From: Jane Lyons
To: Anderson, Casey; Patterson, Tina; Cichy, Gerald; Fani-Gonzalez, Natali; MCP-Chair; Verma, Partap
Cc: Sartori, Jason; Arnold, Jeremy; Sunil Dasgupta; sknuppel; Stewart Schwartz; Marin, Katya; Wilhelm, Dan; councilmember.albornoz@montgomerycountymd.gov; councilmember.friedson@montgomerycountymd.gov; Glass"s Office, Councilmember; councilmember.hucker@montgomerycountymd.gov; Councilmember.Jawando@montgomerycountymd.gov; councilmember.katz@montgomerycountymd.gov; Councilmember.Navarro@montgomerycountymd.gov; Rice"s Office, Councilmember; councilmember.riemer@montgomerycountymd.gov
Subject: Sign-on letter from the SSP Schools Technical Advisory Team
Date: Friday, April 3, 2020 1:19:42 PM
Attachments: STAT Sign-on Letter 4-3-2020 - Final.pdf

Good afternoon,

Please find attached a sign-on letter from members of the Planning Department's Schools Technical Advisory Team (STAT) for the 2020 update for the Subdivision Staging Policy (SSP). We look forward to a productive discussion with the Planning Board and the County Council about the SSP.

Thank you,
Jane

--
Jane Lyons (she/her) | Maryland Advocacy Manager
Coalition for Smarter Growth
316 F Street NE | Suite 200
Washington, DC 20002
(410) 474-0741 | jane@smartergrowth.net
Your gift helps keep CSG's advocacy going! Donate today!

April 3, 2020

Montgomery County Planning Board
8787 Georgia Ave
Silver Spring, MD 20910

Re: Schools Policies in the 2020 Subdivision Staging Policy Update

Dear Chair Anderson and Planning Commissioners:

We are writing to you as members of the Montgomery Planning Department's Schools Technical Advisory Team (STAT). The STAT met six times over four months to discuss the schools segment of the Subdivision Staging Policy (SSP), the county's adequate public facilities ordinance. We had a civil and productive discussion that came to no definitive conclusions and sometimes only led to more questions. Nevertheless, we wanted to formally share with you some of the major points of agreement from the undersigned STAT members.

First, thank you to the Planning Department staff, especially Jason Sartori, for their technical expertise, impressive data analysis, and openness to ideas. The SSP presents many difficult policy questions. At the core of the schools component is the question: How can the county ensure that our school facilities are adequate for the county's growing population?

Throughout our discussions, it became clear that the SSP conceives of and deals with growth in a way that is no longer characteristic of a majority of the county. The SSP is built to deal with greenfield development, but today our pattern of growth has shifted to mainly infill redevelopment and turnover. Thus, the relationship between growth, housing, and school enrollment and capacity is no longer as clear.

There was general agreement among many STAT members that the housing moratorium is not an effective policy tool, given the muddied relationship between new development and student generation, as well as the economic development interests of the county and the increasing demand for housing, especially affordable housing. However, many members felt that the moratorium serves an important political purpose in pressuring the County Council to identify and fund school capital projects. Whatever changes are made to the SSP, it must be revised with the objective of ensuring that school infrastructure keeps pace with demand.

Another major point of discussion centered around impact taxes. Impact taxes are intended to pay for the seats of students generated by new construction, but "adequacy" includes so much more than just a seat. This is another negative impact of the moratorium — the moratorium puts capacity needs before all other capital needs. Capacity is incredibly important, but the capital needs of crumbling schools that are not overcapacity are also important.

Therefore, we support two definitions for adequacy within the SSP — one that considers capacity as it relates to new development and one that encompasses all capital needs — while retaining school impact fees that focus on capacity.

Furthermore, calculating impact fees and selecting which variable(s) to use is also tricky. Many variables that have a high correlation are those that we do not want to disincentivize with higher impact taxes, such as units with more bedrooms. When considering impact taxes, please also consider the effect of the impact taxes on where, if, and what kind of development occurs.

Finally, there were many more ideas that we discussed, including:

- Instituting regular boundary adjustments;
- Amending school design standards to be more amenable to smaller footprints;
- Ending the impact fee exemption for current and former Enterprise zones;
- Reintroducing graduated school facilities fees in overcapacity school areas and clusters, earmarked for that area or cluster;
- Conducting a schools test that measures against utilization *today* instead of in the future, thus reducing our reliance on MCPS's forecasts, though they can still be utilized to estimate impact taxes and potential facility payments;
- Requiring adequacy testing for extensions;
- Tracking cumulative impacts of the development queue;
- Better taking into consideration the impacts of housing turnover in forecasting and adequacy tests;
- Holding regular meetings between MCPS and the Planning Board;
- Reducing the impact tax calculation for a seat from 120 percent of the cost to 100 percent of the estimated cost; and
- Separating forecasting into cohort analysis by MCPS and development impacts by Planning Staff (barring that, require MCPS to demonstrate what future impacts they are contemplating).

This list is not comprehensive of all ideas that were discussed or that the signers support, but these are the solutions that garnered the most consensus and interest from the STAT. Many of these ideas are outside the jurisdiction of the SSP and require increased collaboration, transparency, and communication between Montgomery County Public Schools, County Council, and Planning Board.

We look forward to a productive discussion with the Planning Board and the County Council about the 2020 update to the SSP. As our growth changes, so should our growth policy, but the goal of ensuring adequate public facilities is as important as ever.

Sincerely,

Jeremy Arnold
Individual

Sunil Dasgupta
Individual

Sylke Knuppel
Maryland Builders Industry Association

Jane Lyons
Coalition for Smarter Growth

Katya Marin
Montgomery County Council of PTAs

Dan Wilhelm
Individual

CC: Montgomery County Council

From:	Matthew Gordon
To:	MCP-Chair
Cc:	Wright, Gwen; Kronenberg, Robert; Sartori, Jason; C. Robert (Bob) Dalrymple
Subject:	Preliminary Comments to the Working Draft of the Growth Policy (2020 - 2024)
Date:	Wednesday, May 27, 2020 12:03:09 PM
Attachments:	image001.png Letter to the Planning Board re Briefing on Growth Policy (Selzer Gurvitch Land Use Practice Group Initial Comments).pdf

Chair Anderson,

Please find our preliminary comments to the working draft of the Growth Policy attached. We look forward to participating in the public hearing and review processes that will follow.

