\$ 17,311	\$ 10,387	0.369	\$ 23,928	\$ 14,357	\$ 28,714	0.510	\$ 28,691	\$ -	\$ 34,429	0.618
Multifamily Low-Rise	\$ 21,961	0.512	\$ 4,370	\$ 2,622	0.093	\$ 9,688	\$ 5,813	\$ 11,626	0.208	\$ 24,898	\$ -	\$ 29,878	0.532
Multifamily High-Rise	\$ 6,113	0.171	\$ 4,370	\$ 2,622	0.093	\$ 9,688	\$ 5,813	\$ 11,626	0.208	\$ 24,898	\$ -	\$ 29,878	0.532

Recommended School Impact Changes:

- Apply one rate to multifamily unit regardless of low-rise or high-rise due to no distinguishable difference in the SGR.
- Change the Impact tax rate to 100% of the cost of a student seat in different school impact areas from the current 120% of the average cost of a student seat.
- Apply a discount (60%) to Single-family Detached and Multifamily units to Desired Growth Areas to incentivize growth.
- No Desired Growth Areas in Greenfield.

Forecasting Model Used to Project the Fiscal Impact of Rate Changes

- Finance's Forecasting Model is designed to show magnitude/direction of changes – **not designed for budgeting purposes**
- Apply the new School Impact Area framework (Infill, Turnover, and Greenfield) by Non-DGA, DGA, and AR Zone to the type of development to determine where revenues have been generated between FY15 and FY20.
- Use the historical FY15-FY20 data to
 - Establish a “baseline”, which assumes that development patterns would continue over the next six years in similar trends and under current rate structure;
 - Apply a differential between the proposed rates and the average historical rates to each School Impact Area;
 - Forecast the potential revenues that could have been generated if the recommended rate changes were applied.
- Resulting difference indicates the change in macro impact tax collections projected over the next six years (FY21-FY26).

Charge One Rate for All Multifamily Units

(Recommendation 6.1)

	Historical Data (FY15-20)		Forecast - Current Rates (FY21-FY26)		Forecast - Proposed Rates (FY21-FY26)		Avg. Difference (Current vs. Proposed Rates)	% Change
	Total Amount	Annual Average	Est. Total	Est. Annual Average	Est. Total	Est. Annual Average		
MF LOW-RISE	\$ 16,772,007	\$ 2,795,335	\$ 19,521,692	\$ 3,253,615	\$ 9,577,919	\$ 1,596,320	\$ (1,657,296)	-51%
Greenfield- Non-DGA	\$ 2,404,188	400,698	\$ 2,798,342	\$ 466,390	\$ 3,176,473	\$ 529,412	\$ 63,022	14%
Infill - Non-DGA	\$ 2,400,661	400,110	\$ 2,794,237	\$ 465,706	\$ 1,433,636	\$ 238,939	\$ (226,767)	-49%
Infill - DGA	\$ 11,163,422	1,860,570	\$ 12,993,608	\$ 2,165,601	\$ 4,239,645	\$ 706,607	\$ (1,458,994)	-67%
Turnover - Non-DGA	\$ 803,736	133,956	\$ 935,504	\$ 155,917	\$ 728,164	\$ 121,361	\$ (34,557)	-22%
MF HIGH-RISE	\$ 22,098,010	\$ 3,683,002	\$ 25,720,865	\$ 4,286,811	\$ 9,086,414	\$ 1,514,402	\$ (2,772,409)	-65%
Infill - Non-DGA	\$ 2,653,632	442,272	\$ 3,088,681	\$ 514,780	\$ 1,584,707	\$ 264,118	\$ (250,662)	-49%
Infill - DGA	\$ 19,053,146	3,175,524	\$ 22,176,812	\$ 3,696,135	\$ 7,236,005	\$ 1,206,001	\$ (2,490,134)	-67%
Turnover - DGA	\$ 391,232	65,205	\$ 455,372	\$ 75,895	\$ 265,702	\$ 44,284	\$ (31,612)	-42%
Total	\$ 38,870,017	\$ 6,478,336	\$ 45,242,557	\$ 7,540,426	\$ 18,664,332	\$ 3,110,722	\$ (4,429,704)	-59%

- Planning Board recommends to change two rates for multifamily units to one rate due to no distinguishable difference in the student generation rates of low-rise and high-rise multifamily units constructed since 1990.
- Forecasting under the proposed rates indicates that the County is likely to collect \$4.4M (or 59%) less from all multifamily units per year than that of the forecast using the current rates over the next six years.

Forecast School Impact Taxes with Rate Changes

(Recommendation 6.2)

	Historical Data (FY15-FY20)		Forecast - "Baseline" (FY21-FY26)		Forecast - "Proposed Rates" (FY21-FY26)		Difference between Baseline vs. Proposed	
	Total	Annual Avg.	Estimated Total	Annual Avg.	Estimated Total	Annual Avg.	Estimated Total for FY21-FY26	Annual Avg.
Infill - Non-DGA	\$ 8,645,094	\$ 1,440,849	\$ 7,346,781	\$ 1,224,464	\$ 4,387,381	\$ 731,230	\$ (2,959,401)	\$ (493,233)
Infill - DGA	\$ 44,354,535	\$ 7,392,423	\$ 45,106,508	\$ 7,517,751	\$ 17,130,552	\$ 2,855,092	\$ (27,975,956)	\$ (4,662,659)
Turnover - Non-DGA	\$ 50,168,292	\$ 8,361,382	\$ 71,960,930	\$ 11,993,488	\$ 65,134,211	\$ 10,855,702	\$ (6,826,719)	\$ (1,137,786)
Turnover - DGA	\$ 6,514,192	\$ 1,085,699	\$ 11,482,202	\$ 1,913,700	\$ 7,798,051	\$ 1,299,675	\$ (3,684,151)	\$ (614,025)
Turnover - AR Zone	\$ 1,469,057	\$ 244,843	\$ 2,206,997	\$ 367,833	\$ 2,320,994	\$ 386,832	\$ 113,997	\$ 19,000
Greenfield - Non-DGA	\$ 52,726,785	\$ 8,787,798	\$ 52,692,932	\$ 8,782,155	\$ 69,635,271	\$ 11,605,878	\$ 16,942,339	\$ 2,823,723
Greenfield - AR Zone	\$ 312,936	\$ 52,156	\$ 312,796	\$ 52,133	\$ 515,327	\$ 85,888	\$ 202,531	\$ 33,755
Total	\$ 164,190,891	\$ 27,365,148	\$ 191,109,145	\$ 31,851,524	\$ 166,921,786	\$ 27,820,298	\$ (24,187,359)	\$ (4,031,227)

- Forecasting under the proposed rates indicates that the County is likely to collect \$4M (or 12.7%) less in school impact taxes per year than that of the baseline forecast over the next six years.
- When compared to the average historical data, the proposed rate forecast shows a potential revenue gain of \$455K per year (or 2% more).

