



**Committee:** Directly to Council  
**Committee Review:** At a future date  
**Staff:** Pamela Dunn, Senior Legislative Analyst  
Glenn Orlin, Senior Analyst  
**Purpose:** To introduce agenda item and receive testimony  
– no vote expected  
**Keywords:** #SubdivisionStagingPolicy, SSP

AGENDA ITEM 3D  
September 15, 2020  
**Introduction/Public  
Hearing**

## SUBJECT

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

## EXPECTED ATTENDEES

Casey Anderson, Chair, Montgomery Planning Board  
Gwen Wright, Director, Montgomery Planning Department  
Jason Sartori, Chief, Countywide Planning Division, Planning Department

## COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

N/A

## DESCRIPTION/ISSUE

- Code §33A-15(b)(2) requires the Planning Board to approve and send to the Council a recommended Subdivision Staging Policy by August 1.
- On July 30, the Planning Board transmitted its recommended 2020-2024 Subdivision Staging Policy (SSP), including a draft resolution to codify the Board's proposed changes.
- A copy of the Planning Board Draft 2020-2024 SSP can be found at the following link: <https://montgomeryplanning.org/wp-content/uploads/2020/07/County-Growth-Policy-1.pdf>.
- A public hearing is scheduled the same day as this introduction, September 15, at 7:30 p.m.

## 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:

Transmittal Letter  
2020-2024 Subdivision Staging Policy Resolution

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**MONTGOMERY COUNTY PLANNING BOARD**  
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

July 30, 2020

TO: The County Council for Montgomery County, Maryland  
FROM: Montgomery County Planning Board  
SUBJECT: Planning Board Draft of the 2020-2024 County Growth Policy (Subdivision Staging Policy)

At its regular meeting on July 30, 2020, the Montgomery County Planning Board of the Maryland–National Capital Park and Planning Commission approved its draft of the 2020-2024 County Growth Policy (Subdivision Staging Policy) by a vote of 5 to 0. Sec. 33A-15(b)(2) of the County Code requires that the Board approve and send the enclosed recommended policy to the County Council by August 1, 2020.

The Board’s recommendations follow a year’s worth of community engagement, five stakeholder roundtables, six Board briefings by Montgomery Planning staff, six Board work sessions and an Urban Land Institute virtual Advisory Services Panel review. In its ongoing efforts to balance expected county growth and development needs with school and transportation capacities, the Planning Board recommendations include a series of policy changes to calculations and tools used to measure and address school capacity adequacy, traffic congestion, transportation safety and ways to fund needed infrastructure. We look forward to participating in the Council discussion over these recommendations in the coming months.

**CERTIFICATION**

This is to certify that the attached report is a true and correct copy of the Planning Board’s recommended subdivision staging policy transmitted to the County Council in accordance with Sec. 33A-15(b)(2) of the County Code as determined by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission, at its regular meeting held on Thursday, July 30, 2020.

Casey Anderson  
Chair

Linked Attachments:

- County Growth Policy - Planning Board Draft
- County Growth Policy Appendices - Planning Board Draft

CA:JS:aj

8787 Georgia Avenue, Silver Spring, Maryland 20910 Phone: 301.495.4605 Fax: 301.495.1320  
[www.montgomeryplanningboard.org](http://www.montgomeryplanningboard.org) E-Mail: [mcp-chair@mnccppc.org](mailto:mcp-chair@mnccppc.org)

Resolution No: \_\_\_\_\_  
Introduced: \_\_\_\_\_  
Adopted: \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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By: Council President at the request of the Planning Board

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**SUBJECT:** 2020 County Growth Policy (Subdivision Staging Policy)

**Background**

1. County Code §33A-15 requires that no later than November 15 of the second year of a Council's term, the County Council must adopt a subdivision staging policy to be effective until November 15 of the second year of the next Council term, to provide policy guidance to the agencies of government and the general public on matters concerning land use development, growth management and related environmental, economic and social issues.
2. On July 31, 2020, in accordance with §33A-15, the Planning Board transmitted to the County Council its recommendations on the 2020 County Growth Policy (Subdivision Staging Policy). The draft policy, as submitted by the Planning Board, contained supporting and explanatory materials.
3. On September 15, 2020, the County Council held a public hearing on the policy.
4. On \_\_\_\_\_, 2020, the Council's Planning, Housing, and Economic Development Committee conducted worksessions on the recommended policy.
5. On \_\_\_\_\_, 2020, the Council conducted worksessions on the Subdivision Staging Policy, at which careful consideration was given to the public hearing testimony, updated information, recommended revisions and comments of the County Executive and Planning Board, and the comments and concerns of other interested parties.

**Action**

*The County Council for Montgomery County, Maryland, approves the following Resolution:*

The 2020 County Growth Policy (Subdivision Staging Policy) is approved as follows:

## **Applicability; transition**

### **AP1 Effective dates**

This resolution takes effect on January 1, 2021 and applies to any application for a preliminary plan of subdivision filed on or after that date.

### **AP2 Transition**

For any complete application for subdivision approval submitted before January 1, 2021, the rules of the 2016 Subdivision Staging Policy continue to apply.

## **Guidelines for the Administration of the Adequate Public Facilities Ordinance**

County Code Chapter 8 Article IV ("the Adequate Public Facilities Ordinance or APFO") directs the Montgomery County Planning Board to approve preliminary plans of subdivision only after finding that public facilities will be adequate to serve the subdivision. This involves predicting future demand from private development and comparing it to the capacity of existing and programmed public facilities. The following guidelines describe the methods and criteria that the Planning Board and its staff must use in determining the adequacy of public facilities. These guidelines supersede all previous ones adopted by the County Council.

The Council accepts the definitions of terms and the assignment of values to key measurement variables that were used by the Planning Board and its staff in developing the recommended County Growth Policy/Subdivision Staging Policy ("Policy"). The Council delegates to the Planning Board and its staff all other necessary administrative decisions not covered by the guidelines outlined below. In its administration of the APFO, the Planning Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities.

The findings and directives described in this Policy are based primarily on the public facilities in the approved FY 2021-26 Capital Improvements Program (CIP) and the Maryland Department of Transportation FY 2020-25 Consolidated Transportation Program (CTP). The Council also reviewed related County and State and Federal funding decisions, master plan guidance and zoning where relevant, and related legislative actions. These findings and directives and their supporting planning and measurement process have been the subject of a public hearing and review during worksessions by the County Council. Approval of the findings and directives reflects a legislative judgment that, all things considered, these findings and procedures constitute a reasonable, appropriate, and desirable set of staged growth limits, which properly relate to the ability of the County to program and construct facilities necessary to accommodate growth. These growth stages will substantially advance County land use objectives by providing for coordinated and orderly development.

These guidelines are intended to be used as a means for government to fulfill its responsibility to provide adequate public facilities. Quadrennial review and oversight, combined with periodic

monitoring by the Planning Board, allows the Council to identify problems and initiate solutions that will serve to avoid or limit the duration of any imbalance between the construction of new development and the implementation of transportation improvements in a specific policy area. Further, alternatives may be available for developers who wish to proceed in advance of the adopted public facilities program, through the provision of additional public facility capacity beyond that contained in the approved Capital Improvements Program, or through other measures that accomplish an equivalent effect.

The administration of the Adequate Public Facilities Ordinance must at all times be consistent with adopted master plans and sector plans. Where development staging guidelines in adopted master plans or sector plans are more restrictive than Policy guidelines, the guidelines in the adopted master plan or sector plan must be used to the extent that they are more restrictive. The Policy does not require the Planning Board to base its analysis and recommendations for any new or revised master or sector plan on the public facility adequacy standards in this resolution.

### **Guidelines for Public School Facilities**

#### **S1 Geographic Areas**

##### **S1.1 School Impact Areas**

The county was divided into small geographic areas predefined by census tract boundaries for the purpose of analyzing the various housing and enrollment growth trends across different parts of the county. These small geographic areas have then been classified into School Impact Areas based on their recent and anticipated growth contexts. The three categories of School Impact Areas and the growth contexts characteristic of each are:

- **Greenfield Impact Area** Areas with high housing growth predominantly in the form of single-family units, consequently experiencing high enrollment growth.
- **Infill Impact Area** Areas with high housing growth predominantly in the form of multifamily units.
- **Turnover Impact Area** Areas with low housing growth, where enrollment growth is largely due to turnover of existing single-family units.

The census tracts associated with each School Impact Area are identified in Table S1 and the School Impact Areas are shown in Map 1.

**Table S1. School Impact Area Census Tracts.**

| <b>Greenfield<br/>Impact Areas</b> | <b>Infill<br/>Impact Areas</b> |         |         | <b>Turnover<br/>Impact Areas</b> |
|------------------------------------|--------------------------------|---------|---------|----------------------------------|
| 7002.05                            | 7048.03                        | 7007.11 | 7003.10 | All remaining<br>census tracts   |
| 7003.11                            | 7048.04                        | 7007.17 | 7008.18 |                                  |
| 7003.12                            | 7048.05                        | 7007.18 | 7008.30 |                                  |
|                                    | 7048.06                        | 7007.22 | 7009.01 |                                  |
|                                    | 7024.02                        | 7007.23 | 7009.04 |                                  |
|                                    | 7025                           | 7007.24 | 7038    |                                  |
|                                    | 7026.01                        | 7008.16 | 7012.02 |                                  |
|                                    | 7055.01                        | 7008.17 | 7012.13 |                                  |
|                                    | 7056.02                        | 7003.08 | 7012.16 |                                  |
|                                    | 7007.04                        | 7003.09 |         |                                  |

Additionally, all Red Policy Areas (identified in TP1), are designated as Infill Impact Areas.

At each quadrennial update to the County Growth Policy, the latest growth contexts of the small geographic areas are to be reviewed and the School Impact Area classifications are to be revised accordingly.

**S1.2 MCPS School Service Areas**

For the purpose of analyzing the adequacy of public school facilities by various school service areas, the boundaries of Montgomery County Public Schools (MCPS) are adopted to define individual school service areas for each grade level of school (elementary, middle, and high school). For paired elementary schools – where students attend grades K to 2 at one school and grades 3 to 5 at another – the service areas of the schools paired together are treated as one homogenous area.

- Individual Elementary School Service Area
- Individual Middle School Service Area
- Individual High School Service Area

**S2 Annual School Test**

Each year, no later than July 1, the Planning Board is to review and certify the results of an Annual School Test to evaluate the adequacy of public school facilities. The test assesses each individual elementary, middle, and high school facility. The findings from the test are used to establish the adequacy status of each school service area and dictate applicable standards for prospective development applications accordingly.

Along with certifying the test results, the Planning Board is required to approve or reaffirm the Annual School Test procedures and guidelines that govern how the test is conducted and utilized. To the extent that they are consistent with this Policy, the Planning Board guidelines may continue to apply or may be amended as the Planning Board finds necessary.

The Annual School Test results remain in effect for the entirety of the fiscal year, unless there is a change to the Montgomery County Public Schools Capital Improvements Program (CIP). If at any time during a fiscal year the County Council notifies the Planning Board of a material change in the MCPS CIP, the Planning Board may revise the results of the Annual School Test to reflect that change. There will be no

staging ceiling or threshold against which the enrollment impact of a development application is measured.

## **S2.1 Determination of Adequacy**

For the purpose of conducting the Annual School Test, adequacy is defined as capacity utilization, measured as a derivative of enrollment and capacity. Capacity herein refers to the program capacity specified for each school by MCPS based on the allocation of space for different grades and types of programs. Capacity utilization can be measured in two dimensions – a utilization rate and the number of students over capacity. A utilization rate is calculated by dividing enrollment by capacity. The number of students over capacity is calculated by subtracting enrollment from capacity.