Thanks,
Matt

Matthew Gordon | Attorney At Law
mgordon@sgrwlaw.com
Direct: 301-634-3150| Office: 301-986-9600 | Fax: 301-986-1301

SELZER GURVITCH
Attorneys at Law

Selzer Gurvitch Rabin Wertheimer & Polott, P.C.
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C. Robert Dalrymple
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Matthew M. Gordon
Mgordon@sgrwlaw.com
Direct Dial: (301) 634-3150

May 27, 2020

<u>Via Email - MCP-Chair@mncppc-mc.org</u>
Mr. Casey Anderson, Chair
And Members of the Planning Board
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: 2020 – 2024 Subdivision Staging Policy (SSP): Briefing on Staff Recommendations; Selzer Gurvitch's Land Use Practice Group Written Comments *(Item #3 and #4)*

Dear Chair Anderson,

On behalf of the Land Use/Zoning practice group at Selzer Gurvitch, we offer these initial comments to the Working Draft of the County Growth Policy (the "Working Draft"). While many of the same comments will be shared with you by clients and others in the development industry as the public review process continues, we thought it might be useful to consolidate some collective initial comments to the Working Draft.

As a general matter, we commend Staff's thoughtful and innovative policy recommendations in the Working Draft. It is evident that Staff took a fresh look at many aspects of the County's longstanding Adequate Public Facilities standards and processes, which were in need of an update to accomplish many of the County's strategic policy objectives that emphasize the creation of housing and employment centers where existing infrastructure can support such growth. We also appreciate that many of the Working Draft policy recommendations are based upon an analytical approach that is supported by historical data. We offer the following specific comments to the Working Draft below:

<u>Recommendation 6.2: Calculate standard school impact tax rates at 100% of the cost of a student seat using School Impact Tax Area student generation rates. Apply discount factors to incentive growth in certain activity centers.</u>

Consistent with the County Council's Resolution to Support the Metropolitan Washington

Council of Governments' ("MWCOG") Regional Housing Targets for Montgomery County, the Working Draft appropriately recommends changes to the school impact tax rates that will encourage transit-oriented growth and affordable housing in MWCOG's designated Activity Centers. It is sound public policy and planning to prioritize residential growth in the County's 23 designated Activity Centers because these locations have proximity to employment centers and transit.

MWCOG's Regional Housing Target Goals calls on Montgomery County to increase its share of housing by 10,000 units (inclusive of 1,000 additional units each in the City of Rockville and City of Gaithersburg) by 2030. Moreover, MWCOG recommends that at least 75% of these new housing units be developed in Activity Centers. To this end, the Working Draft properly acknowledges that prevailing County policy must be tailored to encourage growth in Activity Centers. In this same respect, the Working Draft recommendations are premised upon a finding that turnover in existing single-family homes and new development in Greenfield impact areas account for the vast majority Countywide growth in Montgomery County Public Schools ("MCPS") enrollment. Given the importance of creating housing, particularly affordable housing, that has proximity to jobs and transit, and the fact that such development generates a low proportion of growth in MCPS enrollment, it is imperative that the Planning Board support reduced school impact tax rates in designated Activity Centers. In light of the uncertainty and economic challenges created by the ongoing COVID-19 public health crisis, it has never been more important to adopt policies that encourage housing in the most appropriate locations in the County. We respectfully request that the Planning Board support the proposed reduced school impact tax rates in designated Activity Centers.

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

The Working Draft's recommendation to create one school impact tax rate for all multifamily development is based upon consistent and sound historical data. Significantly, the Working Draft found there is no distinguishable difference in the student generation rates of low-rise and high-rise multifamily units constructed since 1990. While there has been no difference in student generation rates for three decades, low-rise multifamily projects are currently assessed a school impact tax that is more than three (3) times as much as that assessed to high-rise multifamily projects. The additional cost assessed to low-rise multifamily projects creates a cost burden and constrains redevelopment opportunities for transitional sites with zoning that does not allow enough building height for a high-rise project. The elimination of this unwarranted distinction between multifamily school impact tax rates would create additional opportunities for housing in Activity Centers (especially outside of the high-density urban core areas), which is critical to meeting MWCOG's Regional Housing Targets for Montgomery County. We urge the Planning Board to support the Working Draft's recommendation that one uniform school impact tax rate be applied to all multifamily projects regardless of building height.

6.6 Modify the current impact tax exemptions applied to all housing units when a project includes 25% affordable units to: 1. not apply the exemption to school impact taxes in the Greenfield Impact Areas, 2. require the affordable units be placed in the county's MPDU program, and 3. require the project to include two times the standard share of MPDUs applicable to the project location.

While we understand the rationale behind the Working Draft's recommendation that the criteria be modified and clarified for the current impact tax exemption applicable to development projects with a minimum of 25% MPDUs, we think it is critical that the Planning Board recognize various development projects that have already proceeded through the development review process under the current rules. To this end, the Working Draft notes that there are seventeen development projects in various stages of the application process that have either used the impact tax exemption by providing 25% MPDUs or signaled an intent to use the exemption. The Working Draft notes that "together the seventeen projects will create over 550 additional MPDUs beyond what would otherwise have been required," and that "[i]n the past five years, the MPDU program has created on average around 220 MPDUs per year (both rental and for-sale)." Given the significant amount of additional MPDUs proposed to be generated by these seventeen projects and the concomitant costs incurred through the development review process, it is important that the Planning Board recommend grandfathering for development projects that predate the adoption of this policy change. We respectfully request that the Planning Board recommend that any development project with a preliminary plan of subdivision or site plan approval that includes 25% MPDUs be permitted to use the impact tax exemption at the time of building permit as long as the underlying preliminary plan of subdivision and/or site plan approval remain valid. Such grandfathering is necessary to balance the interests and expectations of development projects that have proceeded in good faith through the development process with the goal of substantially exceeding the minimum requirement for MPDUs against the proposed policy change that would require a minimum of 30% MPDUs in some locations.

Thank you for the opportunity to submit these preliminary comments to the Working Draft, and we look forward to continuing to work with all stakeholders through the public hearing process for the Growth Policy.

Very truly yours,

Selzer Gurvitch Rabin Wertheimer & Polott, P.C.