*Notes: **Baseline Forecast** assumes that similar development patterns and trends continue over FY21-FY26 with current rates. **Proposed Rate Forecast** is calculated by applying a differential between the proposed rates and the average historical rates to each school impact area.*

Forecast School Impact Taxes with Rate Changes

in Desired Growth Areas vs. Non-Desired Growth Areas

Desired Growth Areas									
	Historical Data (FY15-FY20)		Forecast - "Baseline" (FY21-FY26)		Forecast - "Proposed Rates" (FY21-FY26)		Difference between Baseline vs. Proposed		
	Total	Annual Avg.	Estimated Total	Annual Avg.	Estimated Total	Annual Avg.	Estimated Total for FY21-FY26	Annul Avg.	
Infill - DGA	\$ 44,354,535	\$ 7,392,423	\$ 45,106,508	\$ 7,517,751	\$ 17,130,552	\$ 2,855,092	\$ (27,975,956)	\$ (4,662,659)	
Turnover - DGA	\$ 6,514,192	\$ 1,085,699	\$ 11,482,202	\$ 1,913,700	\$ 7,798,051	\$ 1,299,675	\$ (3,684,151)	\$ (614,025)	
Total	\$ 50,868,727	\$ 8,478,121	\$ 56,588,710	\$ 9,431,452	\$ 24,928,603	\$ 4,154,767	\$ (31,660,108)	\$ (5,276,685)	

Non-Desired Growth Areas									
	Historical Data (FY15-FY20)		Forecast - "Baseline" (FY21-FY26)		Forecast - "Proposed Rates" (FY21-FY26)		Difference between Baseline vs. Proposed		
	Total	Annual Avg.	Estimated Total	Annual Avg.	Estimated Total	Annual Avg.	Estimated Total for FY21-FY26	Annul Avg.	
Infill - Non-DGA	\$ 8,645,094	\$ 1,440,849	\$ 7,346,781	\$ 1,224,464	\$ 4,387,381	\$ 731,230	\$ (2,959,401)	\$ (493,233)	
Turnover - Non-DGA	\$ 50,168,292	\$ 8,361,382	\$ 71,960,930	\$ 11,993,488	\$ 65,134,211	\$ 10,855,702	\$ (6,826,719)	\$ (1,137,786)	
Turnover - AR Zone	\$ 1,469,057	\$ 244,843	\$ 2,206,997	\$ 367,833	\$ 2,320,994	\$ 386,832	\$ 113,997	\$ 19,000	
Greenfield - Non-DGA	\$ 52,726,785	\$ 8,787,798	\$ 52,692,932	\$ 8,782,155	\$ 69,635,271	\$ 11,605,878	\$ 16,942,339	\$ 2,823,723	
Greenfield - AR Zone	\$ 312,936	\$ 52,156	\$ 312,796	\$ 52,133	\$ 515,327	\$ 85,888	\$ 202,531	\$ 33,755	
Total	\$ 113,322,164	\$ 18,887,027	\$ 134,520,435	\$ 22,420,073	\$ 141,993,184	\$ 23,665,531	\$ 7,472,748	\$ 1,245,458	

- Forecasting under the proposed rates indicates that the County is likely to collect \$5.28M (or -56%) less in Desired Growth Areas per year than that of the baseline forecast over the next six years.
- The estimated annual increase of \$1.25M (or +6%) from Non-Desired Growth Areas will only partially offset the revenue loss resulted from Desired Growth Areas.

Note: No Desired Growth Areas are identified by Planning staff in Greenfield School Impact Area.

Pipeline Analysis –

What would school impact taxes be if all pipeline units are built today under each rate structure?

Select Master Plan Areas	# of Unbuilt Units	# of Unbuilt - SF Units	# of Unbuilt - MF Units	Current Rates	Proposed Rates	Difference	% Change
Infill	23,256	3,456	19,800	\$ 188,912,432	\$ 110,287,900	\$ (78,624,532)	-41.6%
Bethesda Downtown	4,621	-	4,621	\$ 24,717,151	\$ 31,471,057	\$ 6,753,905	27.3%
Chevy Chase Lake	645	-	645	\$ 3,450,024	\$ 11,122,138	\$ 7,672,114	222.4%
Gaithersburg City	1,593	313	1,280	\$ 14,235,925	\$ 5,717,759	\$ (8,518,165)	-59.8%
North Bethesda Garrett Park	1,356	394	973	\$ 32,720,879	\$ 12,315,087	\$ (20,405,792)	-62.4%
Rockville City	1,010	302	708	\$ 11,079,775	\$ 5,829,192	\$ (5,250,583)	-47.4%
Shady Grove Sector	1,734	608	1,126	\$ 20,560,080	\$ 8,054,678	\$ (12,505,402)	-60.8%
Silver Spring CBD	4,189	-	4,189	\$ 22,406,437	\$ 9,610,613	\$ (12,795,824)	-57.1%
White Flint	4,831	-	4,831	\$ 25,895,883	\$ 11,083,522	\$ (14,812,361)	-57.2%
Turnover	6,772	2,975	3,797	\$ 73,933,612	\$ 65,261,938	\$ (8,671,674)	-11.7%
Gaithersburg City	825	351	474	\$ 11,011,403	\$ 7,708,046	\$ (3,303,357)	-30.0%
Gaithersburg Vicinity	640	574	66	\$ 13,900,194	\$ 12,305,139	\$ (1,595,055)	-11.5%
North Bethesda Garrett Park	1,183	339	844	\$ 4,876,674	\$ 4,481,336	\$ (395,338)	-8.1%
Potomac Subregion	816	474	342	\$ 10,160,462	\$ 8,962,805	\$ (1,197,656)	-11.8%
Greenfield	1,933	1,137	796	\$ 30,627,594	\$ 44,755,708	\$ 14,128,114	46.1%
Clarksburg	1,838	1,118	720	\$ 30,221,079	\$ 43,099,991	\$ 12,878,912	42.6%
Damascus	79	3	76	\$ 406,515	\$ 1,655,717	\$ 1,249,203	307.3%
Total	31,961	7,568	24,393	\$ 293,473,638	\$ 220,305,545	\$ (73,168,092)	-24.9%
				Annual Average		Difference	
If 5-yr buildout	6,392	1,514	4,879	\$ 58,694,728	\$ 44,061,109	\$ (14,633,618)	
If 10-yr buildout	3,196	757	2,439	\$ 29,347,364	\$ 22,030,555	\$ (7,316,809)	
If 15-yr buildout	2,131	505	1,626	\$ 19,564,909	\$ 14,687,036	\$ (4,877,873)	

Assumptions:

1. School impact taxes are collected at full buildout for all pipeline projects.
2. Projects with less than 20 single-family units are assumed to be SF Detached.
3. 12.5% MPDU exemption is applied to multi-family and single-family attached units.
4. The estimates are based on residential and mixed projects only (totaling 318 projects).