MCPS provides data for each facility's enrollment and capacity in its annual Educational Facilities Master Plan and Capital Improvements Program. For the purpose of accurately reflecting potential changes to enrollment or capacity figures not officially included in MCPS's data, limited adjustments may be made to the projected enrollment and planned capacity of certain schools on the following terms:

- Adjustments are made to the projected enrollment of schools slated for student reassignments when a capital project is described in the Project Description Form as being intended to relieve overcrowding at one school to the other. The adjustment is to be reflective of the estimated number of students to be reassigned. If an estimated number is explicitly identified in the Project Description Form, it is to be used. Otherwise, the estimate will be based on an assumed balance of projected utilization across all schools involved for the year tested.
- Adjustments are made to the planned capacity of a school when the Council implements a placeholder solution. The adjustment is to be reflective of the potential relief provided by the solution project.

## **S2.2 Adequacy Standards and School Service Area Status**

Every MCPS elementary, middle, and high school with a predefined geographic boundary is assessed by the capacity utilization of their facility projected for three fiscal years in the future.

If a school's three-year projected utilization does not exceed 120%, the facility is considered adequate and the service area's status is open. If a school's three-year projected utilization is found to exceed 120%, the service area's status will require Utilization Premium Payments to be paid.

In Greenfield Impact Areas, if a school's three-year projected utilization rate and number of seats over capacity are projected to reach the moratorium standards listed in Table S2, the school service area will be in moratorium. Areas within the same school service area may be designated with different adequacy statuses if their School Impact Area classifications differ. A moratorium will only be imposed in parts of the school service area designated as a Greenfield Impact Area.

Tables S2 and S3 summarize the adequacy parameters of the Annual School Test described above.



**Table S2. School Adequacy Standards**

| School Adequacy Standards |  | School Service Areas Status |                       |                      |
|---------------------------|--|-----------------------------|-----------------------|----------------------|
| Projected Utilization     | Projected Seat Deficit                                 | Greenfield Impact Areas     | Turnover Impact Areas | Infill Impact Areas  |
| ≤ 120%                    | N/A  | Open                        | Open                  | Open                 |
| > 120%                    | N/A  | UP Payments Required        | UP Payments Required  | UP Payments Required |
| > 125%                    | ≥ 115 seats for ES<br>≥ 188 seats for MS<br>N/A for HS | In Moratorium               | UP Payments Required  | UP Payments Required |

**Table S3. School Service Area Status Descriptions**

| School Service Area Status            | Status Descriptions and Development Implications  |
|---------------------------------------|---|
| Open                                  | Development applications may proceed from the standpoint of adequate school facilities.   |
| Utilization Premium Payments Required | Development applications require Utilization Premium Payments as specified in Section S6 as a condition of adequate public facilities approval. |
| In Moratorium                         | Residential development applications <u>cannot</u> be approved unless they meet criteria for an exception from moratorium.                      |

### S3 Utilization Premium Payment Requirements

If the Annual School Test determines that the three-year projected utilization rate of a school exceeds 120%, Utilization Premium Payments are required as a condition of Planning Board approval on the basis of adequate school facilities.

#### S3.1 Utilization Premium Payment Calculation

The Utilization Premium Payments are applied at the individual school level and will be calculated as a percentage of the applicable standard school impact tax rates, as shown in Table S4.

**Table S4. Utilization Premium Payment**

| 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 |

#### S3.2 Exemptions from Utilization Premium Payments

##### S3.2.1 Affordable Housing Units

Moderately Priced Dwelling Units and other affordable housing units, which are exempt from development impact taxes for schools under Section 52-54(d), paragraphs 1 through 4, are exempt from the Utilization Premium Payments.

## **S4 Moratorium on Residential Development in Greenfield Impact Areas**

In Greenfield Impact Areas, if the Annual School Test determines that a school exceeds the adequacy standards, a residential subdivision moratorium must be imposed within the school service area. The moratorium is to be limited to the part of the school service area that is within the Greenfield Impact Area.

When the Annual School Test identifies an area as being in moratorium, the Planning Board must not approve any residential subdivision in that area during the next fiscal year, unless it meets certain exception criteria.

### **S4.1 Exceptions from Moratorium**

#### **S4.1.1 De Minimis Development**

When a moratorium is imposed in a Greenfield Impact Area, the Planning Board may nevertheless approve a subdivision in the subjected area if the plan is calculated to generate fewer than one student at any school identified as inadequate by the Annual School Test.

#### **S4.1.2 Senior Housing**

When a moratorium is imposed in a Greenfield Impact Area, the Planning Board may nevertheless approve a subdivision in the subjected area if the residential component of the plan consists solely of age-restricted housing units for seniors 55 years old and older.

#### **S4.1.3 Capacity at Nearby School**

When a moratorium is imposed in a Greenfield Impact Area, the Planning Board may nevertheless approve a subdivision in the subjected area if a nearby school at the same grade level as the school causing the moratorium is within the applicable network distance identified in Table S5 and has a projected test year utilization of 105% or less.

**Table S5. Distance Standard for Nearby School**

| <b>School Grade Level</b> | <b>Network Distance from Subdivision</b> |
|---------------------------|--|
| Elementary School         | 3 miles                                  |
| Middle School             | 5 miles                                  |
| High School               | 10 miles                                 |

## **S5 Utilization Report**

The Annual School Test is to be accompanied by a Utilization Report each year, which provides supplemental information pertaining to the county's public school infrastructure. The report will include a utilization analysis both from a countywide perspective and individual school perspective.

### **S5.1 Countywide Analysis**

From a countywide perspective, the Utilization Report will provide an analysis of all schools collectively for each school grade level. The data should include, as available:

- historic trends and projections of collective utilization rates of all schools countywide by school grade level
- historic trends and projections of the share and number of schools at each school grade level within certain utilization bands (e.g., between 100% and 120% utilization)

## **S5.2 Individual School Analysis**

The Utilization Report will also provide additional utilization data and facility conditions for each individual school. The information reported for each individual school should include, as available:

- historic trend and projection of enrollment, capacity, and capacity utilization (both utilization rate and number of students over capacity)
- information relevant to core capacity and usage
- current number of relocatable classrooms being used
- most recent MCPS Key Facility Indicator data
- list of three nearest schools of the same grade level, and approximate travel distance to each nearest school

## **S6 Student Generation Rates**

Student generation rates are the ratio of students enrolled in public schools to the total number of dwelling units and is a depiction of the average number of students per unit for a given geography and housing type. Student generation rates are to be updated biennially on July 1 of every odd-numbered year using the most recent MCPS enrollment data.

## **Guidelines for Transportation Facilities**

### **TP Policy Areas**

#### **TP1 Policy Area Boundaries and Definitions**

For the purposes of transportation analysis, the County has been divided into areas called traffic zones. Based on their transportation characteristics, these zones are grouped into transportation policy areas, as shown on Map T1. In many cases, transportation policy areas have the same boundaries as planning areas, sector plan areas, or master plan analysis (or special study) areas. Each policy area is categorized as Red, Orange, Yellow or Green Policy Areas. The policy areas in effect, and their applicable category for 2020-2024 are:

**Red Policy Areas:** Bethesda CBD Metro Station Policy Area (MSPA), Forest Glen MSPA, Friendship Heights MSPA, Glenmont MSPA, Grosvenor MSPA, Rockville Town Center MSPA, Shady Grove MSPA, Silver Spring CBD MSPA, Twinbrook MSPA, Wheaton CBD MSPA, White Flint MSPA, Chevy Chase Lake, Long Branch, Lyttonsville/Woodside, Dale Drive/Manchester Place and Takoma/Langley.

**Orange Policy Areas:** Bethesda Chevy Chase, Burtonsville Town Center, Clarksburg Town Center, Derwood, Gaithersburg City, Germantown Town Center, Kensington/Wheaton, North

Bethesda, Research and Development Village, Rockville City, Silver Spring/Takoma Park, and White Oak.

**Yellow Policy Areas:** Aspen Hill, Clarksburg, Cloverly, Fairland/Colesville, Germantown East, Germantown West, Montgomery Village/Airpark, North Potomac, Olney, and Potomac.

**Green Policy Areas:** Damascus, Rural East, and Rural West.

The boundaries of the policy areas are shown on maps T2-T40.

The boundaries of the Gaithersburg City and Rockville City policy areas reflect existing municipal boundaries, except where County-regulated land is surrounded by city-regulated land. The boundaries of these municipal policy areas do not automatically reflect any change in municipal boundaries; any change in a policy area boundary requires affirmative Council action.

## **TP2 Development District Participation**

Under Chapter 14 of the County Code, the County Council may create development districts as a funding mechanism for needed infrastructure in areas of the County where substantial development is expected or encouraged.

### **TP2.1 Additional Facilities Recommended for Funding**

The County Executive and Planning Board may also recommend to the County Council additional facilities to be provided by the development district or by the public sector to support development within the district. These facilities may include, but are not limited to libraries, health centers, local parks, social services, green ways, and major recreation facilities.

### **TP2.2 Satisfaction of APF Requirements**

As provided in Chapter 14 of the County Code, once the development district is created and the financing of all required infrastructure is arranged, the development in the district is considered to have satisfied all APF requirements, any additional requirements that apply to development districts in the Subdivision Staging Policy, and any other requirement to provide infrastructure which the County adopts within 12 years after the district is created.

## **TL Local Area Transportation Review (LATR)**

Local Area Transportation Review must at all times be consistent with the standards and staging mechanisms of adopted master and sector plans.

Because the various modes of the transportation system are not isolated, LATR adequacy tests are required for any subdivision that generates 50 or more peak-hour weekday person trips.

### **TL1 Vision Zero Resources**

Since adopting the Vision Zero Action Plan, the county launched several Vision Zero-related initiatives. These initiatives shall be leveraged and incorporated into the LATR process. Some of these initiatives have been completed and adopted while others are ongoing and will be incorporated in the future, including:

- Bicycle Master Plan – adopted
- Pedestrian Master Plan – ongoing
- High Injury Network – completed
- Predictive Safety Analysis – ongoing
- Bicycle Level of Traffic Stress Map – completed
- Pedestrian Level of Comfort Map – ongoing
- Vision Zero Toolkit – ongoing
- Complete Streets Design Guide – ongoing

Roads immediately adjacent to new development should be designed to account for all identified recommendations from applicable planning documents including Functional Plans, Master Plans and Area Plans. The resources listed above, in particular the Bicycle Level of Traffic Stress and Pedestrian Level of Comfort maps, are only useful if the models are built on data that accurately reflects the conditions for bicyclists and pedestrians. In the context of performing a transportation impact study for any development project, the transportation consultant shall check the accuracy of the bicycle and pedestrian network attributes in the county’s database relative to the observed existing conditions. The consultant should identify any inaccurate network attributes and any attributes to be updated in accordance with the development “as built” plans and report this information to Montgomery Planning staff to update the county’s databases accordingly.

## **TL2 LATR System Adequacy Tests**

### **TL2.1 Safety System Adequacy**

Safety system adequacy will be defined through a Vision Zero test. This test will entail a safety performance analysis that will be performed utilizing a safety performance function (SPF). A SPF is an equation used to predict the number of crashes per year at a location as a function of exposure, land use and roadway or intersection characteristics. Development can impact the factors that influence the estimated number of crashes. The county is conducting a Predictive Safety Analysis for estimating SPFs and the estimated number of crashes for common crash types. Upon Planning Board approval following completion of the Predictive Safety Analysis, safety system adequacy will be defined as providing a reduction in the overall estimated number of crashes (based on SPFs) for the build conditions at all intersections and street segments within the study scope.

The process for utilizing the SPF approach in the safety system test will be refined and described in greater detail after completion of the Predictive Safety Analysis. This method should factor in development-generated site trips as well as development-related changes to the transportation network and public space. If the number of expected crashes is found to increase with the new development traffic, safety mitigation must be applied in order to reduce the overall number of expected crashes at study intersections and street segments to below predevelopment levels. The developer should make a fair share contribution to mitigation at study intersections that are not direct access points to the development.

The geographic scope of the safety system test is one network-based mile from the site frontage or a distance determined by the size of the development project and the number of peak-hour vehicle trips generated as shown in Table T1, whichever is less.