C. Robert Dalrymple

C. Robert Dalrymple

Matthew Gordon

Matthew M. Gordon

cc: Gwen Wright, Planning Director
Robert Kronenberg, Deputy Director
Jason Sartori, Functional Planning

From: ditko86@everyactioncustom.com on behalf of Michael Dutka
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Tuesday, June 2, 2020 11:57:53 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mr. Michael Dutka
713 Shetland St Rockville, MD 20851-1421
ditko86@gmail.com

From:	tchdutka@everyactioncustom.com on behalf of Tara Dutka
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Tuesday, June 2, 2020 12:23:45 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Dr. Tara Dutka
713 Shetland St Rockville, MD 20851-1421
tchdutka@gmail.com

From:	andrewhyman288@everyactioncustom.com on behalf of andrew hyman
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Tuesday, June 2, 2020 4:20:13 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mr. andrew hyman
2301 E West Hwy Silver Spring, MD 20910-2323
andrewhyman288@gmail.com

From: emrosma@everyactioncustom.com on behalf of Emily Maurer
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Wednesday, June 3, 2020 11:02:29 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Emily Maurer
316 Beaumont Rd Silver Spring, MD 20904-1219
emrosma@gmail.com

From:	PeterLDean@everyactioncustom.com on behalf of Peter Dean
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium and YES to more affordable, climate friendly housing!
Date:	Wednesday, June 3, 2020 11:07:55 AM

Dear Planning Chair Casey Anderson,

Please support eliminating the housing moratorium policy for most of Montgomery County as your own staff has recommended.

Stopping new housing does not actually solve school overcrowding. I understand that less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings. Of course, we can't forbid families moving into existing older homes but why take it out on apartment development?

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

Thank you for your consideration of this important matter.

Sincerely,
Mr Peter Dean
8519 Freyman Dr Chevy Chase, MD 20815-3845
PeterLDean@gmail.com

From:	msillah5@everyactioncustom.com on behalf of Mohamed Sillah
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:08:23 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mohamed Sillah
5932 Halpine Rd Rockville, MD 20851-2409
msillah5@aol.com

From: msillah5@everyactioncustom.com on behalf of Fatmata Sillah
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Wednesday, June 3, 2020 11:09:57 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Fatmata Sillah
5932 Halpine Rd Rockville, MD 20851-2409
msillah5@aol.com

From:	sarah.reddinger@everyactioncustom.com on behalf of Sarah Reddinger
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:22:27 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Sarah Reddinger
2707 Weller Rd Silver Spring, MD 20906-3753
sarah.reddinger@gmail.com

From:	fmposner@everyactioncustom.com on behalf of Mark Posner
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:23:55 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mark Posner
709 Woodside Pkwy Silver Spring, MD 20910-4250
fmposner@verizon.net

From: patrickwthornton@everyactioncustom.com on behalf of Patrick Thornton
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Wednesday, June 3, 2020 11:28:20 AM

Dear Planning Chair Casey Anderson,

We must eliminate the housing moratorium policy for Montgomery County.

It is hurting the county. It is harming out future. It's a nonsensical policy.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

I used to live in South Silver Spring in a newer condo building. We have one school-aged child in that 120-unit building. I moved to Woodside Park a few years ago, and my street -- including my family now -- has many school-aged children.

Older neighborhoods turning over is what is causing school enrollments to surge in many areas. This has nothing to do with new development. We need development to give us the tax base to afford to build new schools and other things.

This policy is an embarrassment. Please get rid of it.

Sincerely,
Patrick Thornton
8844 Woodland Dr Silver Spring, MD 20910-2743
patrickwthornton@gmail.com

From:	cookcharlottee@everyactioncustom.com on behalf of Charlotte Cook
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:31:51 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Charlotte Cook
10906 Bucknell Dr Apt 1223 Silver Spring, MD 20902-4356
cookcharlottee@gmail.com

From:	ericnshepard@everyactioncustom.com on behalf of ERIC SHEPARD
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:33:27 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
ERIC SHEPARD
716 Thayer Ave Silver Spring, MD 20910-4524
ericnshepard@gmail.com

From:	pmeyer19@everyactioncustom.com on behalf of Paul Meyer
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:40:09 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support ELIMINATING the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding!!! Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Paul Meyer
8045 Newell St Apt 318 Silver Spring, MD 20910-4891
pmeyer19@gmail.com

From:	scstryker@everyactioncustom.com on behalf of Steven Stryker
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:42:51 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mr. Steven Stryker
9709 Key West Ave Apt 281 Rockville, MD 20850-4509
scstryker@juno.com

From:	jennifer.lankford52@everyactioncustom.com on behalf of Jennifer Haugen
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:43:10 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Jennifer Haugen
5915 Walton Rd Bethesda, MD 20817-2516
jennifer.lankford52@gmail.com

From:	cimino.andrea.m@everyactioncustom.com on behalf of Andrea Cimino
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:50:00 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Ms. Andrea Cimino
3913 Hampden St Kensington, MD 20895-2006
cimino.andrea.m@gmail.com

From:	slater.jessie@everyactioncustom.com on behalf of Jessica Slater
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 12:07:20 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Dr. Jessica Slater
8720 Manchester Rd Silver Spring, MD 20901-4234
slater.jessie@gmail.com

From: steve.rozenblat@everyactioncustom.com on behalf of MARINA ROZENBLAT
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Wednesday, June 3, 2020 12:11:29 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
MARINA ROZENBLAT
5707 Halpine Rd Rockville, MD 20851-2406
steve.rozenblat@gmail.com

From:	lori.zeller@everyactioncustom.com on behalf of Lori Zeller
To:	MCP-Chair
Subject:	Please, say YES to ending the housing moratorium!
Date:	Wednesday, June 3, 2020 12:27:26 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County. We should be ENCOURAGING housing growth in transit-rich areas.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our goals for equity and climate. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Lori Zeller
10028 Dallas Ave Silver Spring, MD 20901-2239
lori.zeller@gmail.com

From:	JonathanMassaquoi@everyactioncustom.com on behalf of Jonathan Massaquoi
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 12:35:04 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Jonathan Massaquoi
11800 Old Georgetown Rd Unit 1226 Rockville, MD 20852-2648
JonathanMassaquoi@gmail.com

From: nospamtem@everyactioncustom.com on behalf of Teresa Meeks
To: MCP-Chair
Subject: DO NOT end the housing moratorium!
Date: Wednesday, June 3, 2020 12:35:36 PM

Dear Planning Chair Casey Anderson,

Please DO NOT end the housing moratorium in Montgomery County. The traffic is already gridlocked for several hours a day. Don't make it worse!

Sincerely,
Teresa Meeks
9 North St Brookeville, MD 20833-2508
nospamtem@yahoo.com

From: globalalain2@everyactioncustom.com on behalf of Alain Norman
To: MCP-Chair
Subject: Enhancing Housing Options - While Helping Schools and the Environment
Date: Wednesday, June 3, 2020 12:39:40 PM

Dear Planning Chair Casey Anderson,

Dear Planning Board,

I write in support of the idea of adjusting Montgomery County's plans to facilitate the creation of affordable housing, notably to address the reported "missing middle" of housing options. At the same time, I respectfully urge the County to be ready and able to ensure that such new housing: (A) is accompanied by more funding for public schools, to accommodate what are likely to be more children or students; and (B) is accompanied by environmentally-friendly measures to help lessen the potential negative impacts of more people in a given area by: (i) requiring new housing to be LEED certified, or better; (ii) expanding public transportation, and pedestrian/bicycle facilities, into areas where expanded / affordable housing options will be permitted; and (iii) ensuring that green parks be included, and/or that small green parks / spaces be interspersed, within areas where affordable, multi-family, and/or "missing middle," housing may become authorized by the Planning Board.