- Rate changes result in an estimated reduction of 25% compared to current rates at full build-out.
- If it take 10 years to build out all pipeline projects, the average revenue collected per year within the proposed rates would be \$7.3M less than the current rates.
- Nearly 75% of unbuilt residential or mix-used development projects are in Desired Growth Areas.
- Significant revenue would be collected from Multi-family development in Infill areas (i.e., Bethesda Downtown, Chevy Chase Lake, N. Bethesda/Garrett Park, White Flint)
- With proposed rates, school impact tax revenue increases are heavily dependent on Clarksburg, followed by Chevy Chase Lake and Bethesda located in the Non-DGA areas.
- Future development may significantly shift as a result of the pandemic and changes in the housing market.

Pipeline Analysis –

What would school impact taxes be in Desired Growth Areas vs. Non-Desired Growth Areas?

Pipeline Projects (DGA vs. Non-DGA)	# of Unbuilt Units	# of Unbuilt -SF Units	# of Unbuilt -MF Units	Current Rates	Proposed Rates	Difference	% Change
Desired Growth Areas							
Infill	20,465	3,006	17,459	\$ 165,741,337	\$ 67,266,654	\$ (98,474,683)	-59.4%
Turnover	3,196	924	2,272	\$ 26,641,594	\$ 19,093,669	\$ (7,547,925)	-28.3%
Subtotal	23,661	3,930	19,731	\$ 192,382,931	\$ 86,360,323	\$ (106,022,608)	-55.1%
<i>If 10-yr buildout, annual average amount</i>				<i>\$ 19,238,293</i>	<i>\$ 8,636,032</i>	<i>\$ (10,602,261)</i>	
Non-Desired Growth Areas							
Infill	2,791	450	2,341	\$ 23,171,095	\$ 43,021,246	\$ 19,850,151	85.7%
Turnover	3,576	2,051	1,525	\$ 47,292,018	\$ 46,168,269	\$ (1,123,749)	-2.4%
Greenfield	1,933	1,137	796	\$ 30,627,594	\$ 44,755,708	\$ 14,128,114	46.1%
Subtotal	8,300	3,638	4,662	101,090,707	133,945,222	\$ 32,854,516	32.5%
<i>If 10-yr buildout, annual average amount</i>				<i>\$ 10,109,071</i>	<i>\$ 13,394,522</i>	<i>\$ 3,285,452</i>	
Total Amount	31,961	7,568	24,393	293,473,638	220,305,545	\$ (73,168,092)	-24.9%
<i>If 10-yr buildout, annual average amount</i>	<i>3,196</i>	<i>757</i>	<i>2,439</i>	<i>29,347,364</i>	<i>22,030,555</i>	<i>(7,316,809)</i>	

Assumptions:

1. School impact taxes are collected at full buildout for all pipeline projects.
2. Projects with less than 20 single-family units are assumed to be SF Detached.
3. 12.5% MPDU exemption is applied to multi-family and single-family attached units.
4. The estimates are based on residential and mixed projects (totaling 318 projects) only.

- If it takes 10 years to build out all pipeline projects, the average revenue collected in Desired Growth Areas within the proposed rates would be \$10.6M less than the current rates, while the revenue could be increased in Non-Desired Growth Areas by \$3.3M per year.
- The estimated revenue increase in Non-DGAs could not offset the significant revenue loss projected for the Desired Growth Areas based on the proposed rate changes.

Newly Proposed Utilization Premium Payments

(Recommendation 4.16)

- Planning Board recommends lower tax rates based on the School Impact Areas and limits moratoria to Greenfield Impact Areas only.
- To help ensure the needed school construction funds, it requires applicants to pay Utilization Premium Payments (UPP) when a school’s projected utilization three years in the future exceeds 120%.
- UPP would be made by the developers when they apply for a building permit.

		Single-family Detached	Single-family Attached	Multifamily
Infill Impact Areas	Elementary School	\$4,927	\$4,328	\$1,093
	Middle School	\$2,956	\$2,597	\$656
	High School	\$3,941	\$3,462	\$874
Turnover Impact Areas	Elementary School	\$5,396	\$5,982	\$2,422
	Middle School	\$3,237	\$3,589	\$1,453
	High School	\$4,316	\$4,786	\$1,938
Greenfield Impact Areas	Elementary School	\$8,452	\$7,173	\$6,225
	Middle School	\$5,071	\$4,304	\$3,735
	High School	\$6,762	\$5,738	\$4,980

Notes:

1. The proposed UPP is calculated as a percentage of the applicable standard impact rates. The calculation factors vary by school level to reflect the relative impact housing units have on student enrollment at each level.
2. The factor used for Elementary School is 25% of the standard impact tax for the School Impact Area and dwelling type, while 15% is for Middle School and 20% for High School.

Estimated UPP Collections for Pipeline Projects by School Impact Area, School Level, and Unit Type

(Recommendation 4.16)

	Historical Data (FY15-20) if UPP applied	Estimated UPP for Pipeline Projects
Infill	755,189	20,832,396
Single-family Detached	141,877	241,612
Single-family Attached/TH	581,617	5,101,280
Multi-family	31,695	15,489,504
Turnover	9,013,436	15,852,745
Single-family Detached	3,965,788	3,812,481
Single-family Attached/TH	5,041,834	3,149,174
Multi-family	5,814	8,891,090
Greenfield	8,378,590	2,903,326
Single-family Detached	3,502,716	74,382
Single-family Attached/TH	4,263,334	877,914
Multi-family	612,540	1,951,030
Total	18,147,215	39,588,467
Annual Average	3,024,536	
Annual Avg. if 10-yr build out		3,958,847

Note:

1. The collection of UPP is only calculated for resident projects with valid data provided by Planning staff.
2. Given the data limitation, the UPP estimate is based on one school per school level. The UPP collections could be higher if multiple schools serving the project site exceed the given threshold, then payments would be required for each school. (41)

- If the new UPP were collected from applicable building permits over the past five years, County revenues would generate additional \$18.1M (or \$3M per year).
- It's estimated that nearly \$40M in UPP revenue could have been generated from all pipeline projects, representing an average UPP collection of \$4M per year if projects take 10 years to build out.
- Nearly 40% of UPP collections (or \$15.4M) would come from multi-family pipeline projects in Infill Areas.