### **TL2.2 Motor Vehicle System Adequacy**

To achieve an approximately equivalent transportation level of service in all areas of the county, greater vehicular traffic congestion is permitted in policy areas with greater transit accessibility and usage. For motor vehicle adequacy, Table T2 shows the intersection level of service standards by policy area. The

motor vehicle adequacy test will not be applied in Red Policy Areas. When a motor vehicle LATR study is required, the initial analysis will be a Critical Lane Volume (CLV) evaluation. Only signalized intersections exhibiting a CLV exceeding the applicable policy area CLV congestion standard will require the Highway Capacity Manual (HCM) delay-based analysis. The Planning Board may adopt administrative guidelines that allow use of Highway Capacity Manual 2010 methodologies and other analysis techniques consistent with guidance published by the Transportation Research Board.

Motor vehicle mitigation is required for any intersection failing the HCM test (i.e., exhibiting delay exceeding the applicable policy area HCM delay standard) based on the prioritization identified in TL5. The applicant must mitigate its impact on vehicle delay or down to the applicable policy area standard, whichever is less. In this context, vehicular capacity mitigation must not negatively impact progress toward the county’s Vision Zero goals or directly detriment safety, transit or non-motorized improvements required by the other LATR tests.

The scope of the motor vehicle adequacy test is based on the size of the project and the number of peak-hour vehicle trips generated by the project. Each LATR motor vehicle study must examine, at a minimum, the number of signalized intersections identified in Table T1, unless the Planning Board affirmatively finds that special circumstances warrant a more limited study.

**Table T1. Motor Vehicle and Safety System LATR Scoping**

| <b>Maximum Peak-Hour Vehicle Trips Generated</b> | <b>Minimum Signalized Intersections in Each Direction</b> |
|--|---|
| < 250  | 1   |
| 250 – 749  | 2   |
| 750 – 1,249                                      | 3   |
| 1,250 – 1,749                                    | 4   |
| 1,750 – 2,249                                    | 5   |
| 2,250 – 2,749                                    | 6   |
| >2,750   | 7   |

**TL2.3 Pedestrian System Adequacy**

**TL2.3.1 Interim Pedestrian System Analysis**

Until Planning Board approval of the Pedestrian Level of Comfort map, pedestrian system adequacy shall be defined as providing level of service (LOS) D capacity or better in any crosswalk. For any site that generates more than 50 pedestrian peak hour trips (including trips to transit) the applicant must:

- Fix (or fund) Americans with Disabilities Act (ADA) non-compliance issues within a 500-foot radius of site boundaries, and
- Ensure LOS D for crosswalk pedestrian delay (or no more delay than existing) at LATR study intersections within 500 feet of site boundaries or within a Road Code Urban Area/Bicycle Pedestrian Priority Area (RCUA/BPPA)

Regardless of the development size and location, if an intersection operational analysis is triggered for any intersections within a RCUA/BPPA, mitigation must not increase average pedestrian crossing time at the intersection.

**TL2.3.2 Vision Zero Enhanced Pedestrian System Analysis**

Upon Planning Board approval of the Pedestrian Level of Comfort map, pedestrian system analysis will be based on the following standards and scoping:

- For any site generating at least 50, but fewer than 100 peak-hour person trips the applicant must:
  - Demonstrate the achievement of a “somewhat comfortable” or “very comfortable” Pedestrian Level of Comfort (PLOC) score for walking to destinations within 250 feet of a development site boundary – including commercial centers, transit stations, schools, parks, libraries, recreation centers, medical facilities, among other things – or transit stops within 500 feet of the development site boundary. If current conditions are not adequate, the applicant must construct up to 500 feet of improvements to achieve adequacy from the site frontage. Specific improvements to be constructed should be identified in consultation with Montgomery Planning.
  - Evaluate existing street lighting based on Montgomery County Department of Transportation (MCDOT) standards along roadways or paths from the development to destinations within 250 feet of the development site boundary or to transit stops within 500 feet of the development site boundary. Where standards are not met, street lighting shall be upgraded to meet the applicable standards. The streetlight field review shall include a field inventory of existing streetlight and pedestrian scale fixtures with current spacing and general location of luminaire noted (utility pole mounted, stand-alone pole mount, or pedestrian scale). All longitudinal spacing or intersection locations that do not meet MCDOT standards should be noted. Note this inventory is not intended to be a full lighting study with measurement of illuminance levels but will identify missing lighting locations at intersections as well as longitudinal spacing deficiencies as per MCDOT streetlight standards.
- For any site generating 100 or more peak-hour person trips the applicant must:
  - Demonstrate the achievement of a “somewhat comfortable” or “very comfortable” Pedestrian Level of Comfort (PLOC) score for walking to destinations within 500 feet of a development site boundary – including commercial centers, transit stations, schools, parks, libraries, recreation centers, medical facilities, among other things – or transit stops within 1,000 feet of the development site boundary. If current conditions are not adequate, the applicant must construct up to 1,000 feet of improvements to achieve adequacy from the site frontage. Specific improvements to be constructed should be identified in consultation with Montgomery Planning.
  - Evaluate existing street lighting based on Montgomery County Department of Transportation (MCDOT) standards along roadways or paths from the development to destinations within 500 feet of the development site boundary or to transit stops within 1,000 feet of the development site boundary. Where standards are not met, street lighting shall be upgraded to meet the applicable standards. The streetlight field review shall include a field inventory of existing streetlight and pedestrian scale fixtures with current spacing and general location of luminaire noted (utility pole mounted, stand-alone pole mount, or pedestrian scale). All longitudinal spacing or intersection locations that do not meet MCDOT standards should be noted. Note this inventory is not intended to be a full lighting study with measurement of illuminance levels but will identify missing lighting locations at intersections as well as longitudinal spacing deficiencies as per MCDOT streetlight standards.
- For any site generating at least 50 pedestrian peak-hour trips (including to transit) the applicant must fix (or fund) Americans with Disabilities Act (ADA) non-compliance issues within a 500-foot radius of site boundaries.

#### **TL2.4 Bicycle System Adequacy**

Bicycle system adequacy is defined as providing a low Level of Traffic Stress (LTS) for bicyclists. Bicycle system analysis will be based on the following standards and scoping:

- For any site generating at least 50, but fewer than 100 peak-hour person trips the applicant must ensure low Level of Traffic Stress (LTS-2) conditions within 375 feet of the site frontage. If current connections are not adequate, the applicant must construct up to 375 feet of side-paths, separated bike lanes, or trails that create or extend a low level of traffic stress up to 375 feet from the site frontage. In consultation with Montgomery Planning, the improvements to be constructed will be informed by the Bicycle Master Plan priority tiers.
- For any site generating 100 or more peak-hour person trips the applicant must ensure low Level of Traffic Stress (LTS-2) conditions within 750 feet of the site frontage. If current connections are not adequate, the applicant must construct up to 750 feet of side-paths, separated bike lanes, or trails that create or extend a low level of traffic stress up to 750 feet from the site frontage. In consultation with Montgomery Planning, the improvements to be constructed will be informed by the Bicycle Master Plan priority tiers.

#### **TL2.5 Transit System Adequacy**

Transit system adequacy for LATR is defined as providing a peak load of LOS D for bus transit service routes (1.25 transit riders per seat) during the peak period (in the peak direction). Transit system analysis will be based on the following standards and scoping:

- For any site generating at least 50, but fewer than 100 peak-hour person trips the applicant must inventory bus routes at stations/stops within 500 feet of the site and identify the peak load for each route at that station. The applicant must coordinate with the transit service provider to identify and implement (or fund) improvements needed to address conditions worse than LOS D due to additional patrons generated by the development.
- For any site generating 50 or more peak-hour person trips the applicant must inventory bus routes at stations/stops within 1,000 feet of the site and identify the peak load for each route at that station. The applicant must coordinate with the transit service provider to identify and implement (or fund) improvements that would be needed to address conditions worse than LOS D due to additional patrons generated by the development.

#### **TL3 LATR Vision Zero Impact Statement**

To ensure development is executed to better align with Vision Zero principles, all LATR studies must include a Vision Zero Impact Statement. This statement shall describe:

- Any segment of the high injury network located on the development frontage.
- Crash analysis for the development frontage.
- An evaluation of the required sight distance for all development access points.
- Identification of conflict points for drivers, bicyclists, and pedestrians and a qualitative assessment of the safety of the conflict.
- A speed study including posted, operating, design, and target speeds.
- Any capital or operational modifications required to maximize safe access to the site and surrounding area, particularly from the Vision Zero Toolkit.



In addition, mitigation recommendations from the capacity-based adequacy determination must address the needs identified in the Vision Zero Impact Statement and Pedestrian and Bicycle Impact Statement. A goal of the requirements listed immediately above is to ensure Vision Zero resources accurately reflect conditions on the development frontage.

#### **TL4 Additional LATR Standards and Procedures**

In administering Local Area Transportation Review, the Planning Board must not approve a subdivision if it finds that inadequate travel conditions will result after considering existing roads, programmed roads, available or programmed mass transportation, and improvements to be provided by the applicant. If the subdivision will affect an intersection or roadway link for which congestion is already unacceptable, then the subdivision may only be approved if the applicant agrees to mitigate the impacts of either:

- a sufficient number of trips to bring the inadequate travel conditions to a level of adequacy, or
- a number of trips attributable to the development.

The nature of the LATR test is such that a study is necessary if inadequate travel conditions are likely to occur. The Planning Board and staff must examine the applicant's traffic study to determine whether adjustments are necessary to assure that the LATR study is a reasonable and appropriate reflection of the traffic impact of the proposed subdivision after considering all approved development and programmed transportation projects.

If use and occupancy permits for at least 75% of the originally approved development were issued more than 12 years before the LATR study scope request, the number of signalized intersections in the study must be based on the increased number of peak hour trips rather than the total number of peak hour trips. In these cases, LATR is not required for any expansion that generates 5 or fewer additional peak hour trips.

For Local Area Transportation Review purposes, the programmed transportation projects to be considered are those fully funded for construction in the first 6 years of the current approved Capital Improvements Program, the state's Consolidated Transportation Program, or any municipal capital improvements program. For these purposes, any road required under Section 302 of the County Charter to be authorized by law is not programmed until the time for petition to referendum has expired without a valid petition or the authorizing law has been approved by referendum.

If an applicant is participating in a traffic mitigation program or one or more intersection improvements to meet Local Area Transportation Review requirements, that applicant must be considered to have met Local Area Transportation Review for any other intersection where the volume of trips generated is less than 5 Critical Lane Movements.

Any LATR study must be submitted by a registered Professional Engineer, certified Professional Traffic Operations Engineer, or certified Professional Transportation Planner.

At the Planning Board's discretion, each traffic mitigation program must be required to operate for at least 12 years but no longer than 15 years. The Planning Board may select either trip reduction measures or road improvements, or a combination of both, as the required means of traffic mitigation.

The Planning Board has adopted guidelines to administer Local Area Transportation Review. To the extent that they are consistent with this Policy, the Planning Board guidelines may continue to apply or may be amended as the Planning Board finds necessary.

In administering Local Area Transportation Review, the Planning Board must carefully consider the recommendations of the County Executive concerning the applicant's LATR study and proposed improvements or any other aspect of the review. To achieve safe and convenient pedestrian travel, the Planning Board may adopt administrative guidelines requiring construction of off-site sidewalk improvements consistent with County Code §50-25. To support creating facilities that encourage transit use, walking, and bicycling, to maintain an approximately equivalent level of service at the local level for both auto and non-auto modes, the Board may allow the applicant to use peak hour vehicle trip credits for providing non-auto facilities. Before approving credits for non-auto facilities to reduce Local Area Transportation Review impacts, the Board should first consider the applicability and desirability of traffic mitigation agreement measures. The Board's *LATR Guidelines* must identify applicable facilities in terms of actions that can be given trip credits and the maximum number of trips that can be credited. If the Board approves any credits, it must specify mechanisms to monitor the construction of any required facility. During each quadrennial Subdivision Staging Policy, the Board must report on the number of credits issued and confirm the construction of any required facility.