That is, a plan to augment the amount, and types of, housing stock is necessary, but doing so will not be sufficient: public amenities, services, and facilities will likely need to be updated, expanded and better funded, in general, as part of the process by which Montgomery County better accommodates more residents. Otherwise, one can reasonably foresee a situation evolving where more people can be housed in a certain areas (e.g., in a given CBD), but public services - notably schools - in such zones (as well as the environment) get left behind. I might add that, if possible, the County should help people work with financial institutions, and builders, to maximize ways of facilitating ownership by residents in any given sort of housing, over time, as wide-spread property ownership is a key to individual prosperity and social stability.

In short, while supporting the updating of Montgomery County's housing plans and policies to accommodate more, and more afffordable, housing options (as well as to encourage eventual ownership of housing by residents), I ask you to support other policies within the Subdivision Staging Policy that encourage sustainable growth patterns, and that maintain or improve upon Montgomery County's historically top-notch public facilities including schools, libraries, and parks.

Thank you for your attention to this important matter and for your consideration of my input.

Sincerely,
Alain Norman
1401 Dale Dr Silver Spring, MD 20910-1511
globalalain2@gmail.com

From: jhfay2@everyactioncustom.com on behalf of John Fay
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Wednesday, June 3, 2020 12:39:41 PM

Dear Planning Chair Casey Anderson,

Please support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mr. John Fay
12505 Kuhl Rd Wheaton, MD 20902-1443
jhfay2@gmail.com

From:	joshandveronicasloan@everyactioncustom.com on behalf of Veronica Sloan
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 12:39:50 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mrs. Veronica Sloan
16421 Alden Ave Gaithersburg, MD 20877-1507
joshandveronicasloan@gmail.com

From:	ezellster@everyactioncustom.com on behalf of Emily Zeller
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 12:41:34 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county’s school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Ms. Emily Zeller
4715 Oxbow Rd Rockville, MD 20852-2311
ezellster@gmail.com

From:	patricia.b.ferri@everyactioncustom.com on behalf of Patricia Ferri
To:	MCP-Chair
Subject:	Say NO to ending the housing moratorium
Date:	Wednesday, June 3, 2020 12:42:14 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you NOT to support eliminating the housing moratorium policy for most of Montgomery County.

Our schools are severely overcrowded. Until new schools are built and the over crowding is addressed more housing should not be added in clusters that are already stretched to the limit (Given the upcoming boundary analysis This could be the entire county).

The argument that less than 30% of enrollment growth is attributed to new construction is less than convincing data to end the moratorium. When our schools are already struggling to meet demand any increase hampers the ability of our school system to absorb our children’s learning needs and requirements. Class sizes are already larger than would be optimal to address diverse learning styles. An attempt to end the moratorium is a clear prioritization of financial interests for the real estate sector, builders, agents, etcetera, and not a prioritization of the future health of our community.

Thank you for your consideration on this important matter.

Sincerely,
Patricia Ferri
4617 Roxbury Dr Bethesda, MD 20814-4039
patricia.b.ferri@gmail.com

From:	NINACK@everyactioncustom.com on behalf of Nina Koltnow
To:	MCP-Chair
Subject:	End the housing moratorium
Date:	Wednesday, June 3, 2020 12:44:56 PM

Dear Planning Chair Casey Anderson,

Denser growth is smarter growth. Diversity (including economic) is our strength. Please end the ban on new housing in MoCo and require new multi-unit construction to include affordable housing.

Nina Koltnow

Sincerely,
Nina Koltnow
2314 Parker Ave Silver Spring, MD 20902-1935
NINACK@MAC.COM

From:	behradb@everyactioncustom.com on behalf of Behrad Behbahani
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 12:57:18 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mr. Behrad Behbahani
10201 Grosvenor Pl Apt 422 Rockville, MD 20852-4608
behradb@gmail.com

From:	danieljcook105@everyactioncustom.com on behalf of Daniel Cook
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 1:31:29 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Daniel Cook
6805 Geneva Ln Temple Hills, MD 20748-2711
danieljcook105@gmail.com

From:	omarksky@everyactioncustom.com on behalf of Mark Obrinsky
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 1:43:37 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Dr. Mark Obrinsky
4527 W Virginia Ave Bethesda, MD 20814-4611
omarksky@gmail.com

From:	shan.christian@everyactioncustom.com on behalf of Shannon Christian
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 1:47:51 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Shannon Christian
7111 Woodmont Ave Apt 815 Chevy Chase, MD 20815-6236
shan.christian@gmail.com

From:	timmzhove@everyactioncustom.com on behalf of Bekitemba Hove
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 1:48:23 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Bekitemba Hove
5515 Dowgate Ct Rockville, MD 20851-2022
timmzhove@yahoo.com

From:	Mitch Zeller
To:	MCP-Chair
Subject:	End the Housing Moratorium
Date:	Wednesday, June 3, 2020 3:36:36 PM

Dear Chairman Anderson, Vice-Chair Fani-Gonzalez and Members of the Planning Board,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Mitch Zeller

From:	gsbaill@everyactioncustom.com on behalf of Gerry Baill
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 4:10:43 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Gerry Baill
930 Wayne Ave Apt 511 Silver Spring, MD 20910-4463
gsbaill@yahoo.com

From: paulazeller@everyactioncustom.com on behalf of Paula Zeller
To: MCP-Chair
Subject: Please support eliminating the housing moratorium
Date: Wednesday, June 3, 2020 5:27:53 PM

Dear Planning Chair Casey Anderson,

As a long-time resident of Montgomery County, I'm writing to urge you to support eliminating the housing moratorium policy for most of the County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you very much for considering this important matter.