Eliminate School Impact Tax Surcharge

(Recommendation 6.4)

	Historical Data (FY15-20)	Total Amount
School Impact Taxes	Total School Impact Taxes - All Unit Types	\$ 164,190,891
	Expected Revenue Generated from SFD by Applicable Rate Each Year	\$ 63,002,354
	Actual Revenue Collected from SFD	\$ 72,982,664
	Average SIT Revenue Generated per permit	\$ 28,277
Surcharge	Delta between Expected and Actual = Surcharge	\$ 9,980,310
	Estimated Surcharge per year	\$ 1,663,385
	% of Surcharge Share in Total School Impact Taxes	6.1%
	% of Surcharge Share in SIT Collected from SFD	13.7%
	Average Surcharge per permit	\$ 3,867
	Pipeline Data (416 projects)	Estimated Amount
	# of Projects identified from SFD	204
	Estimated Surcharge from SFD Projects	\$ 788,835

Notes:

1. The total number of permits identified for Single-family Detached between FY15 and FY20 is 2,581, representing an average of 430 permits per year.
2. 416 pipeline projects are currently approved. Of those, 204 projects are identified as single-family units with less than 20 units per project. Calculating the impact of surcharge elimination from the pipeline projects would be impossible due to no data available for the final square footage being constructed for each single-family unit.

- The estimated surcharge was approximately \$1.66M per year over the past six years.
- It's estimated that the average surcharge collected from each permit would be \$3,867 based on approximately 430 permits identified for Single-family units per year.
- If similar development patterns and trends continue over the next six years, eliminating the surcharge from single-family units could have a negative impact on County revenues.

Eliminate Impact Tax Exemption in Former Enterprise Zones

(Recommendation 6.5)

Enterprise Zone Exemption by Planning Areas	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total Actual (FY10-19)
Silver Spring - CBD	\$ 2,087,823	\$ 136,947	\$ 1,405,690	\$ 870,036	\$ 190,348	\$ 1,860,892	\$ 2,655,729	\$ 187,056	\$ 185,152	\$ 2,320,008	\$ 11,899,681
Wheaton CBD		\$ 4,241,922	\$ 444,400	\$ 60,311	\$ 4,812		\$ 3,596,947				\$ 8,348,392
Gleemont Metro							\$ 85,709				\$ 85,709
Burtonsville									\$ 244,884		\$ 244,884
Total	\$ 2,087,823	\$4,378,869	\$ 1,850,090	\$930,347	\$195,160	\$ 1,860,892	\$ 6,338,385	\$ 187,056	\$ 430,036	\$ 2,320,008	\$ 20,578,666

Source: Annual Impact Taxes Report from Department of Permitting Services

Impact Taxes	Pipeline Projects			
	Est. Exemption under Current Rates	Est. Exemption under Proposed Rates	Difference (Current vs. Proposed)	% Change
School Impact Tax	\$ 33,098,839	\$ 14,196,819	\$ (18,902,020)	-57%
Transportation Tax	\$ 10,673,669	\$ 10,673,669	\$ -	0%
Office	\$ 5,612,307	\$ 5,612,307		
Retail	\$ 5,061,363	\$ 5,061,363		
Total	\$ 43,772,508	\$ 24,870,488	\$ (18,902,020)	-43%
Annual Avg. if 10-yr buildout	\$ 4,377,251	\$ 2,487,049	\$ (1,890,202)	-43%

- 58% (or \$11.9M) of tax exemption occurred in Silver Spring CBD over the past decade, followed by Wheaton (\$8.3M or 41%).
- Based on OMB’s analysis, if the tax exemption in EZs was removed, the proposed rate changes would likely to help the County collect more impact taxes.

Notes:

- Due to data limitation, the estimated exemption for pipeline projects only includes multi-family high-rise units.
- The calculation is solely focused on 15 projects currently approved in Silver Spring CBD.

Exempt Impact Taxes for Development in Opportunity Zones

(Recommendation 6.6)

	Historical Data (FY15-20) if OZ was exempted	Pipeline Projects			
	Estimated Amount	Est. Exemption under Current Rates	Est. Exemption under Proposed Rates	Difference (Current vs. Proposed)	% Change
School Impact Tax	\$ 5,483,073	\$ 24,650,015	\$ 10,841,766	\$ (13,808,249)	-56%
Transportation Tax	\$ 855,142	\$ 11,586,959	\$ 11,586,959	\$ -	0%
Total	\$ 6,338,215	\$ 36,236,974	\$ 22,428,725	\$ (13,808,249)	-38%
Annual Average	\$ 1,056,369				
Annual Avg. if 10-yr build out		\$ 3,623,697	\$ 2,242,872	\$ (1,380,825)	-38%
Assumptions:					
1. Exemption for Opportunity Zones in pipeline projects are identified by Planning Staff					
2. The calculation assumes that all pipeline projects are required with 12.5% MPDUs.					

Opportunity Zones Benefits:

- The State designates 14 census tracts in Montgomery County as OZs in which businesses, equipment, and real property can receive investment through Opportunity Funds.
- OZs are compatible with existing State/Local incentives. There is no legal prohibition on using OZ capital in combination with those state/local programs.
- An Opportunity Fund is the vehicle for investors to invest capital gains and receive three different federal tax credits, including
 - **Temporary Deferral** – for realized capital gains from any asset that are reinvested into an Opportunity Fund prior to December 31, 2026;
 - **Tax Relief** – investors can exclude certain percentage (10%-15%) of their original capital gains from taxation if the reinvested gains remain in an Opportunity Fund;
 - **Permanent Tax Exclusion** – gains are permanently excluded from taxation if the investment is held in an Opportunity Fund for at least 10 years.