In general, any mitigation measure or combination of mitigation measures must be scheduled for completion or otherwise operational either before or at the same time as the proposed development is scheduled to be completed. The nature, design, and scale of any additional facility or program must receive prior approval from any government agency that would construct or maintain the facility or program, and the applicant and the public agency must execute an appropriate public works agreement before the Planning Board approves a record plat.

Both the subdivision plan and the necessary mitigation measures must be consistent with an adopted master plan or other relevant land use policy statement. For the Planning Board to accept an intersection improvement as a mitigation measure, the applicant must show that alternative non-auto mitigation measures are not feasible or desirable. In evaluating mitigation measures proposed by an applicant, the Board must place a high priority on design excellence to create a safe, comfortable, and attractive public realm for all users, with particular focus on high-quality pedestrian and transit access to schools, libraries, recreation centers, and other neighborhood facilities.

If an approved subdivision already has constructed or participated in the construction of off-site improvements to accommodate its peak hour trips, based on the LATR requirements the Board imposed when it approved a preliminary subdivision plan, and if the subdivision later converts one or more approved uses or reduces its size so that the subdivision generates fewer peak hour trips than estimated when the Board imposed the LATR requirements, the trip mitigation agreement must reduce the subdivision's peak hour trip mitigation requirement by one trip for each peak hour trip that the subdivision would no longer generate. If the conversion of all or part of a subdivision from one use to another would cause a different trip distribution or would place new or different burdens on one or more intersections, and if the subdivision is otherwise required to do so, the subdivision must construct or contribute to improvements specified by the Board to mitigate that result.

#### **TL5 Motor Vehicle Mitigation Priorities**

Mitigation strategies to increase capacity or reduce delay for motor vehicles may be counter to Vision Zero principles. Increases in speed or increasing motor vehicle capacity through roadway widening, signal phasing or timing changes may increase hazards for pedestrians, bicyclists and drivers. It is critical that any capacity-based mitigation strategy does not negatively impact the safety of any roadway

user. The application of motor vehicle congestion mitigation approaches shall be prioritized as follows when projected traffic generated from proposed projects exceeds the applicable policy area congestion standard:

- Transportation demand management (TDM) approaches to reduce vehicular demand.
- Payment in lieu of mitigation
- Intersection operational improvements
- Roadway capacity improvements

In the event that intersection operational improvements or roadway capacity improvements proposed by the developer run counter to the county's Vision Zero goals or directly detriment safety, transit or non-motorized improvements required by the other LATR tests, the Planning Board may alternatively require the developer to make payments to MCDOT in lieu of motor vehicle congestion mitigation.

In Road Code Urban Areas (RCUAs) and Bicycle Pedestrian Priority Areas (BiPPAs), adjusting the prioritization of mitigation approaches listed above may allow for mitigation payment in lieu of construction.

## **TL6 Unique Policy Area Issues**

### **TL6.1 White Flint Policy Area LATR Standards**

Any proposed development located in the White Flint Metro Station Policy Area is exempt from Local Area Transportation Review if the development will be required to provide substantial funds to the Special Tax District created to finance master planned public improvements in the Policy Area. However, the traffic impact of any development in that Policy Area must be considered in any Local Area Transportation Review calculation for any development elsewhere where it would otherwise be considered.

### **TL6.2 Potomac LATR Standards**

In the Potomac Policy Area, only the areas contributing traffic to the following intersections must be subject to Local Area Transportation Review: (a) Montrose Road at Seven Locks Road; (b) Democracy Boulevard at Seven Locks Road; (c) Tuckerman Lane at Seven Locks Road; (d) Democracy Boulevard at Westlake Drive; (e) Westlake Drive at Westlake Terrace; (f) Westlake Drive at Tuckerman Lane; (g) Bradley Boulevard at Seven Locks Road; (h) River Road at Bradley Boulevard; (i) River Road at Piney Meetinghouse Road; (j) River Road at Falls Road; (k) Falls Road at Democracy Boulevard; and (l) River Road at Seven Locks Road.

### **TL6.3 Silver Spring CBD Policy Area and Transportation Management District**

The Local Area Transportation Review for the Silver Spring CBD policy area must use the following assumptions and guidelines:

- Each traffic limit is derived from the heaviest traffic demand period in Silver Spring's case, the p.m. peak hour outbound traffic.
- When tested during a comprehensive circulation analysis, the critical lane volume or average vehicle delay for intersections in the surrounding Silver Spring/Takoma Park policy area must not be worse than the adopted level of service standards shown in Table T2 unless the Planning

Board finds that the impact of improving the intersection is more burdensome than the increased congestion.

- The Planning Board and the Department of Transportation must implement Transportation Systems Management for the Silver Spring CBD. The goal of this program must be to achieve the commuting goals for transit use and auto occupancy rates set out below.
- The County Government, through the Silver Spring Parking Lot District, must constrain the amount of public and private long-term parking spaces.

The parking constraints and commuting goals needed to achieve satisfactory traffic conditions with these staging ceilings are:

**Parking constraint:** A maximum of 17,500 public and private long-term spaces when all nonresidential development is built; this maximum assumes a peak accumulation factor of 0.9, which requires verification in Silver Spring and may be subject to revision. Interim long-term parking constraints must be imposed in accordance with the amount of interim development. Long-term public parking spaces must be priced to reflect the market value of constrained parking spaces.

**Commuting goals:** For employers with 25 or more employees, attain 25 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 46% non-drivers during the peak periods. For new nonresidential development, attain 30% mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 50% non-drivers during the peak periods.

Progress towards achieving these goals should be measured annually by scientific, statistically valid surveys.

To achieve these goals it will be necessary to require developers of new development in Silver Spring to enter into traffic mitigation agreements and the employers and certain owners to submit transportation mitigation plans under County Code Chapter 42A.

In accordance with the amendment to the Silver Spring Sector Plan, subdivision applications for nonresidential standard method projects throughout the CBD may be approved for development or additions of not more than 5,000 square feet of gross floor area. However, if, for a particular use the addition of 5 peak hour trips yields a floor area greater than 5,000 square feet, that additional area may be approved for that particular use.

#### **TL6.4 North Bethesda TMD**

In the North Bethesda Transportation Management District, the goal is 39% non-driver mode share for workers in the peak hour.

#### **TL6.5 Bethesda TMD**

In the Bethesda Transportation Management District, the goal is 37% non-driver mode share for workers.

#### **TL6.6 Friendship Heights TMD**

In the Friendship Heights Transportation Management District, the goal is 39% non-driver mode share for workers.

#### **TL6.7 Greater Shady Grove TMD**

In the Shady Grove Policy Area, the goal is a transit ridership goal of 35% for residents in the Shady Grove Policy Area, 25% for residents elsewhere in the Sector Plan, and 12.5% for employees of office development traveling to work.

Each development that receives preliminary plan approval in the Shady Grove Metro Station Policy Area and generates at least 100 additional peak-hour vehicle trips, other than pass-by trips, must enter into a Traffic Mitigation Agreement (TMAg). The trip mitigation requirement for this Agreement is 50% of the residential-related vehicle trips and 65% of the non-residential-related vehicle trips that would otherwise be expected, based on countywide trip generation rates before any applicable deduction, such as proximity to a Metrorail station. The breakdown in the reduction of trips should be identified in the Agreement. County-owned property in the Shady Grove Policy Area must enter into a TMAg on all new development or redevelopment, with no deduction of existing trips.

#### **TL6.8 Great Seneca Science Corridor Master Plan**

In the Great Seneca Science Corridor, an 18% non-auto driver mode share (NADMS) must be attained before Stage 2 begins, a 23% NADMS must be attained before Stage 3 begins, and a 28% NADMS must be attained before Stage 4 begins.

#### **TL6.9 White Oak Policy Area**

In the White Oak Policy Area the non-auto-driver mode share (NADMS) goal for all new development, based on the area's future transit service (assuming bus rapid transit) and connectivity opportunities, is 25% in the White oak Center and Hillandale Center, and is 30% in the Life Sciences/FDA Village Center.

- (a) The Board may approve a subdivision in the White Oak Policy Area conditioned on the applicant paying a fee to the County commensurate with the applicant's proportion of the cost of a White Oak Local Area Transportation Improvement Program, including the costs of design, land acquisition, construction, site improvements, and utility relocation. The proportion is based on a subdivision's share of net additional peak-hour vehicle trips generated by all master-planned development in the White Oak Policy Area approved after January 1, 2016.
- (b) The components of the White Oak Local Area Transportation Improvement Program and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The Council may amend the Program and the fee at any time, after a public hearing.
- (c) The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.
- (d) The Department of Finance must retain funds collected under this Section in an account to be appropriated for transportation improvements that result in added transportation capacity serving the White Oak Policy Area.

#### **TL7 Unified Mobility Programs**

- (a) The Board may approve a subdivision in any policy area conditioned on the applicant paying a fee to the County commensurate with the applicant's proportion of the cost of a Unified Mobility

Program (UMP), including the costs of design, land acquisition, construction, site improvements, and utility relocation. One option is to base this proportion on a subdivision's share of net additional peak-hour vehicle trips generated by all master-planned development in the policy area.

- (b) The components of the UMP and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The Council may amend the UMP and the fee at any time, after a public hearing.
- (c) The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.
- (d) The Department of Finance must retain funds collected under this Section in an account to be appropriated for transportation improvements that result in added transportation capacity serving the policy area.

#### **TL8 Red Policy Area LATR Standards**

Any proposed development in Red policy areas is exempt from the LATR motor vehicle adequacy test. In lieu of the motor vehicle adequacy test, the assessment of transportation system performance in these areas should be performed through the biennial monitoring program, including a Comprehensive Local Area Transportation Review (or comparable analysis), to identify and prioritize master planned infrastructure implementation needs. Concurrently, the establishment of Unified Mobility Programs (UMPs) should be considered for Red policy areas, as appropriate.

#### **TL9 Transit Corridor Motor Vehicle LATR Standards**

The motor vehicle level of service standard for signalized intersections along the segments of the following roadways that traverse Orange and Yellow policy areas and include planned Bus Rapid Transit (BRT) service within their master planned right-of-way is 1700 CLV or 100 second/vehicle:

- Georgia Avenue (MD 97), the segment sharing the right-of-way with the Georgia Avenue BRT
- Rockville Pike/Frederick Road (MD 355), the segment sharing the right-of-way with the MD 355 BRT
- New Hampshire Avenue (MD 650), the segment sharing the right-of-way with the New Hampshire Avenue BRT
- Old Georgetown Road (MD 187), the segment sharing the right-of-way with the North Bethesda Transitway
- Randolph Road, the segment sharing the right-of-way with the Randolph Road BRT
- University Boulevard (MD 193), the segment sharing the right-of-way with the University Boulevard BRT
- US 29, the segment sharing the right-of-way with the US 29 BRT
- Veirs Mill Road (MD 586), the segment sharing the right-of-way with the Veirs Mill BRT
- Century Boulevard and Observation Drive, the segments of these roadways sharing the right-of-way with the Corridor Cities Transitway

#### **TA Alternative Review Procedures**

##### **TA1 Expiration of Approvals under Previous Alternative Review Procedures**

Annual Growth Policy resolutions in effect between 1995 and 2001 contained Alternative Review Procedures that required any development approved under those procedures to receive each building permit no later than 4 years after the Planning Board approved the preliminary plan of subdivision for that

development. Any outstanding development project approved under an Alternative Review Procedure is subject to the expiration dates in effect when that development project was approved.

**TA2 Automobile related uses in the Cherry Hill Employment Area**

For any property located in the Cherry Hill Employment Area with automobile repair, service, sales, parking, storage, or related office uses, **TL Local Area Transportation Review** is not required.

This provision applies to any application for a preliminary plan of subdivision, site plan, or building permit approved before July 26, 2016.