Sincerely,
Paula Zeller
627 Crown Park Ave Gaithersburg, MD 20878-4583
paulazeller@comcast.net

From: pdjburton@everyactioncustom.com on behalf of Patricia Burton
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Wednesday, June 3, 2020 8:29:51 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Ms Patricia Burton
17120 Queen Victoria Ct Gaithersburg, MD 20877-3651
pdjburton@yahoo.com

From:	donniebaseball@everyactioncustom.com on behalf of Ross Schwarzber
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 9:38:29 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Ross Schwarzber
10028 Dallas Ave Silver Spring, MD 20901-2239
donniebaseball@gmail.com

From:	eyaldanli97@everyactioncustom.com on behalf of Eyal Li
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 10:52:14 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mr Eyal Li
7001 Poplar Ave Takoma Park, MD 20912-4675
eyaldanli97@gmail.com

From: ashleyvevans@everyactioncustom.com on behalf of Ashley Brookshier
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Wednesday, June 3, 2020 10:58:53 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Ashley Brookshier
7515 Carroll Ave Takoma Park, MD 20912-5715
ashleyvevans@gmail.com

From:	radchic05@everyactioncustom.com on behalf of Madeline Amalphy
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Wednesday, June 3, 2020 11:27:41 PM

Dear Planning Chair Casey Anderson,

As a Gaithersburg resident who is extremely concerned about the climate crisis, I urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Ms. Madeline Amalphy
651 Saybrooke Oaks Blvd Gaithersburg, MD 20877-3488
radchic05@gmail.com

From:	Stevenkraft85@everyactioncustom.com on behalf of Steven Kraft
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Thursday, June 4, 2020 8:50:23 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Steven Kraft
8474 Meadow Green Way Gaithersburg, MD 20877-3704
Stevenkraft85@gmail.com

From:	jhcook120@everyactioncustom.com on behalf of Jennifer Cook
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Thursday, June 4, 2020 9:13:02 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Jennifer Cook
1150 Ripley St Silver Spring, MD 20910-3475
jhcook120@gmail.com

From: Cathycan@everyactioncustom.com on behalf of Catherine Walsh
To: MCP-Chair
Subject: What about affordable housing. Affordable meaning under $300,000.
Date: Thursday, June 4, 2020 10:15:52 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county’s school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Catherine Walsh
714 Quince Orchard Blvd Apt 202 Gaithersburg, MD 20878-1547
Cathycan@comcast.net

From:	azibel@everyactioncustom.com on behalf of ALAN ZIBEL
To:	MCP-Chair
Subject:	End the Housing Moratorium!
Date:	Thursday, June 4, 2020 10:35:47 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

We must welcome new neighbors in MoCo! That's the only way to keep home prices from spiraling out of control as they did in California.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration of this important matter.

Sincerely,
Mr. ALAN ZIBEL
32 Philadelphia Ave Takoma Park, MD 20912-4335
azibel@gmail.com

From:	melissajladd@everyactioncustom.com on behalf of Melissa Ladd
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Thursday, June 4, 2020 10:57:37 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Melissa Ladd
9 Thornhurst Ct Olney, MD 20832-1832
melissajladd@yahoo.com

From:	zcweinstein@everyactioncustom.com on behalf of Zachary Weinstein
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Thursday, June 4, 2020 11:25:14 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mr. Zachary Weinstein
1150 Ripley St Apt 1205 Silver Spring, MD 20910-7429
zcweinstein@gmail.com

From:	alindemannmalone@everyactioncustom.com on behalf of Andrew Malone
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Thursday, June 4, 2020 12:21:03 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families (like mine) moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, and are also well-served by transit and other transportation, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Andrew Malone
8416 Queen Annes Dr Silver Spring, MD 20910-5549
alindemannmalone@gmail.com

From: judybethg@everyactioncustom.com on behalf of Judybeth greene
To: MCP-Chair
Subject: Say YES to ending the housing moratorium
Date: Thursday, June 4, 2020 2:12:07 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

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In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Ms. Judybeth greene
7416 Glenside Dr Takoma Park, MD 20912-6923
judybethg@mac.com

From:	riseronald@everyactioncustom.com on behalf of Rise Schlesinger
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Friday, June 5, 2020 5:58:21 PM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

In addition to ending the housing moratorium, I urge you to support other policies within the Subdivision Staging Policy that similarly encourage sustainable growth patterns, such as lowering the cost of new development in desirable areas and increasing the recordation tax to better fund school construction and rental assistance.

Thank you for your consideration on this important matter.

Sincerely,
Mrs. Rise Schlesinger
5801 Nicholson Ln Apt 1205 Rockville, MD 20852-5725
riseronald@hotmail.com

From:	michaelmckee497@everyactioncustom.com on behalf of Michael McKee
To:	MCP-Chair
Subject:	Say YES to ending the housing moratorium
Date:	Saturday, June 6, 2020 12:39:46 AM

Dear Planning Chair Casey Anderson,

I'm writing to urge you to support eliminating the housing moratorium policy for most of Montgomery County.

Stopping new housing does not actually solve school overcrowding. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing neighborhoods -- not from new apartment buildings.

Instead, the moratorium hurts housing affordability and hampers progress on our climate goals. Many of the places currently under moratorium are in high demand, but haven't been able to build enough new housing to keep up with that demand. This makes housing more expensive and difficult for the average resident to attain. Rather than locating in a walkable, sustainable, transit-oriented neighborhood, households and businesses alike are pushed into less desirable growth areas. The county should encourage new housing in major transit and job hubs, not ban it.

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Thank you for your consideration on this important matter.

Sincerely,
Michael McKee
10014 Grayson Ave Silver Spring, MD 20901-2330
michaelmckee497@gmail.com

From:	Jonathan Genn
To:	MCP-Chair
Cc:	Anderson, Casey; Fani-Gonzalez, Natali; Cichy, Gerald; Patterson, Tina; Verma, Partap; Wright, Gwen; Stern, Tanya; Sartori, Jason; Graye, Eric; Govoni, Lisa; Kronenberg, Robert; Sanders, Carrie; Butler, Patrick; Baek, Hye-Soo
Subject:	Written Testimony for Item #7 - June 11 Public Hearing --- 2020 SSP/"County Growth Policy"
Date:	Sunday, June 7, 2020 6:32:15 PM
Attachments:	Mont Co-SSP Quadrennial Update 2020-GLDC Testimony Regarding Public Hearing Draft-JMG Final-2020-0607a.docx

Good Evening, Chair Anderson and Distinguished Commissioners of the Montgomery County Planning Board!

I hope you, your family, friends, and colleagues are all doing well and staying safe.

On behalf of Global LifeSci Development Corporation, I have attached for submittal to the Planning Board my written testimony relating to Item #7 on the June 11, 2020 Agenda (i.e., Review of the Public Hearing Draft of the proposed Subdivision Staging Policy/"County Growth Policy").

I am also signed up to testify virtually (orally) for Item #7 on the June 11 Agenda. I would welcome at that time any questions, comments, critiques, or requests for any additional information any of you may have.

Kindly note that the majority of the pages to my attached written testimony consists of appendices with supplemental information. The relatively brief Executive Summary (and accompanying charts) at the beginning of my written testimony outlines my suggested top 3 policy issues and my top 5 proposed set of solutions for your consideration.