- If the impact tax exemption was applied to those selected Opportunity Zones over the past six years, the total tax exemption would have been \$6.3M, or \$1.06M per year.
- OMB estimates that tax exemption on OZs for pipeline projects would be an average of \$3.6M per year under current tax rates.
- The average exemption amount would be reduced, by \$1.38M per year or 38% less, if the proposed rates were applied.
- The revenue gains from eliminating tax exemption in former Enterprise Zones are likely to be offset by the tax exemption proposed for Opportunity Zones.

Limit Exemption of Impact Taxes on 25% MPDUs

(Recommendation 6.7)

Transportation Tax Exemption between 12.5% vs. 25% MPDUs											
CY2010 - CY2019 (in millions)											
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Total
Required "Base" MPDU Exemption (County Code Section 52-49 g.1)	\$ 1.26	\$ 1.42	\$ 1.99	\$ 1.15	\$ 1.30	\$ 0.78	\$ 2.08	\$ 3.56	\$ 1.97	\$ 0.99	\$ 16.49
25% MPDU Exemptions (County Code Section 52-41 g.5)	-	-	-	-	-	-	-	-	\$ 1.41	\$ 3.79	\$ 5.20
<i>Source: Annual Impact Taxes Report from Department of Permitting Services. No exemption of annual school taxes is available from DPS.</i>											

- DPS data were only available for transportation taxes exempted from specific projects. No historical comparison can be analyzed for school impact taxes between 12.5% and 25% MPDUs (the current County mandate).
- For 2018, the majority of 25% MPDU exemptions were attributed to development projects in Germantown, Sandy Spring, and Silver Spring.
- For 2019, most of 25% MPDU exemptions came from projects in Germantown, Silver Spring, and Clarksburg.

Planning Board's Proposed Application of the 25% MPDU Exemption

School Impact Tax Exemption

		Single-family Detached			Single-family Attached			Multifamily		
		Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay
Infill Impact Areas	Standard	\$19,707	\$19,707	\$0	\$17,311	\$17,311	\$0	\$4,370	\$4,370	\$0
	Desired Growth	\$19,707	\$19,707	\$0	\$10,387	\$17,311	\$0	\$2,622	\$4,370	\$0
Turnover Impact Areas	Standard	\$21,582	\$19,707	\$1,875	\$23,928	\$17,311	\$6,617	\$9,688	\$4,370	\$5,318
	Desired Growth	\$21,582	\$19,707	\$1,875	\$14,357	\$17,311	\$0	\$5,813	\$4,370	\$1,443
	AR Zone	\$25,898	\$19,707	\$6,191	\$28,714	\$17,311	\$11,403	\$11,626	\$4,370	\$7,256
Greenfield Impact Areas	Standard	\$33,809	\$19,707	\$14,102	\$28,691	\$17,311	\$11,380	\$24,898	\$4,370	\$20,528
	AR Zone	\$40,571	\$19,707	\$20,864	\$34,429	\$17,311	\$17,118	\$29,878	\$4,370	\$25,508

Transportation Impact Tax Exemption

	Single-family Detached			Single-family Attached			Multifamily Low-rise			Multifamily High-rise			Multifamily Senior		
	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay	Impact Tax	Exemption	To Pay
Red Policy Area	\$7,838	\$7,838	\$0	\$6,413	\$6,413	\$0	\$4,986	\$4,986	\$0	\$3,561	\$3,561	\$0	\$1,424	\$1,424	\$0
Orange Policy Area	\$19,591	\$7,838	\$11,753	\$16,030	\$6,413	\$9,617	\$12,465	\$4,986	\$7,479	\$8,904	\$3,561	\$5,343	\$3,562	\$1,424	\$2,138
Yellow Policy Area	\$24,490	\$7,838	\$16,652	\$20,038	\$6,413	\$13,625	\$15,582	\$4,986	\$10,596	\$11,130	\$3,561	\$7,569	\$4,452	\$1,424	\$3,028
Green Policy Area	\$24,490	\$7,838	\$16,652	\$20,038	\$6,413	\$13,625	\$15,582	\$4,986	\$10,596	\$11,130	\$3,561	\$7,569	\$4,452	\$1,424	\$3,028

What impact would occur if the current exemption requirement for 25% MPDUs is limited?