**TA3 Public Facility Project**

An applicant for a development which will be built solely as a public facility (such as a school, firehouse, police station, or library) need not take any action under TL Local Area Transportation Review when it undergoes a mandatory referral review by the Planning Board.

**TA4 Affordable Housing**

The provision of affordable housing in the County is crucial to providing long lasting reductions to regional congestion. Long distance trips affect the County's traffic in many parts of our community. The provision of affordable housing is a fundamental element of the County's General Plan and part of the County's economic development strategy. All trips generated by any moderately priced dwelling unit (MPDU) and any other low-and moderate-income housing which is exempt from paying a development impact tax must also be exempt from any Transportation Mitigation payment.

**Table T2. Local Area Transportation Review Intersection Congestion Standards – Highway Capacity Manual Volume-to-Capacity, Critical Lane Volume and Average Vehicle Delay Equivalencies.**

| <b>Policy Area</b>  | <b>HCM Average Vehicle Delay Standard (seconds/vehicle)</b> | <b>Critical Lane Volume Congestion Equivalent</b> | <b>HCM Volume-to-Capacity Equivalent</b> |
|---|---|---|--|
| 29 Rural East<br>30 Rural West  | 41  | 1350  | 0.84                                     |
| 9 Damascus  | 48  | 1400  | 0.88                                     |
| 6 Clarksburg<br>14 Germantown East<br>16 Germantown West<br>13 Gaithersburg City<br>21 Montgomery Village/Airpark | 51  | 1425  | 0.89                                     |
| 8 Cloverly<br>23 North Potomac<br>25 Potomac<br>24 Olney<br>26 R&D Village  | 55  | 1450  | 0.91                                     |
| 10 Derwood<br>1 Aspen Hill<br>11 Fairland/Colesville  | 59  | 1475  | 0.92                                     |
| 7 Clarksburg Town Center<br>15 Germantown Town Center<br>27 Rockville City  | 63  | 1500  | 0.94                                     |
| 4 Burtonsville Town Center<br>22 North Bethesda   | 71  | 1550  | 0.97                                     |
| 3 Bethesda/Chevy Chase<br>19 Kensington/Wheaton<br>33 Silver Spring/Takoma Park<br>38 White Oak                   | 80  | 1600  | 1.00                                     |

### **Guidelines for Water and Sewerage Facilities**

In accordance with the Adequate Public Facilities Ordinance, applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available, is under construction, is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (i.e., categories 1-3), or if the applicant either provides a community water and/or sewerage system or meets Department of Permitting Services requirements for septic and/or well systems, as outlined in the Adequate Public Facilities Ordinance. These requirements are determined either by reference to the Water and Sewerage Plan, adopted by the Council, or by obtaining a satisfactory percolation test from the Department of Permitting Services.

Applications must only be accepted for further Planning staff and Board consideration if they present evidence of meeting the appropriate requirements as described above.



### **Guidelines for Police, Fire and Health Services**

The Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated. Such a problem is one which cannot be overcome within the context of the approved Capital Improvements Program and operating budgets of the relevant agencies. Where such evidence exists, either through agency response to the Subdivision Review committee clearinghouse, or through public commentary or Planning staff consideration, a Local Area Review must be undertaken. The Board must seek a written opinion from the relevant agency, and require, if necessary, additional data from the applicant, to facilitate the completion of the Planning staff recommendation within the statutory time frame for Planning Board action. In performing this Local Area Review, the facility capacity at the end of the sixth year of the approved CIP must be compared to the demand generated by the “most probable” forecast for the same year prepared by the Planning Department.

### **Guidelines for Resubdivisions**

An application to amend a previously approved preliminary plan of subdivision does not require a new test for adequacy of public facilities if:

- Revisions to a preliminary plan have not been recorded, the preliminary plan has not expired, and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.
- Resubdivision of a recorded lot involves the sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties to make small adjustments in boundaries.
- Resubdivision of a recorded lot involves more than 2,000 square feet or one percent of the lot area and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.

This is a correct copy of Council action.

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Selena Mendy Singleton, Esq.  
Clerk of the Council



**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 15<sup>th</sup> 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**

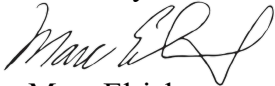
Adequate public facilities are a critical part of building a thriving and successful community. If school capacity is disregarded and there’s no concern about managing congestion, then we risk losing our perceived edge in education and we confirm to businesses and residents alike that we’re not serious 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 cursive script, appearing to read "Marc 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 |
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| <b><i>Policy Recommendations: County Growth Policy</i></b>  |      |
| <p><a href="#">3.1 <u>Change the name of the Subdivision Staging Policy to the County Growth Policy.</u></a></p> <p><b>The CE agrees.</b></p>   | 34   |
| <b><i>Schools Recommendations: School Impact Areas</i></b>  |      |
| <p><a href="#">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></a></p> <p><b>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.</b></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><a href="#">4.2 <u>Classify all Red Policy Areas (Metro Station Policy Areas and Purple Line Station Policy Areas) as Impact Policy Areas.</u></a></p> <p><b>MCDOT recommends deferring classifying the Purple Line Stations to Red Policy Areas, and the CE supports that recommendation.</b></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   |
| <b><i>Schools Recommendations: Annual School Test and Utilization Report</i></b>  |      |
| <p><a href="#">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></a></p> <p><b>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.</b> Planning Staff should also consult with MCPS.</p>  | 43   |
| <p><a href="#">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></a></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<br>≥ 188 seats for MS<br>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**

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| <p><b>the developer not paying his fair share of the infrastructure costs of new development.</b> 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><b>THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.</b></p>   |    |
| <p><a href="#">4.6 The Annual School Test will establish each school service area’s adequacy status for the entirety of the applicable fiscal year.</a></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%. <b>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.</b></p> <p><b>THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.</b></p>  | 45 |
| <p><a href="#">4.7 The Annual School Test will include a Utilization Report that will provide a countywide analysis of utilization at each school level.</a></p> <p><b>The CE does not understand the purpose of a countywide Utilization Report.</b></p>   | 46 |
| <p><a href="#">4.8 The Utilization Report will also provide additional utilization and facility condition information for each school, as available.</a></p> <p><b>The CE only supports in-kind developer contributions that add to school capacity, not air conditioning or improvements like that.</b> There also need to be objective standards so that the contribution can be measured, and compared to other in-kind contributions.</p>   | 47 |
| <p><b>Schools Recommendations: Residential Development Moratorium</b></p>   |    |
| <p><a href="#">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.</a></p> <p><b>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.</b> 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><b>THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.</b></p> | 45 |

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| <p><a href="#">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.</a></p> <p><b>The CE has no objection.</b></p> <p><a href="#">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.</a></p> <p><b>The CE opposes this exception because it increases school overcrowding.</b></p> <p><b>THIS RECOMMENDATION WILL INCREASE SCHOOL OVERCROWDING.</b></p>   | <p><a href="#">45</a></p> |
| <p><a href="#">4.12 Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.</a></p> <p><b>The County Executive supports the recommendation of DHCA.</b></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><a href="#">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.</a></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><b>The CE does not support merging multi-family buildings when calculating SGRs.</b></p> <p><b>Multi-family</b>--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><b>Single-Family</b>--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)<br/> Planning Staff has calculated what the percentage would be if new homes/teardown</p> | <p><a href="#">47</a></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**

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**Schools Recommendations: Development Application Review**

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| 4.14 <a href="#">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.</a> | 58 |
| <b>The CE agrees.</b>  |    |

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| 4.15 <a href="#">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.</a> | 58 |
| <b>The CE agrees.</b>   |    |

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| 4.16 <a href="#">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</a> | 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**

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| <p>increased in this SSP so that Utilization Premium Payments are not necessary, and this recommendation rejected. <b>If, however, the Council approves these payments than the payments should be required when overcrowding is greater than 105%, not greater than 120%.</b></p>  |           |
| <p><b>Transportation Recommendations: Vision Zero Resources</b></p>   |           |
| <p><a href="#">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.</a></p> <p>MCDOT has two comprehensive observations about this SSP’s transportation proposals:</p> <ul style="list-style-type: none"> <li>• The new analyses proposed for new development are largely information-gathering with few clear actionable results. .</li> <li>• 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.</li> </ul> <p><b>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.</b></p> <p><b>Furthermore, the CE does not support the recommendation in Sec. 5.1 because it needs clarification, and for the reasons below.</b> 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><b>The CE recommends deleting all references to the Predictive Safety Analysis; it should be struck from the document,</b> 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> |

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| <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><b>Transportation Recommendations: Mitigation Priorities</b></p>   |    |
| <p>5.2 <a href="#">Prioritize motor vehicle mitigation strategies designed to improve travel safety.</a></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><b>Transportation Recommendations: Development Review Committee</b></p>  |    |
| <p>5.3 <a href="#">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.</a></p> <p><b>The CE understands this position would be a MCDOT representative, and agrees with that.</b></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><b>Transportation Recommendations: Transportation Impact Study Approach</b></p>  |    |
| <p>5.4 <a href="#">Introduce a Vision Zero Impact Statement for LATR studies pertaining to subdivisions that will generate 50 or more peak-hour person trips.</a></p> <p><b>CE agrees with comments from MCDOT.</b></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 |



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| <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 &amp; choose projects and needs, particularly if off-site? We need more definition to this and metrics to guide implementation.</p>  |    |
| <p>5.5 <a href="#">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.</a></p> <p><b>The CE agrees with the comments of MCDOT. See Sec. 5.1. above.</b></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 |

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| <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> |                     |
| <b>Transportation Recommendations: Transportation Impact Study Scoping</b>   |                     |
| <p>5.6 <a href="#">Eliminate the LATR study requirement for motor vehicle adequacy in Red Policy Areas (Metrorail Station Policy Areas and Purple Line Station Areas).</a></p> <p><b>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.</b></p> <p>5.7 <a href="#">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.</a></p> <p><b>The County Executive opposes this recommendation.</b></p>   | <p>74</p> <p>74</p> |
| <b>Transportation Recommendations: Transit Corridor LATR Intersection Congestion Standard</b>  |                     |
| <p>5.8 <a href="#">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.</a></p>   | <p>75</p>           |