Respectfully Submitted,

Jonathan

Jonathan M. Genn, Esquire
Executive Vice President and General Counsel

Global LifeSci Development Corporation
and Percontee, Inc.
11900 Tech Road, Silver Spring, MD 20904
USA

Telephone: +1-301-622-0100; Telecopier: +1-301-622-3507
Mobile: +1-410-935-2599; Email: jonathan@percontee.com

Global LifeSci Development Corporation

11900 Tech Road, Silver Spring, MD 20904

Telephone (o): 301-622-0100; (m) 410-935-2599; Email: jonathan@percontee.com

June 7, 2020

VIA Email (MCP-Chair@mncppc-mc.org)

Casey Anderson, Chair
Commissioners of the Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission (Montgomery County)
8787 Georgia Avenue
Silver Spring, MD 20910

RE: **June 11, 2020 Public Hearing (Item 7): Subdivision Staging Policy (SSP)**

Dear Chair Anderson and Distinguished Commissioners of the Planning Board:

The Planning Staff should be commended for such an incredibly thorough and professional examination of the existing Subdivision Staging Policy and associated Impact Surtax Policies ("SSP/Impact Surtax Policies"). Staff's laudable efforts for data-driven and context-sensitive solutions were all major "steps in the right direction" and helped to "course-correct" many of the fundamentally flawed and obsolete provisions of the existing SSP/Impact Surtax Policies. Nevertheless, many, many more steps (in the "course-corrected" direction charted by Staff) are still necessary to mitigate the most seriously detrimental flaws of the existing SSP/Impact Surtax Policies (that would remain unresolved by the Public Hearing Draft as presented).

EXECUTIVE SUMMARY

(*Unresolved Flaws/Recommended Solutions/Actionable Items*)

This Executive Summary briefly outlines the most seriously detrimental flaws of the existing SSP/Impact Surtax Policies (that are not adequately remedied with the Public Hearing Draft), together with a brief outline of proposed recommendations that would mitigate those flaws meaningfully. The undersigned is scheduled to testify at the June 11 Public Hearing and will thus be available to address any questions or comments or requests for more information from the Planning Board Commissioners at that time.

A. Unresolved Most Serious Flaws of Existing SSP/Impact Surtax Policies

The following are the top three most serious flaws of the existing SSP/Impact Surtax Policies:

1. **<u>The Most Egregious Form of Regressive Taxation.</u>** As summarized by Chart 1 below, *<u>a fixed dollar amount of tax, variably applied on a non-ad valorem basis</u>*, without any regard to the value of the property being taxed (i.e., the approach used under the existing SSP/Impact Surtax Policies and as proposed in the Public Hearing Draft) is *<u>the most egregious form of regressive taxation possible;</u>* namely, where the impact surtaxes are often considerably higher in actual dollar amounts, and often many multiples higher as a percentage of the property's value, in the lower socio-economic areas of the County. Moreover, this terribly regressive tax effect of these Impact Surtaxes are even further exacerbated, if the proposed additional Utilization Premium Payments ("UPPs") for schools and/or the additional LATR or UMP/LATIP payments for transportation result in even higher rates in the lower socio-economic areas than applicable in the economically advantaged areas. This consequence is highly likely, because of the historic disparities and disinvestment in infrastructure in those lower socio-economic areas of the County. The proposals described in Part B below are intended to mitigate (albeit only partially) this regressive tax effect.

CHART 1 – Showing the Egregiously Regressive Effect of the Proposed SSP/Impact Surtax Policies

Examples of Egregiously Regressive Taxation Effect of School and Transportation Impact Surtax Policies (<u>USING PUBLIC HEARING DRAFT PROPOSED RATES</u>)

	Examples of Areas Adversely Affected by Historic "Prosperity Disparity"				Examples of Historically Prosperous Areas		
	Mont Village	**Aspen Hill**	(outside CBD) **Glenmont**	**Calverton**	(inside CBD) **Bethesda**	(outside CBD) **Bethesda/Chevy Chase**	**Potomac**
Type of Home	SFA Townhome (3BR)	SF Detached (3BR)	SF Detached (3BR)	SFA Townhome (3BR)	Condo High-Rise (3BR)	SFA Townhome (4BR)	SF Detached (7 BR)
Value of Home	**$359,000**	**$419,000**	**$409,000**	**$339,000**	**$2,100,000**	**$1,200,000**	**$5,700,000**
School Impact Zone	Turnover	Turnover	Turnover	Turnover	Infill	Turnover	Turnover
Activity Center?	No	No	No	No	Yes	Yes	No
Transportation Policy Area	Yellow	Yellow	Orange	Yellow	Red	Orange	Yellow
Medial HHI (1 mile)	$68,844	$73,267	$83,641	$68,401	$125,158	$122,213	$255,612
Mediam HHI (3 miles)	$88,737	$85,200	$96,498	$80,851	$160,955	$152,557	$225,988
Avg Median HHI (1 & 3 mi)	**$78,791**	**$79,234**	**$90,070**	**$74,626**	**$143,057**	**$137,385**	**$240,800**
School Impact Surtax	$23,503	$21,627	$21,627	$23,503	$10,312	$14,102	$21,627
Transportation Surtax	$20,038	$24,490	$19,591	$20,038	$3,561	$16,030	$24,490
Total Impact Surtaxes	**$43,541**	**$46,117**	**$41,218**	**$43,541**	**$13,873**	**$30,132**	**$46,117**
(before any UMP or UPP)							
Total Surtaxes as % of Value	**12.13%**	**11.01%**	**10.08%**	**12.84%**	**0.66%**	**2.51%**	**0.81%**
How Many Times Higher than:					**Value exceeds highest of lower socio-econ examples by:**	**Value exceeds highest of lower socio-econ examples by:**	**Value exceeds highest of lower socio-econ examples by:**
Bethesda 3BR Condo?:	**18.36**	**16.66**	**15.26**	**19.44**	**$1,681,000**	**$781,000**	**$5,281,000**
Bethesda/CC 4BR Townhome?:	**4.83**	**4.38**	**4.01**	**5.12**	**But Surtaxes are <u>LOWER</u> by:**	**But Surtaxes are <u>LOWER</u> by:**	**But Surtaxes are**
Potomac 7BR SF Detached?:	**14.99**	**13.60**	**12.46**	**15.87**	**$32,244**	**$15,985**	**THE SAME!!**

NOTE: Any additional LATR or UMP/LATIP payments and/or proposed Utilization Premium Payments could even further exacerbate these horrifically regressive taxation effects, if the historic disinvestment in those lower socio-economic areas are ignored, and the cost burden to "bring to date" the historic unfunded infrastructure is placed on new development that had nothing to do with those past public facility inadequacies.