#	Projects	Location	School Impact Area	Policy Zone	Total Units	Total Market Units	Total MPDU Units	Total Potential Impact Taxes	Total Foregone Impact Taxes - Market Rate Units	Total Foregone Impact Taxes - All Units	Total Impact Taxes Paid - Market Rate Units	Cost Per MPDU Created (est.)	Cost Per Base MPDU	Cost Per Incentivized MPDU Created (est.)
<u>Agreement to Build Signed</u>														
1	Bradford's Landing (sale)	Silver Spring	Turnover	Yellow	244	182	62	\$ 8,649,274	\$ 3,929,190	\$ 6,061,680	\$ 2,587,594	\$ 97,769	\$ 34,395	\$ 161,143
2	Century (sale and rental)	Germantown	Infill	Orange	488	370	118	\$ 8,424,196	\$ 4,241,238	\$ 5,660,870	\$ 2,763,326	\$ 47,973	\$ 12,031	\$ 83,916
3	Cabin Branch Multi-Family (rental)	Clarksburg	Greenfield	Yellow	272	204	68	\$ 9,799,616	\$ 1,617,924	\$ 4,067,828	\$ 5,731,788	\$ 59,821	\$ 36,028	\$ 83,614
4	Dowden's Station (sale)	Clarksburg	Greenfield	Yellow	105	77	28	\$ 5,317,515	\$ 1,906,989	\$ 3,271,401	\$ 2,046,114	\$ 116,836	\$ 48,729	\$ 184,943
	Totals:				1,109	833	276	\$ 32,190,601	\$ 11,695,341	\$ 19,061,779	\$ 13,128,822	\$ 69,064	\$ 26,690	\$ 111,439
<u>In Pipeline</u>														
5	Bloom Montgomery	Montgomery Village	Turnover	Yellow	494	370	124	\$ 17,294,732	\$ 7,861,050	\$ 12,126,030	\$ 5,168,702	\$ 97,791	\$ 34,395	\$ 161,186
6	8000 Wisconsin Avenue (rental)	Bethesda	Infill	Red	441	309	132	\$ 2,726,703	\$ 1,910,547	\$ 2,726,703	\$ -	\$ 20,657	\$ 6,183	\$ 35,131
7	Hillandale Gateway	White Oak	Turnover	Orange	463	347	116	\$ 6,813,971	\$ 2,752,057	\$ 4,459,229	\$ 2,354,742	\$ 38,442	\$ 14,717	\$ 62,166
8	White Oak Town Center	Silver Spring	Turnover	Orange	364	274	90	\$ 5,356,988	\$ 2,173,094	\$ 3,497,624	\$ 1,859,364	\$ 38,862	\$ 14,717	\$ 63,008
9	Natelli/Egan Property	Clarksburg TC	Infill	Orange	357	267	90	\$ 9,430,869	\$ 4,485,600	\$ 6,863,130	\$ 2,567,739	\$ 76,257	\$ 26,417	\$ 126,097
10	Great Key/PTSA Site	R&D Village	Infill	Orange	645	487	158	\$ 12,348,345	\$ 5,828,448	\$ 8,212,194	\$ 4,136,151	\$ 51,976	\$ 15,087	\$ 88,865
11	College View	Germantown	Turnover	Yellow	137	103	34	\$ 2,931,115	\$ 963,668	\$ 1,691,098	\$ 1,240,017	\$ 49,738	\$ 21,395	\$ 78,081
	Totals:				2,901	2,157	744	\$ 56,902,723	\$ 25,974,464	\$ 39,576,008	\$ 17,326,715	\$ 53,194	\$ 18,282	\$ 88,105
<u>Plans Not Yet Submitted</u>														
12	Aris Mardirossian Bethesda (rental)	Bethesda	Infill	Red	319	223	96	\$ 1,972,377	\$ 1,378,809	\$ 1,972,377	\$ -	\$ 20,546	\$ 6,183	\$ 34,908
13	Aldon/Battery Lane District	Bethesda	Infill	Red	1,530	1,050	480	\$ 9,459,990	\$ 6,492,150	\$ 9,459,990	\$ -	\$ 19,708	\$ 6,183	\$ 33,234
14	Montgomery Village Center	Montgomery Village	Turnover	Yellow	115	87	28	\$ 2,460,425	\$ 813,972	\$ 1,413,032	\$ 1,047,393	\$ 50,465	\$ 21,395	\$ 79,536
	Totals:				1,964	1,360	604	\$ 13,892,792	\$ 8,260,344	\$ 12,845,399	\$ 1,047,393	\$ 21,267	\$ 6,888	\$ 34,240
	Total - All Units:				5,974	4,350	1,624	\$ 102,986,116	\$ 45,930,149	\$ 71,483,186	\$ 31,502,930	\$ 44,017	\$ 15,473	\$ 72,037
	Development Loan - Housing Init. Fund:	\$ 49,925	Per MPDU											

Assumptions:

1. Calculation is based on the proposed rates for both school and transportation impact taxes.
2. Exemption is double-rated (i.e., 25% must be MPDUs and 30% MPDUs in downtown Bethesda).
3. If exemption target met, applicable rate is the lowest for that unit type.
4. Only count MPDUs towards meeting 25-30% exemption threshold.

- The average cost per MPDU produced by the HIF is \$49,925.
- The cost of each incentivized MPDU in Red Policy Area is less than that amount.

Comparison of MPDUs Exemption among Basic Requirement, Current Policy, and Recommended Changes (Recommendation 6.7)

	Pre-2018 MPDU Exemption (12.5% MPDU)	Post-2018 Current MPDU Exemption (25% MPDU)	2020 Proposed 25% MPDU Exemption Changes
# of Projects	14	14	14
# of Total Units	5,974	5,974	5,974
Total # of Market-Rate Units	5,160	4,350	4,350
Total # of Required MPDUs	814	812	812
Total # of Incentivized MPDUs	-	812	812
Total Potential Impact Taxes Collected without Exemption	\$ 141,704,600	\$ 141,704,600	\$ 102,986,116
Total Impact Taxes Waived	\$ (17,531,889)	\$ (141,704,600)	\$ (71,483,186)
<i>Foregone Impact Taxes on Market-Rate Units</i>	\$ -	\$ (106,640,822)	\$ (46,354,736)
<i>Foregone Impact Taxes on Required MPDUs</i>	\$ (17,531,889)	\$ (17,531,889)	\$ (12,564,225)
<i>Foregone Impact Taxes on Incentivized MPDUs</i>	\$ -	\$ (17,531,889)	\$ (12,564,225)
Total Impact Taxes Collected	\$ 124,172,711	\$ -	\$ 31,502,930
Cost Per MPDU Created	\$ 21,538	\$ 87,257	\$ 44,017
Cost Per Incentivized MPDU	\$ -	\$ 152,922	\$ 72,560

Notes:

- The cost per MPDU created is calculated based on all taxes waived to create MPDUs.
- The cost per incentivized MPDU is calculated based on the taxes waived for market-rate units and additional MPDUs.
- The cost per MPDU under the Planning Board's recommendation is in part significantly reduced due to changes in the proposed rate structure.

Assumptions:

1. The analysis assumes all 14 projects are fully built out, including 4 projects with building permits, 7 in the pipeline, and 3 are not yet submitted.
2. All projects continue to utilize the required base exemption (12.5% - 15%). The "Incentivized" MPDU refers to those MPDU units provided beyond the required 12.5% - 15% threshold.
3. Per DHCA's report, the average cost per affordable unit produced by the HIF loans is approximately \$49,925.

- The amount of impact taxes for a property varies widely depending on the type of unit, any age restrictions, and the location of development.
- The average Impact Tax cost per extra MPDU varies tremendously. It could be from \$74,700 for a rental project in Bethesda to \$325,200 for a single-family detached and townhouse project in Silver Spring.
- OMB's analysis suggests that the recommendation proposed by Planning Board to limit 25% MPDU exemptions would have generated additional \$31.5M in impact taxes revenue to the County. It will also reduce the cost of incentivized MPDU per unit.

Continue to Apply a Net Impact Basis on Demolished and Rebuilt Homes, Providing a Credit for Any Units Demolished (Recommendation 6.8)

Estimated Revenues		
	Year 1	Year 2 and beyond
School Impact Tax	3,823,892	7,647,785
Excise Tax for Affordable Housing	2,524,530	5,049,061
Total	6,348,423	12,696,846
<p><i>Note: 1). Assume a 20% reduction in historical trends to account for possible changes in property owner behavior. 2). Assume an additional 50% reduction in Year 1 to reflect the possibility that homeowners and developers might rush to secure permits before the Bill's effective date.</i></p>		

Notes:

1. *Bill 34-19 was proposed in October 2019 to create an excise tax on certain demolitions and renovations of single-family homes that exceed the square footage of the original home. Bill 34-19 has not been moved forward by the Council.*
2. *In response to Bill 34-19, OMB conservatively estimated that \$6.3M could be generated from Year one while an additional \$12.7M per year could be generated for Year two and beyond.*

- Based on the analysis of student generation rates among recently torn down and rebuilt homes, Planning Board affirms the current policy that the replacement of a single-family home only pays impact taxes on a net impact basis if it's rebuilt within one year.
- If the rebuilt house changes its type (i.e., teardown a single-family detached unit and put up multifamily building or single-family attached), the developer would get an impact tax credit equal to that of the demolished unit but would have to pay the difference.