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| <b>The County Executive opposes this recommendation.</b> |  |
|--|--|

| Recommendation  | Page               |
|---|--------------------|
| <p>5.9 <a href="#">Place all Purple Line Station policy areas (existing and proposed) in the Red policy area category.</a></p> <p><b>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.</b></p>   | 79                 |
| <p>5.10 <a href="#">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.</a></p> <p><b>Agree</b></p>  | <a href="#">72</a> |
| <b>Transportation Recommendations: Policy Area Review</b>   |                    |
| <p>5.11 <a href="#">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.</a></p> <p><b>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.</b></p> | 82                 |
| <p>5.12 <a href="#">The proposed metric for auto and transit travel times is average time per trip, considering all trip purposes.</a></p> <p><b>See comment for 5.11.</b></p>  | 83                 |
| <p>5.13 <a href="#">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.</a></p> <p><b>See comment for 5.11.</b></p>  | 84                 |
| <p>5.14 <a href="#">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.</a></p> <p><b>See comment for 5.11.</b></p>  | 85                 |
| <p>5.15 <a href="#">The proposed metric for bicycle accessibility is the Countywide Connectivity metric documented in the 2018 Montgomery County Bicycle Master Plan (page 200).</a></p> <p><b>The CE takes no position on this recommendation.</b></p>   | 85                 |
| <p>5.16 <a href="#">Define the boundary of the Forest Glen Metro Station Policy Area.</a></p> <p>MCDOT suggests that the boundary only go to the Beltway to the south.</p>  | 86                 |
| <p>5.17 <a href="#">Expand the boundary of the Grosvenor Metro Station Policy Area.</a></p> <p><b>Agree</b></p>   | 86                 |
| <p>5.18 <a href="#">Establish the proposed Lyttonsville/Woodside Purple Line Station policy area as a Red policy area.</a></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><a href="#">Establish the proposed Dale Drive/Manchester Place Purple Line Station policy area as a Red policy area.</a></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>  |                    |
| <b>Tax Recommendations: School Impact Taxes</b> |  |                    |
| 6.1   | <p><a href="#">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.</a></p> <p><b>The CE does not support this change in the calculation of SGRs for multifamily units. See answer to 4.13.</b></p>   | <a href="#">79</a> |
| 6.2   | <p><a href="#">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.</a></p> <p><b>The CE does not support the reduction of revenue that this formula represents.</b> 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><a href="#">Allow a school impact tax credit for any school facility improvement constructed or funded by a property owner with MCPS's agreement.</a></p> <p><b>The CE does not support this recommendation as currently written.</b></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><b>OMB:</b> 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>   | <a href="#">92</a> |
| 6.4   | <p><a href="#">Eliminate the current impact tax surcharge on units larger than 3,500 square feet.</a></p> <p><b>The CE opposes this recommendation.</b></p> <p><b>OMB:</b> 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>   | <a href="#">92</a> |

|   |   |    |
|---|---|----|
| impact taxes by unit type.  |   |    |
| <b>Tax Recommendations: Impact Tax Exemptions on Residential Uses</b> |   |    |
| 6.5   | <p><a href="#">Eliminate the current impact tax exemptions for development in former Enterprise Zones.</a></p> <p><b>The CE supports this recommendation.</b></p> <p><b>OMB:</b> 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><a href="#">Any development located in a Qualified Opportunity Zone certified by the United States Treasury Department is exempt from development impact taxes.</a></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><a href="#">Modify the current impact tax exemptions applied to all housing units when a project includes 25% affordable units to:</a></p> <ol style="list-style-type: none"> <li>1. <a href="#">require the affordable units be placed in the county’s or a municipality’s MPDU program, and</a></li> <li>2. <a href="#">limit the exemption amount to the lowest standard impact tax in the county for the applicable dwelling type.</a></li> </ol> <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><a href="#">Continue to apply impact taxes on a net impact basis, providing a credit for any residential units demolished.</a></p> <p><b>The CE agrees with OMB.</b></p> <p><b>OMB:</b> 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 |
|--|------|
| <b><i>Tax Recommendations: Recordation Tax</i></b>   |      |
| <p data-bbox="235 268 1247 369">6.9 <a href="#">Incorporate progressive modifications into calculation of the Recordation Tax to provide additional funding for school construction and the county's Housing Initiative Fund.</a></p> <p data-bbox="293 415 1252 726"><b>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.</b> 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)

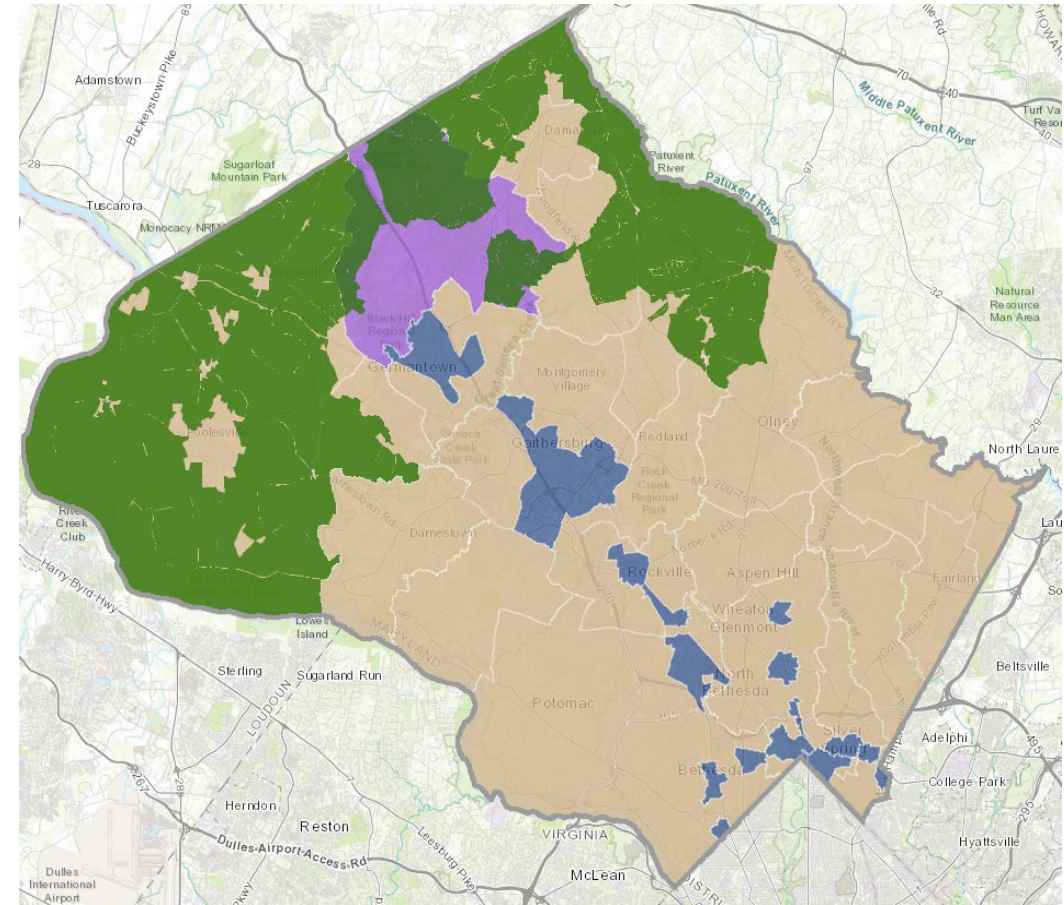
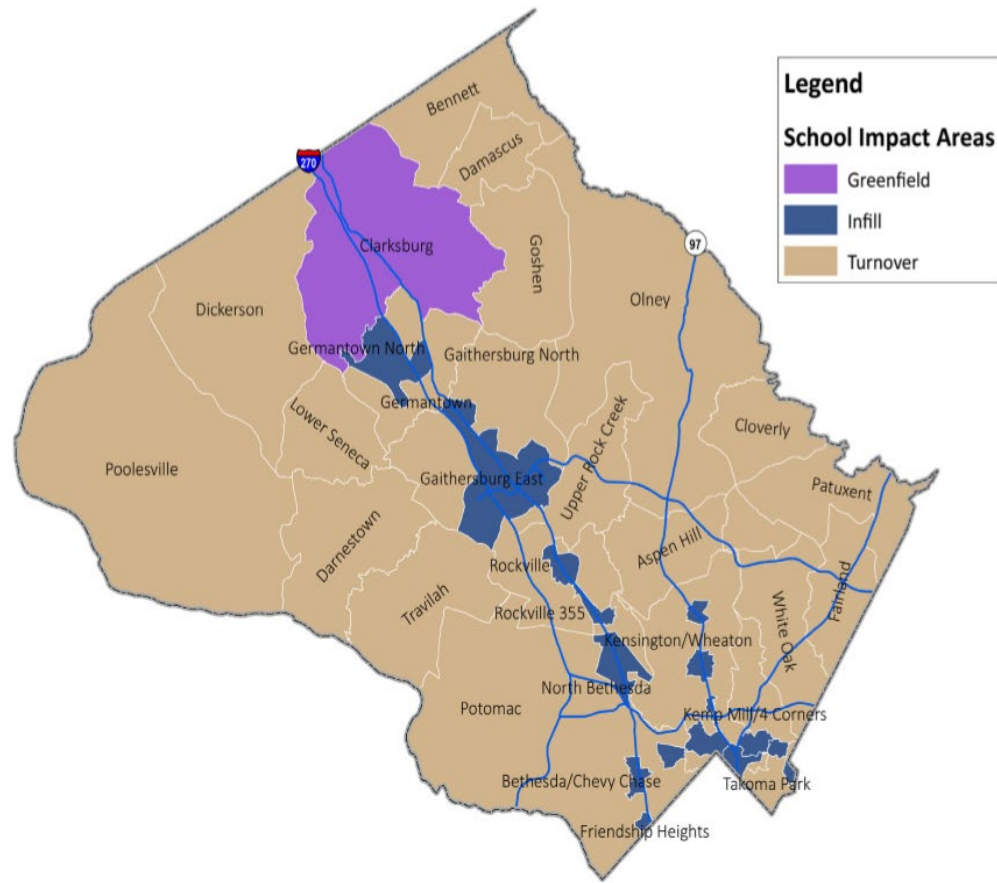
|                     | No.  | Recommendations   | Notes   |
|---------------------|------|---|---|
| School Impact Taxes | 6.1  | Apply one tax rate for all multifamily units in both low-rise and high-rise buildings.  | <ul style="list-style-type: none"> <li>• Currently two different impact taxes for MF housing - \$21,961 for Low-rise (four stories or less) and \$6,113 for High-rise (five stories or more).</li> <li>• Charge one impact tax for multifamily due to no distinguishable difference in the student generation rates in those multifamily units constructed since 1990.</li> </ul> |
|                     | 6.2  | <ul style="list-style-type: none"> <li>• Calculate the standard school impact taxes at 100% of the cost of a student seat using "new" School Impact Area student generation rates.</li> <li>• Apply a discount to single-family attached and multifamily units to incentivize growth in certain desired growth and investment areas (DGA).</li> <li>• Maintain the current 120% factor within the Agricultural Reserve</li> </ul> | <ul style="list-style-type: none"> <li>• 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.</li> <li>• Discounted rate (60%) is applied to certain Desired Growth Areas (=18 Activity Centers).</li> </ul>   |
|                     | 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"> <li>• Require payments to be made when the developer applies for a building permit if the schools serving a residential development project are overcapacity.</li> <li>• If multiple schools serving the project site exceed the capacity, then payments are required for each school.</li> </ul>  |