2. **<u>Perpetuates Racial, Social, And Economic Injustice and Inequality.</u>** Even if all SSP/Impact Surtaxes were entirely eliminated in the lower socio-economic areas of the County, the historic disparities (spanning decades) in public and private disinvestment in those lower socio-economic areas --- including the confluence of existing conditions of disrepair/inadequacy of water lines, sewer lines, unreliable electric grid, and other public facilities, together with other substantial social and economic obstacles (such as food insecurities, public safety challenges, inadequate job and small business opportunities, disparities in the quality and desirability of schools, etc.) --- have left a legacy of extreme challenges to advancing the County's imperative for Racial, Social, and Economic Justice and Equality. We applaud the Staff for mentioning the need to consider other policy priorities beyond just schools and roads, and for specifically referring to "equity" issues. But, in the end, very little (if anything) presented in the Public Hearing Draft appears to meaningfully advance Racial, Social, and

Economic Justice and Equality. The proposals described in Part B below are intended to mitigate many of these barriers to this policy priority for justice and equality.

3. **Obstacles to "Thrive Montgomery 2050" and "Smart Growth" Goals Would Remain.** Many of Staff's recommendations set forth in the Public Hearing Draft substantially improve the existing SSP/Impact Surtax Policies in fundamental ways, which will help advance the objectives of the "Thrive Montgomery 2050" General Plan, and are consistent with "Smart Growth" principles. Nonetheless, in many ways, the Public Hearing Draft does not go far enough to encourage and incentivize future growth patterns where growth is most desired and strategic; namely, where future job and population growth can occur with the minimum amount (in the macro, aggregate sense) of future impacts on public facilities and infrastructure (not only relating to schools and roads; but also, relating to infrastructure for water, sewer, ultra-high-speed broadband, a reliable electric grid, efficient storm water management, and other innovative environmental protections). The proposals described in Part B below will help strengthen the set of incentives to encourage the "Smartest Growth" and help achieve the "Thrive Montgomery 2050" General Plan goals.

B. Recommended Solutions/Actionable Items to Mitigate Unresolved Flaws

For reasons the undersigned can further detail during oral testimony on June 11 (or by providing more detailed supplemental written analyses, if the Commissioners wish), this Executive Summary briefly outlines the following proposed solutions and actionable items to mitigate the most serious flaws of the existing SSP/Impact Surtax Policies (that are not adequately resolved in the Public Hearing Draft):

1. **Add "Qualified Opportunity Zones" among the Exemptions from all Impact Surtaxes**. To help advance the County's policy objectives for Racial, Social, and Economic Justice and Equality in a meaningfully way, as well as to mitigate the most egregious form of regressive taxation: (a) retain the Impact Surtax exemption for *Enterprise Zones* (as designated by the State); and (b) add an Impact Surtax exemption for "*Qualified Opportunity Zones*" (as certified in 2019 by the U.S. Treasury) for a period of ten (10) years (beginning January 1, 2021), followed by a graduated annual decline of exemption (i.e., 80% exemption, 60% exemption, 40% exemption, 20% exemption of the otherwise applicable rates) over the subsequent four (4) years. All of such exemptions would thus expire on December 31, 2034 (a full *15 years before* the Thrive Montgomery 2050 milestone!). These areas, however, would not be exempt from LATR, UMP/LATIP or UPP payments; only exempt from the impact surtaxes.)

2. **For Transportation Impact Surtax Purposes, Define the "Red" Transportation Policy Area to include all:**
   (a) Purple Line Station Areas (e.g., Lyttonsville, etc.);
   (b) County Council Designated "Economic Opportunity Centers"[1]; and
   (c) MWCOG Designated "High/Highest Growth Jobs *and* Population Activity Centers" (identified in Public Hearing Draft Figures 4 and 5 on pages 11 and 12).

[1] See Appendix A for a more detailed explanation for why County Council designated "Economic Opportunity Centers" should be included among those areas categorized within the RED Transportation Policy Area.

3. **<u>For School Impact Surtax Purposes, Further Adjust Public Hearing Draft's Proposed Rates to Encourage Development in the Most Strategic "Activity Centers":</u>**

(a) Designate all "High/Highest Growth Jobs *<u>and</u>* Population Activity Centers" (identified in Figures 4 and 5 on pages 11 and 12 of the Public Hearing Draft) as "<u>Infill</u>" (if such areas are presently designated as "Turnover" in Public Hearing Draft), because such High/Highest Growth Jobs *<u>and</u>* Population Activity Centers have the characteristics more in keeping with Staff's recommended "Infill" areas than Staff's description of the characteristics in "Turnover" areas;

(b) Differentiate and Further Reduce "<u>High-Rise Multifamily</u>" to be <u>33%</u> of the Staff's proposed combined Multi-Family Rates, because most of the Staff's analysis shows High-Rise Multifamily generating new student population at ~33% of the generation rates for Low-Rise Multifamily (see, e.g., Appendices for Public Hearing Draft, Figures G1, G5, G16, G18 on pages 50, 53, 59, and 60, respectively).

(c) Because there are material, qualitative distinctions among the various forms of MWCOG designated "Activity Centers" that would have substantially different generation rates for new students and new single-occupancy vehicle ("SOV") trips in peak directions during peak periods, further refine and differentiate the surtax rates relating to MWCOG "Activity Centers" as follows:

(1) **<u>Non</u>**-High Growth Activity Centers (as identified in Figure 6 on page 14 of the Public Hearing Draft) would have rates that are ***<u>60%</u>*** of the category's standard 100% rate;

(2) High/Highest Growth - Jobs only ***<u>or</u>*** Population only Activity Centers have rates that are ***<u>50%</u>*** of the category's standard 100% rate; and

(3) High/Highest Growth - ***<u>both</u>*** Jobs ***<u>and</u>*** Population Activity Centers have rates that are ***<u>40%</u>*** of the category's 100% rate.

As a result of the foregoing proposals, the Chart of School Impact Rates set forth in the Public Hearing Draft (on page 81) would be revised as shown on the below comparative Charts 2 and 3.