Modify Recordation Tax Collections to Provide Funding for School CIP and the HIF

(Recommendation 6.7)

<i>County Code 52-16B (a)</i>	Current Rate	Proposed Changes	Notes
For each \$500 that the sales price exceeds \$100K and less than \$500K	\$ 4.45	\$ 4.95	
<i>To General Fund</i>	\$ 2.08	\$ 2.08	
<i>To MCPS CIP</i>	\$ 2.37	\$ 2.87	Increase \$0.50 for each \$500 interval to the MCPS CIP
For each \$500 that sales price exceeds \$500K but less than \$1M	\$ 6.75	\$ 7.75	
<i>To County CIP and Rental Assistance</i>	\$ 2.30	\$ 2.30	
<i>To MCPS</i>	\$ -	\$ 0.50	Increase another \$0.50 for each \$500 to the MCPS CIP
For each \$500 that sales price of a single-family home exceeds \$1M	\$ 6.75	\$ 8.75	
<i>To the Housing Initiative Fund</i>	\$ -	\$ 1.00	Increase additional \$1.00 for each \$500 to the HIF

Planning Board's Recommendations:

1. Based on the data, more than 70% of recent MCPS enrollment growth were attributed to turnover of existing dwelling units.
2. Increase by \$0.50 to the MCPS CIP for each \$500 that the home sales price exceeds \$100,000 (rate changed from \$2.37 to \$2.87) and above \$500,000 (change from \$2.30 to \$2.80).
3. Charge \$1.00 additional to the Housing Initiative Fund for each \$500 that the home sales price exceeds \$1M.
4. Exempt tax from the first \$500,000 for the principal residence of first-time homebuyers.
5. Planning staff estimated the proposed change would have generated \$20M more in revenue for MCPS CIP in FY19. However, the estimate does not include the additional exemption for first-time homebuyers.

Recordation Tax Collections from FY10 through FY19

Funding Allocation	RECORDATION TAX REVENUES (in millions)										Total (FY10-FY19)	Annual Average	Annual Avg. Growth Rate
	FY10	FY11	FY12	FY13	FY14	FY15	FY16	FY17	FY18	FY19			
School CIP	\$ 18.5	\$ 19.3	\$ 20.1	\$ 28.0	\$ 25.0	\$ 26.2	\$ 28.8	\$ 58.1	\$ 55.8	\$ 62.0	\$ 341.9	\$ 34.2	12.9%
General Fund	\$ 44.9	\$ 57.7	\$ 51.2	\$ 57.6	\$ 54.0	\$ 55.5	\$ 61.1	\$ 60.4	\$ 49.1	\$ 54.7	\$ 546.3	\$ 54.6	2.0%
Premium*	\$ 8.2	\$ 10.9	\$ 12.2	\$ 18.9	\$ 15.7	\$ 17.2	\$ 19.1	\$ 30.9	\$ 26.1	\$ 31.8	\$ 191.0	\$ 19.1	14.5%
TOTAL	\$ 71.6	\$ 87.9	\$ 83.5	\$ 104.5	\$ 94.7	\$ 99.0	\$ 109.0	\$ 149.4	\$ 131.1	\$ 148.5	\$ 1,079.3	\$ 107.9	7.6%
<i>Source: CAFR, Department of Finance</i>													
<i>* Recordation Premium is split between the County CIP and Rental Assistance.</i>													

Notes:

- *Planning staff estimated the proposed change would have generated \$20M more in revenue for MCPS CIPs in FY19. However, their estimate did not include the additional exemption for first-time homebuyers.*
- *Due to the complexity of analyzing the exemption of first \$500,000 for first-time homebuyers, the fiscal impact analysis of proposed recordation tax changes is pending.*

September 10, 2020

The Honorable Sidney A. Katz, President
Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850

Dear Mr. Katz:

Montgomery County Public Schools (MCPS) appreciates the opportunity to provide comments regarding the *Montgomery County Planning Board's Draft County Growth Policy 2020–2024*. The Subdivision Staging Policy (SSP) assesses the County's infrastructure, such as schools and transportation, as it relates to future growth. The Planning Board draft includes various changes to current practices with respect to school infrastructure. As the Montgomery County Council begins its review of this draft, MCPS wishes to highlight several of the recommendations and provide the following comments.

Comments on Proposed Recommendations

1. *Classify County neighborhoods into School Impact Areas based on their recent and anticipated growth context.* While the current SSP divides the County into clusters, the recommendation would divide the County into three school impact areas—Greenfield, Turnover, and Infill—based on similar amounts of development, type of development, and amount of school enrollment growth. An evaluation of school infrastructure based on the three school impact areas, as a result of an evaluation of the three factors, is understandable and similar to the process used by MCPS to develop enrollment projections and priorities for capital projects in the Capital Improvements Program (CIP).
2. *Adopt a set of Annual School Test Guidelines, which outline the methodologies used to conduct the Annual School Test and to evaluate the enrollment impacts of development applications and Master Plans.* The proposed recommendation would provide a formal and detailed process to be used to conduct the Annual School Test. Having these guidelines—transparent and easily accessible—established would be beneficial to all County stakeholders.
3. *The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle, and high school, for the purpose of determining school utilization adequacy.* The current SSP provides for an individual school test as well as a cluster test to evaluate school utilization throughout the County. The proposed recommendation would eliminate the cluster test, thereby avoiding an area to be designated as inadequate as a result

of several schools exceeding the established threshold. Utilizing the individual school test for all facilities would align with our CIP and Master Plan, which provide enrollment and utilization information for every school in the district.

4. *The Annual School Test will evaluate projected school utilization three years into the future using a newly established utilization adequacy standards.* The current SSP evaluates projected school utilization five years into the future, which allows a capital project to be planned, constructed, and completed in a six-year planning period. If a capital project is approved in the first year of the six-year plan, completion will not occur within the three-year window; therefore, this would not allow the capacity to be counted in the Annual School Test. While it is possible for projects to be delayed, shortening the Annual School Test window may result in unintentional outcomes.