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

# Planning Board's Impact Tax Recommendations (part II)

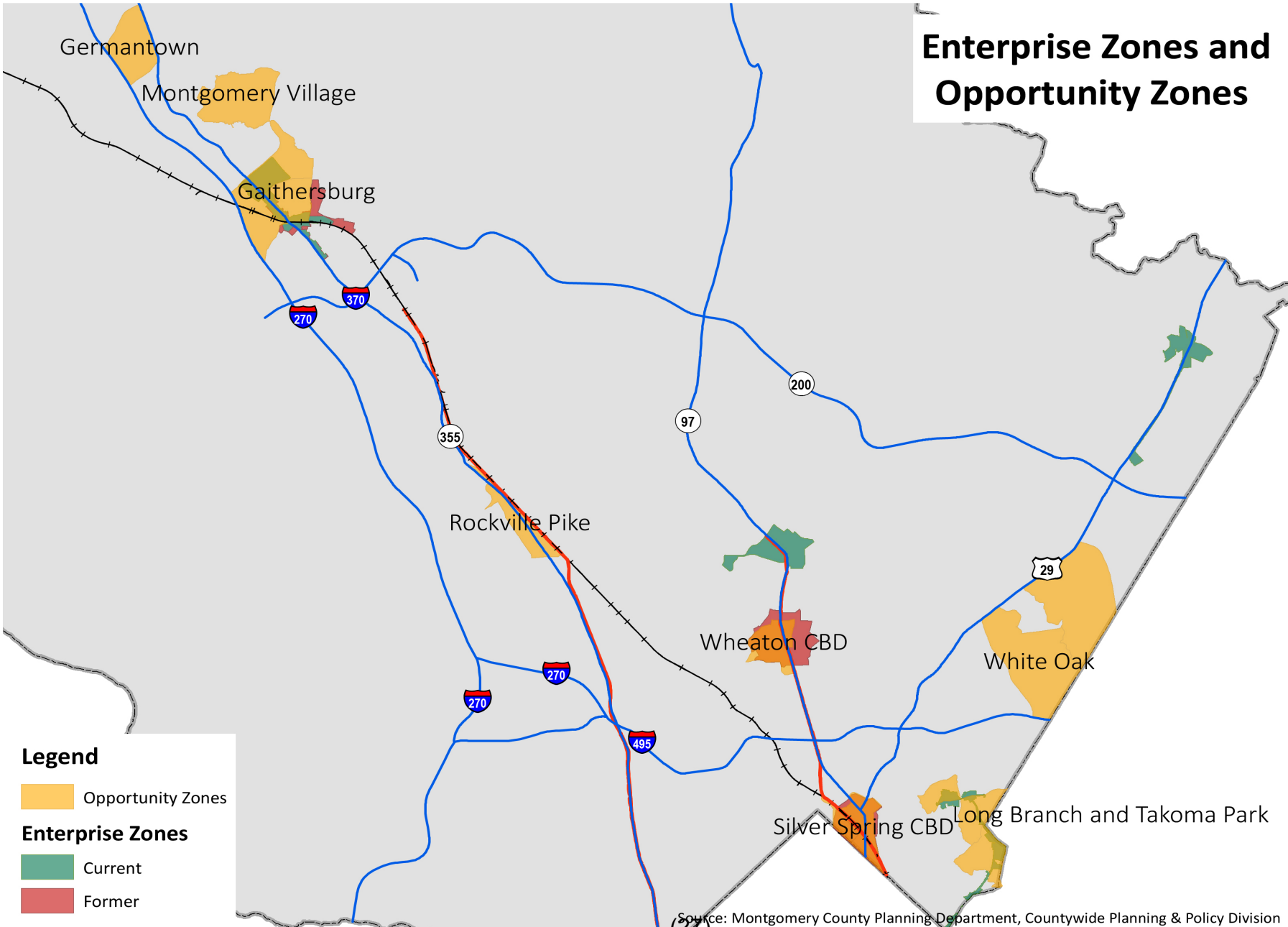
|                                    | No. | Recommendations   | Notes  |
|------------------------------------|-----|---|--|
| Tax Exemptions on Residential Uses | 6.5 | <b>Enterprise Zone Exemptions</b> -- Eliminate the current impact tax exemptions from development in former Enterprise Zones.   | <ul style="list-style-type: none"> <li>• Exemption will be eliminated from former Enterprise Zones (i.e., Silver Spring and Wheaton CBDs) and added to Qualified Opportunity Zones.</li> <li>• Most of Silver Spring and Wheaton CBDs are located within Qualified OZ.</li> </ul>  |
|                                    | 6.6 | <b>Opportunity Zone Exemptions</b> - Exempt any development in Opportunity Zones  | <ul style="list-style-type: none"> <li>• 14 Census tracts in the County are certified as Qualified OZ.</li> <li>• Same as EZ, designated by the State to provide property tax credits to businesses that create new jobs.</li> <li>• Assume exemption for school and transportation impact taxes could incentivize growth in OZ.</li> </ul>  |
|                                    | 6.7 | <b>25% Affordable Housing Exemptions</b> - 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"> <li>• Exemption is only equal to the lowest standard impact tax rate by unit type for projects that provide 25% MPDUs.</li> <li>• Require all affordable units to be placed in the MPDU program to maximize the control period.</li> <li>• Any applicable taxes for a building permit filed on or after the impact tax bill's effect date will be collected.</li> </ul>   |
|                                    | 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"> <li>• 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.</li> </ul> |
| 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"> <li>• Increase \$0.50 for each \$500 that the sale price exceeds \$100,000 and \$500,000 to the MCPS CIP.</li> <li>• 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.</li> </ul>   |

# Proposed School Impact Areas



 Agricultural Reserve (AR) Zone

# Enterprise Zones and Opportunity Zones



**Legend**

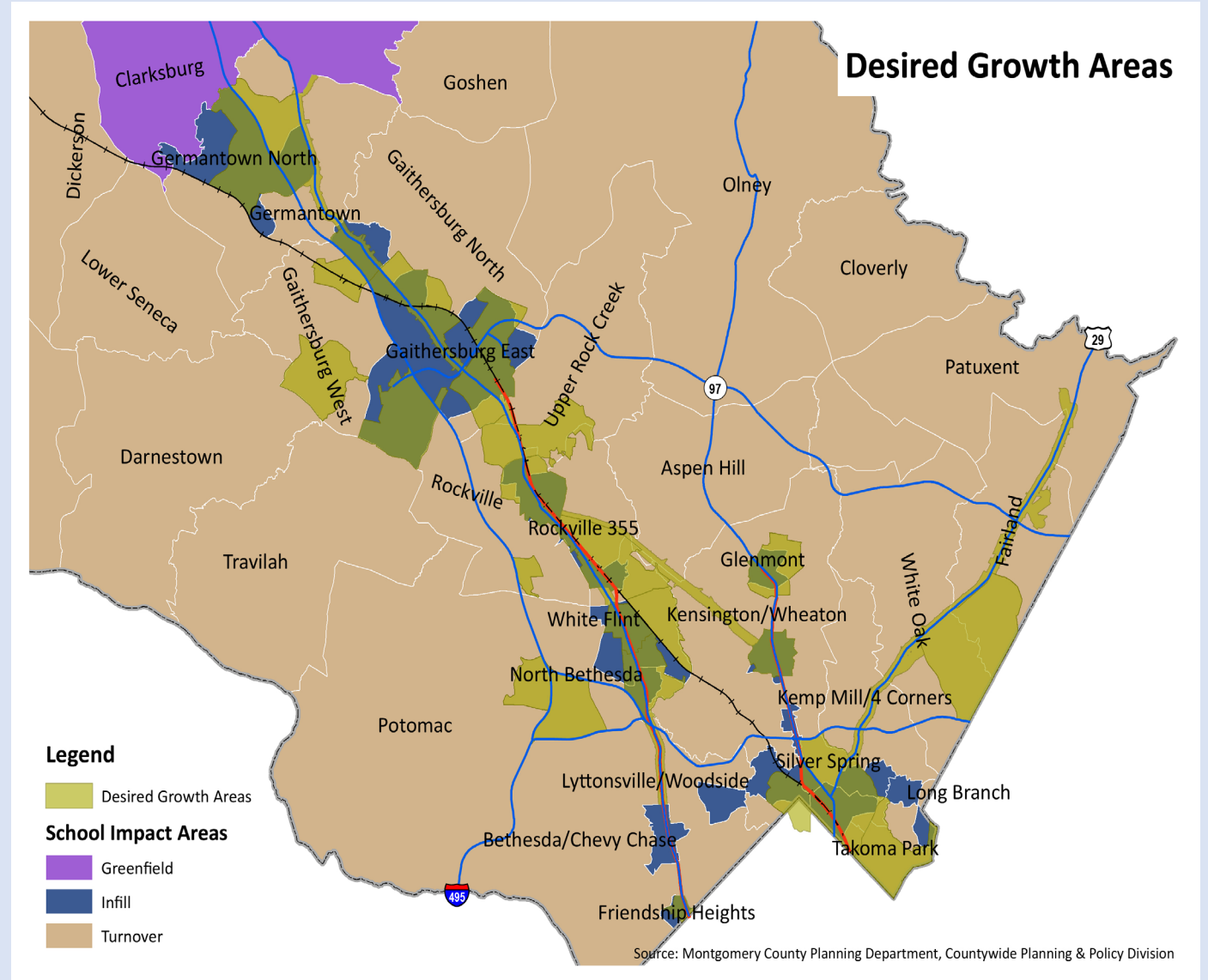
- Opportunity Zones
- Enterprise Zones**
  - Current
  - Former

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.   |
| <b>Total Development Impact Taxes</b>     | <b>358,548,141</b> | <b>35,854,814</b> |   |
| <b>Transportation Impact Taxes Waived</b> | <b>66,717,143</b>  | <b>6,671,714</b>  | 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 <b>\$1.41M</b> for 2018 (i.e., development in Germantown, Sandy Spring, and Silver Spring) and <b>\$3.78M</b> 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         |             |
| <b>Infill - subtotal</b>     | <b>\$11,816,711</b> | <b>\$7,479,839</b>  | <b>\$11,045,389</b> | <b>\$3,377,505</b>  | <b>\$9,180,304</b>  | <b>\$10,099,881</b> | <b>\$52,999,629</b>  | <b>\$8,833,272</b>  | <b>32%</b>  |
| 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           |             |
| <b>Turnover - subtotal</b>   | <b>\$11,921,230</b> | <b>\$9,034,424</b>  | <b>\$13,809,797</b> | <b>\$8,366,435</b>  | <b>\$9,724,700</b>  | <b>\$5,294,954</b>  | <b>\$58,151,541</b>  | <b>\$9,691,923</b>  | <b>35%</b>  |
| 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            |             |
| <b>Greenfield - subtotal</b> | <b>\$9,359,127</b>  | <b>\$6,061,900</b>  | <b>\$11,088,686</b> | <b>\$10,013,445</b> | <b>\$10,032,356</b> | <b>\$6,484,207</b>  | <b>\$53,039,721</b>  | <b>\$8,839,954</b>  | <b>32%</b>  |
| <b>Total:</b>                | <b>\$33,097,068</b> | <b>\$22,576,163</b> | <b>\$35,943,872</b> | <b>\$21,757,385</b> | <b>\$28,937,360</b> | <b>\$21,879,042</b> | <b>\$164,190,891</b> | <b>\$27,365,148</b> | <b>100%</b> |

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%          |
| <b>Total:</b> | <b>\$ 33,097,068</b> | <b>\$ 22,576,163</b> | <b>\$ 35,943,872</b> | <b>\$ 21,757,385</b> | <b>\$ 28,937,360</b> | <b>\$ 21,879,042</b> | <b>\$ 164,190,891</b> | <b>\$ 27,365,148</b> | <b>100%</b> |

*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           |
| <b>SFD - subtotal</b>   | <b>\$16,648,642</b> | <b>\$10,256,505</b> | <b>\$15,895,847</b> | <b>\$11,990,663</b> | <b>\$11,191,327</b> | <b>\$6,999,680</b>  | <b>\$72,982,664</b>  | <b>\$12,163,777</b> |
| 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         |
| <b>SFA - subtotal</b>   | <b>\$8,171,607</b>  | <b>\$8,361,092</b>  | <b>\$10,799,838</b> | <b>\$8,363,503</b>  | <b>\$10,599,493</b> | <b>\$6,042,676</b>  | <b>\$52,338,209</b>  | <b>\$8,723,035</b>  |
| 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         |
| <b>MF LR - subtotal</b> | <b>\$1,138,980</b>  | <b>\$1,512,342</b>  | <b>\$6,136,287</b>  | <b>\$251,207</b>    | <b>\$3,784,995</b>  | <b>\$3,948,196</b>  | <b>\$16,772,007</b>  | <b>\$2,795,335</b>  |
| 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         |
| <b>MF HR - subtotal</b> | <b>\$7,137,839</b>  | <b>\$2,446,224</b>  | <b>\$3,111,900</b>  | <b>\$1,152,012</b>  | <b>\$3,361,545</b>  | <b>\$4,888,490</b>  | <b>\$22,098,010</b>  | <b>\$3,683,002</b>  |
| <b>Total:</b>           | <b>\$33,097,068</b> | <b>\$22,576,163</b> | <b>\$35,943,872</b> | <b>\$21,757,385</b> | <b>\$28,937,360</b> | <b>\$21,879,042</b> | <b>\$164,190,891</b> | <b>\$27,365,148</b> |

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<br>(Current vs.<br>Proposed Rates) | %<br>Change |
|---------------------|---------------------------|---------------------|--------------------------------------|------------------------|---------------------------------------|------------------------|--|-------------|
|                     | Total Amount              | Annual<br>Average   | Est. Total                           | Est. Annual<br>Average | Est. Total                            | Est. Annual<br>Average |  |             |
| <b>MF LOW-RISE</b>  | \$ 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%        |
| <b>MF HIGH-RISE</b> | \$ 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%        |
| <b>Total</b>        | <b>\$ 38,870,017</b>      | <b>\$ 6,478,336</b> | <b>\$ 45,242,557</b>                 | <b>\$ 7,540,426</b>    | <b>\$ 18,664,332</b>                  | <b>\$ 3,110,722</b>    | <b>\$ (4,429,704)</b>                              | <b>-59%</b> |