With respect to the utilization adequacy standards, the recommended 120 percent utilization that would trigger a new Utilization Premium Payment may align with the MCPS process to consider a capital project for schools that exceed capacity. However, depending on the capacity of the school, the 120 percent threshold for payment could result in enrollment deficits that are greater than those generally used to consider a capacity project before generating funds. MCPS guidelines generally analyze capital solutions when schools exceed capacity by 92 seats at an elementary school, 150 seats at a middle school, and 200 seats at a high school.

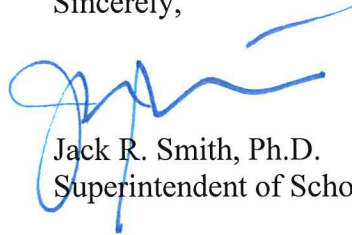
5. *Moratoria will only apply in Greenfield Impact Areas.* Under the current SSP, if a school reaches 120 percent utilization, the area enters moratorium. The proposed recommendation would allow for potential moratoria only in areas that have new development and generate much of the enrollment growth. Providing school capacity for students is a priority for MCPS as well as addressing aging infrastructure and upgrading and replacing many building systems. These priorities compete with other priorities in the county, resulting in fiscal limitations. MCPS will continue to prioritize capital projects based on capacity and infrastructure needs across the system and continue to request the funding necessary to meet those needs.
6. *Establish a new exception that allows the Planning Board to approve residential development in an area under a moratorium if a school (at the same level as any school causing the moratorium) is located within 3, 5, or 10 network miles (ES, MS, or HS, respectively) of the proposed subdivision and has a projected utilization less than or equal to 105 percent.* This recommendation does provide some latitude regarding moratorium; however, this exception does make certain assumptions. While MCPS always considers boundary reassignments during its review of capacity concerns during the CIP process, the reassignment must consider a number of factors, including projected trends in enrollment and utilization, and stability of school assignment over time. On paper, the “borrowing” of adjacent capacity may be beneficial; however, actually reassigning students from one school to another in order to approve residential development may result in unintentional consequences such as shifting

overutilization from one school to another. This is especially the case if that school is at or is approaching 105 percent utilization.

7. *Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS's official positions.* MCPS supports and welcomes the opportunity to continue to collaborate with Montgomery County Planning staff as it relates to residential development and school facility planning. The MCPS representative will be well versed in these matters; however, there may be times, as it relates to certain issues, when the Board of Education would need to provide its position.

Thank you for the opportunity to provide comments on a number of proposed changes included in the *Montgomery County Planning Board's Draft County Growth Policy 2020–2024*. If you have any questions, please contact Ms. Essie McGuire, associate superintendent of operations, Office of Engagement, Innovation, and Operations, via e-mail, at Essie_McGuire@mcpsmd.org.

Sincerely,



Jack R. Smith, Ph.D.
Superintendent of Schools

JRS:DGT:EM:sr

Copy to:

Members of the Board of Education

Dr. McKnight

Dr. Johnson

Mr. Turner

Dr. Wilson

Mrs. Ahn

Mr. Marella

Ms. McGuire

Dr. Nixon

Mr. Adams

Ms. Karamihas

Ms. Webb



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

September 11, 2020

To: Council colleagues
Fr: Hans Riemer
Re: Emergency growth policy amendment to support biohealth industry

Right now there are billions of dollars in investment flowing into companies that are providing vaccines and therapeutics for COVID-19. Many of those companies are located in Montgomery County: Novavax, Emergent, AstraZeneca, Qiagen, to name just a few.

As the companies are receiving contracts and investment from public and private entities, they are planning their growth for the next several years and beyond. Some will need new and expanded facilities to conduct new research and manufacturing enterprises.

This is a crucial moment where Montgomery County can secure our brand as the vaccine capital of the world, capturing economic growth that will benefit our community for decades to come -- or see that growth go to other communities such as Frederick, Philadelphia, or North Carolina.

Accordingly, now is the time for unconventional and emergency steps to support growth in our biohealth sector.

One of the impediments to investment in Montgomery County is our extensive and lengthy development approval process, which according to industry experts takes about 18 months on average, despite recent efforts to improve the process. A company that wants to hit a certain and accelerated timeline for getting project approvals can not have enough confidence that their goals can be achieved in Montgomery County. That must change.

Research on pandemics will grow even after COVID19 has passed. Montgomery County could capture a significant amount of that growth and create high wage jobs for our community. Or, companies in these sectors could find that County processes are too slow and cumbersome and they need to locate their investments elsewhere in order to meet deadlines. That has already happened, as you can see from the life sciences growth in Frederick today.

Given the incredible timeliness and opportunity for the County in this moment, I am proposing that we include in the 2020-2024 Subdivision Staging Policy (which we should rename Growth Policy) a provision to exempt any facility that will primarily be used for life sciences and biotech from SSP transportation tests, for the next five years. The exemption will enable these projects to move forward more quickly and with greater confidence.

The provision to achieve that goal reads as follows:

Temporary Suspension for Biohealth / Life Sciences

The Local Area Transportation Review (section TL) requirements of the Subdivision Staging Policy must not apply to a development or a portion of a development where:

- 1) the primary use is biohealth or life sciences; and*
- 2) an application for preliminary plan, site plan, or building permit that would otherwise require a finding of Adequate Public Facilities is approved after [insert effective date] and before [insert date 5 years after effective date]; and*
- 3) an application for building permit is filed within 3 years after the approval of the application.*

This amendment would be part of the larger growth policy (SSP) that we are taking up and need to approve by November 15, 2020.

As for how this will impact transportation, the implication will be that if the County is concerned about local area transportation impacts it can do an assessment and plan for improvements, but those will not be required of the developer or company. Think of this as a guaranteed economic development incentive for a critical industry at a “make or break” moment.

Because this reform only addresses a share of the development process, it is urgently important that County departments accelerate their timelines to provide absolute confidence in a pathway for investment and approval. I am exploring additional steps the Council can take to remove barriers as well.

From an economic perspective, leveraging this moment of economic development opportunity could bring long lasting benefits -- benefits that help us secure our County’s place in the global life sciences industry over time. We must act with urgency.

Thank you for your earlier support for my proposal to add an item to the Planning Department work program to rethink and re-envision transportation and development in the Great Seneca Science Corridor biohealth cluster area. That work is underway.

Please let me know if you would like to co-sponsor this amendment. Thank you.