- 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<br>(FY15-FY20) |                      | Forecast - "Baseline"<br>(FY21-FY26) |                      | Forecast - "Proposed Rates"<br>(FY21-FY26) |                      | Difference between<br>Baseline vs. Proposed |                       |
|----------------------|--------------------------------|----------------------|--------------------------------------|----------------------|--|----------------------|---|-----------------------|
|                      | Total                          | Annual Avg.          | Estimated<br>Total                   | Annual Avg.          | Estimated<br>Total                         | Annual Avg.          | Estimated Total<br>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             |
| <b>Total</b>         | <b>\$ 164,190,891</b>          | <b>\$ 27,365,148</b> | <b>\$ 191,109,145</b>                | <b>\$ 31,851,524</b> | <b>\$ 166,921,786</b>                      | <b>\$ 27,820,298</b> | <b>\$ (24,187,359)</b>                      | <b>\$ (4,031,227)</b> |

- 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<br>(FY15-FY20) |                     | Forecast - "Baseline"<br>(FY21-FY26) |                     | Forecast - "Proposed Rates"<br>(FY21-FY26) |                     | Difference between<br>Baseline vs. Proposed |                       |  |
|                      | Total                          | Annual Avg.         | Estimated<br>Total                   | Annual Avg.         | Estimated<br>Total                         | Annual Avg.         | Estimated Total<br>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)          |  |
| <b>Total</b>         | <b>\$ 50,868,727</b>           | <b>\$ 8,478,121</b> | <b>\$ 56,588,710</b>                 | <b>\$ 9,431,452</b> | <b>\$ 24,928,603</b>                       | <b>\$ 4,154,767</b> | <b>\$ (31,660,108)</b>                      | <b>\$ (5,276,685)</b> |  |

| Non-Desired Growth Areas |                                |                      |                                      |                      |  |                      |   |                     |  |
|--------------------------|--------------------------------|----------------------|--------------------------------------|----------------------|--|----------------------|---|---------------------|--|
|                          | Historical Data<br>(FY15-FY20) |                      | Forecast - "Baseline"<br>(FY21-FY26) |                      | Forecast - "Proposed Rates"<br>(FY21-FY26) |                      | Difference between<br>Baseline vs. Proposed |                     |  |
|                          | Total                          | Annual Avg.          | Estimated<br>Total                   | Annual Avg.          | Estimated<br>Total                         | Annual Avg.          | Estimated Total<br>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           |  |
| <b>Total</b>             | <b>\$ 113,322,164</b>          | <b>\$ 18,887,027</b> | <b>\$ 134,520,435</b>                | <b>\$ 22,420,073</b> | <b>\$ 141,993,184</b>                      | <b>\$ 23,665,531</b> | <b>\$ 7,472,748</b>                         | <b>\$ 1,245,458</b> |  |

- 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      |
|-----------------------------|-----------------------|-------------------------|-------------------------|-----------------------|-----------------------|------------------------|---------------|
| <b>Infill</b>               | <b>23,256</b>         | <b>3,456</b>            | <b>19,800</b>           | <b>\$ 188,912,432</b> | <b>\$ 110,287,900</b> | <b>\$ (78,624,532)</b> | <b>-41.6%</b> |
| 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%        |
| <b>Turnover</b>             | <b>6,772</b>          | <b>2,975</b>            | <b>3,797</b>            | <b>\$ 73,933,612</b>  | <b>\$ 65,261,938</b>  | <b>\$ (8,671,674)</b>  | <b>-11.7%</b> |
| 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%        |
| <b>Greenfield</b>           | <b>1,933</b>          | <b>1,137</b>            | <b>796</b>              | <b>\$ 30,627,594</b>  | <b>\$ 44,755,708</b>  | <b>\$ 14,128,114</b>   | <b>46.1%</b>  |
| 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%        |
| <b>Total</b>                | <b>31,961</b>         | <b>7,568</b>            | <b>24,393</b>           | <b>\$ 293,473,638</b> | <b>\$ 220,305,545</b> | <b>\$ (73,168,092)</b> | <b>-24.9%</b> |
|                             | <b>Annual Average</b> |                         |                         |                       |                       | <b>Difference</b>      |               |
| 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      |
|---|--------------------|------------------------|------------------------|-----------------------|----------------------|-------------------------|---------------|
| <b>Desired Growth Areas</b>                     |                    |                        |                        |                       |                      |                         |               |
| 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%        |
| <b>Subtotal</b>                                 | <b>23,661</b>      | <b>3,930</b>           | <b>19,731</b>          | <b>\$ 192,382,931</b> | <b>\$ 86,360,323</b> | <b>\$ (106,022,608)</b> | <b>-55.1%</b> |
| <i>If 10-yr buildout, annual average amount</i> |                    |                        |                        | <i>\$ 19,238,293</i>  | <i>\$ 8,636,032</i>  | <i>\$ (10,602,261)</i>  |               |
| <b>Non-Desired Growth Areas</b>                 |                    |                        |                        |                       |                      |                         |               |
| 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%         |
| <b>Subtotal</b>                                 | <b>8,300</b>       | <b>3,638</b>           | <b>4,662</b>           | <b>101,090,707</b>    | <b>133,945,222</b>   | <b>\$ 32,854,516</b>    | <b>32.5%</b>  |
| <i>If 10-yr buildout, annual average amount</i> |                    |                        |                        | <i>\$ 10,109,071</i>  | <i>\$ 13,394,522</i> | <i>\$ 3,285,452</i>     |               |
| <b>Total Amount</b>                             | <b>31,961</b>      | <b>7,568</b>           | <b>24,393</b>          | <b>293,473,638</b>    | <b>220,305,545</b>   | <b>\$ (73,168,092)</b>  | <b>-24.9%</b> |
| <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)<br>if UPP applied | Estimated UPP for<br>Pipeline Projects |
|--------------------------------|---|--|
| <b>Infill</b>                  | <b>755,189</b>                              | <b>20,832,396</b>                      |
| Single-family Detached         | 141,877                                     | 241,612                                |
| Single-family Attached/TH      | 581,617                                     | 5,101,280                              |
| Multi-family                   | 31,695                                      | 15,489,504                             |
| <b>Turnover</b>                | <b>9,013,436</b>                            | <b>15,852,745</b>                      |
| 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                              |
| <b>Greenfield</b>              | <b>8,378,590</b>                            | <b>2,903,326</b>                       |
| Single-family Detached         | 3,502,716                                   | 74,382                                 |
| Single-family Attached/TH      | 4,263,334                                   | 877,914                                |
| Multi-family                   | 612,540                                     | 1,951,030                              |
| <b>Total</b>                   | <b>18,147,215</b>                           | <b>39,588,467</b>                      |
| 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             |
| <b>Total</b>                                | <b>\$ 2,087,823</b> | <b>\$4,378,869</b> | <b>\$ 1,850,090</b> | <b>\$930,347</b> | <b>\$195,160</b> | <b>\$ 1,860,892</b> | <b>\$ 6,338,385</b> | <b>\$ 187,056</b> | <b>\$ 430,036</b> | <b>\$ 2,320,008</b> | <b>\$ 20,578,666</b>   |

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                        |                                   |             |
| <b>Total</b>                  | <b>\$ 43,772,508</b>               | <b>\$ 24,870,488</b>                | <b>\$ (18,902,020)</b>            | <b>-43%</b> |
| 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)<br>if OZ was exempted | Pipeline Projects                     |  |   |             |
|--|---|---------------------------------------|--|---|-------------|
|  | Estimated Amount                                | Est. Exemption<br>under Current Rates | Est. Exemption under<br>Proposed Rates | Difference<br>(Current vs.<br>Proposed) | %<br>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%          |
| <b>Total</b>   | <b>\$ 6,338,215</b>                             | <b>\$ 36,236,974</b>                  | <b>\$ 22,428,725</b>                   | <b>\$ (13,808,249)</b>                  | <b>-38%</b> |
| Annual Average   | \$ 1,056,369                                    |                                       |  |   |             |
| Annual Avg. if 10-yr build out   |   | \$ 3,623,697                          | \$ 2,242,872                           | \$ (1,380,825)                          | -38%        |
| <b>Assumptions:</b>  |   |                                       |  |   |             |
| 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<br>(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<br>(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<br>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<br>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<br>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                                |
|                                  | <b>Totals:</b>                         |                    |                    |             | <b>1,109</b> | <b>833</b>         | <b>276</b>       | <b>\$ 32,190,601</b>         | <b>\$ 11,695,341</b>                            | <b>\$ 19,061,779</b>                    | <b>\$ 13,128,822</b>                        | <b>\$ 69,064</b>             | <b>\$ 26,690</b>   | <b>\$ 111,439</b>                         |
| <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                                 |
|                                  | <b>Totals:</b>                         |                    |                    |             | <b>2,901</b> | <b>2,157</b>       | <b>744</b>       | <b>\$ 56,902,723</b>         | <b>\$ 25,974,464</b>                            | <b>\$ 39,576,008</b>                    | <b>\$ 17,326,715</b>                        | <b>\$ 53,194</b>             | <b>\$ 18,282</b>   | <b>\$ 88,105</b>                          |
| <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                                 |
|                                  | <b>Totals:</b>                         |                    |                    |             | <b>1,964</b> | <b>1,360</b>       | <b>604</b>       | <b>\$ 13,892,792</b>         | <b>\$ 8,260,344</b>                             | <b>\$ 12,845,399</b>                    | <b>\$ 1,047,393</b>                         | <b>\$ 21,267</b>             | <b>\$ 6,888</b>    | <b>\$ 34,240</b>                          |
|                                  | <b>Total - All Units:</b>              |                    |                    |             | <b>5,974</b> | <b>4,350</b>       | <b>1,624</b>     | <b>\$ 102,986,116</b>        | <b>\$ 45,930,149</b>                            | <b>\$ 71,483,186</b>                    | <b>\$ 31,502,930</b>                        | <b>\$ 44,017</b>             | <b>\$ 15,473</b>   | <b>\$ 72,037</b>                          |
|                                  | 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                           |
| <b>Total Impact Taxes Waived</b>                         | <b>\$ (17,531,889)</b>               | <b>\$ (141,704,600)</b>                     | <b>\$ (71,483,186)</b>                   |
| <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)                          |
| <b>Total Impact Taxes Collected</b>                      | <b>\$ 124,172,711</b>                | <b>\$ -</b>                                 | <b>\$ 31,502,930</b>                     |
| 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         |
| <b>Total</b>  | <b>6,348,423</b> | <b>12,696,846</b> |
| <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%                   |
| <b>TOTAL</b>  | <b>\$ 71.6</b>                          | <b>\$ 87.9</b> | <b>\$ 83.5</b> | <b>\$ 104.5</b> | <b>\$ 94.7</b> | <b>\$ 99.0</b> | <b>\$ 109.0</b> | <b>\$ 149.4</b> | <b>\$ 131.1</b> | <b>\$ 148.5</b> | <b>\$ 1,079.3</b> | <b>\$ 107.9</b> | <b>7.6%</b>             |
| <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.

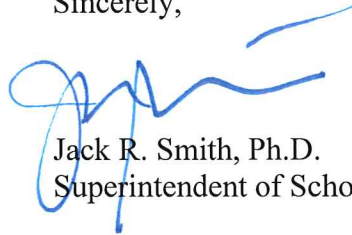
5. *Moratoria will only apply in Greenfield Impact Areas.* Under the current SSP, if a school reaches 120 percent utilization, the area enters moratorium. The proposed recommendation would allow for potential moratoria only in areas that have new development and generate much of the enrollment growth. 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](mailto: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.