[Comparative Charts 2 and 3 are on following page]

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CHART 2 – Proposed Rates Presented in Public Hearing Draft

CURRENT PUBLIC HEARING DRAFT RATE PROPOSAL		Calculation Factor	SF Detached	SF Attached	Multi-Family Low-Rise	Multi-Family High-Rise
Current Rates		120%	$26,207	$27,598	$21,961	$6,113
Infill Impact Areas	Standard	100%	$17,186	$18,303	$4,325	
	Activity Center	60%	$10,312	$10,982	$2,595	
Turnover Impact Areas	Standard	100%	$21,627	$23,503	$8,936	
	Activity Center	60%	$12,976	$14,102	$5,362	
	AR Zone	120%	$25,952	$28,204	$10,723	
	AR Zone (single unit)	60%	$12,976	$14,102	$5,362	
Greenfield Impact Areas	Standard	100%	$33,809	$28,691	$24,898	
	Activity Center	100%	$33,809	$28,691	$24,898	
	AR Zone	120%	$40,571	$34,429	$29,878	
	AR Zone (single unit)	60%	$20,285	$17,215	$14,939	

CHART 3 – This Testimony's Proposed Revised Rate Structure

TESTIMONY'S PROPOSED RATE STRUCTURE (Changes Highlighed in Yellow)		Calculation Factor	SF Detached	SF Attached	Multi-Family Low-Rise	Multi-Family High-Rise
Current Rates		120%	$26,207	$27,598	$21,961	(33% of Low Rise) $6,113
Infill Impact Areas	Standard	100%	$17,186	$18,303	$4,325	$1,427
	Non-HG Activity Center	60%	$10,312	$10,982	$2,595	$856
	HG P ***OR*** J Activity Center	50%	$8,593	$9,152	$2,163	$714
	HG P ***AND*** J Activity Center	40%	$6,874	$7,321	$1,730	$571
Turnover Impact Areas	Standard	100%	$21,627	$23,503	$8,936	$2,949
	Non-HG Activity Center	60%	$12,976	$14,102	$5,362	$1,769
	HG P ***OR*** J Activity Center	50%	$10,814	$11,752	$4,468	$1,474
	HG P ***AND*** J Activity Center	40%	$8,651	$9,401	$3,574	$1,180
	AR Zone	120%	$25,952	$28,204	$10,723	$3,539
	AR Zone (single unit)	60%	$12,976	$14,102	$5,362	$1,769
Greenfield Impact Areas	Standard	100%	$33,809	$28,691	$24,898	$8,216
	Activity Center	100%	$33,809	$28,691	$24,898	$8,216
	AR Zone	120%	$40,571	$34,429	$29,878	$9,860
	AR Zone (single unit)	60%	$20,285	$17,215	$14,939	$4,930

KEY:

Non-HG Activity Center = NON-High Growth Activity Center (as shown on Public Hearing Draft Figure 6, page 14)

HG P ***OR*** J Activity Center = High/Highest Growth Activity Center for Population **OR** Jobs (see Public Hearing Draft Figures 4 & 5, pages 11 & 12)

HG P ***AND*** J Activity Center = High/Highest Growth Activity Center for Population **AND** Jobs (see Public Hearing Draft Figures 4 & 5, pages 11 & 12)

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4. **Further adjust all "Base Line" School and Transportation Impact Surtaxes (as well as any applicable LATR or UMP/LATIP payments and any applicable Utilization Premium Payments) to correlate to the County-wide Median Household Income ("Median HHI") market**. To mitigate (albeit, only partially) the horrifically regressive tax effect of the SSP/Impact Surtax Policies, once the "Base Line" Impact Surtax Rates (for both Transportation and Schools, as shown in Chart 3 above) and the "Base Line Per Trip Rate" for LATR or UMP/LATIP purposes have been established as described above --- which should then be considered the established "Base Line Rates" applicable to the County-wide Median HHI markets --- those Base Line Rates should be further adjusted (plus or minus) by the percentage by which the Median HHI of the planned new development property (calculated as an average of the Median HHI within 1-mile radius and 3-mile radius from the new development property, as then reported by CoStar or other reliable substitute source of data) is more (or less) than the County-wide Median HHI.

   The comparative charts on the following page show how this testimony's proposed proportionate adjustments based on Median HHI markets would mitigate (albeit only partially) the otherwise egregious form of regressive taxation (which is especially harmful for the lower socio-economic areas of the County, where the *only* practical way any new construction could mitigate the most regressive nature of these surtaxes would be by building the same type of improvements, whether residential or commercial, with **much cheaper and much lower quality of design and materials for construction**. Even using this only practical tool available (given all the other regulatory constraints and costs) of sacrificing and lowering the quality of design and quality of materials (and thus the quality of community) would only minimally offset the Impact Surtax Policies' most regressive forms of taxation.

[Comparative Charts 1 (repeated for ease of reference) and 2 are on following page]

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(REPEAT OF) CHART 1 (Showing <u>Public Hearing Draft</u> Rates Before Adjusted by Testimony's Proposal)

Examples of Egregiously Regressive Taxation Effect of School and Transportation Impact Surtax Policies (<u>USING PUBLIC HEARING DRAFT PROPOSED RATES</u>)

	Examples of Areas Adversely Affected by Historic "Prosperity Disparity"				Examples of Historically Prosperous Areas		
	Mont Village	**Aspen Hill**	(outside CBD) **Glenmont**	**Calverton**	(inside CBD) **Bethesda**	(outside CBD) **Bethesda/Chevy Chase**	**Potomac**
Type of Home	SFA Townhome (3BR)	SF Detached (3BR)	SF Detached (3BR)	SFA Townhome (3BR)	Condo High-Rise (3BR)	SFA Townhome (4BR)	SF Detached (7 BR)
Value of Home	**$359,000**	**$419,000**	**$409,000**	**$339,000**	**$2,100,000**	**$1,200,000**	**$5,700,000**
School Impact Zone	Turnover	Turnover	Turnover	Turnover	Infill	Turnover	Turnover
Activity Center?	No	No	No	No	Yes	Yes	No
Transportation Policy Area	Yellow	Yellow	Orange	Yellow	Red	Orange	Yellow
Medial HHI (1 mile)	$68,844	$73,267	$83,641	$68,401	$125,158	$122,213	$255,612
Mediam HHI (3 miles)	$88,737	$85,200	$96,498	$80,851	$160,955	$152,557	$225,988
Avg Median HHI (1 & 3 mi)	**$78,791**	**$79,234**	**$90,070**	**$74,626**	**$143,057**	**$137,385**	**$240,800**
School Impact Surtax	$23,503	$21,627	$21,627	$23,503	$10,312	$14,102	$21,627
Transportation Surtax	$20,038	$24,490	$19,591	$20,038	$3,561	$16,030	$24,490
Total Impact Surtaxes	**$43,541**	**$46,117**	**$41,218**	**$43,541**	**$13,873**	**$30,132**	**$46,117**
(before any UMP or UPP)							
Total Surtaxes as % of Value	**12.13%**	**11.01%**	**10.08%**	**12.84%**	**0.66%**	**2.51%**	**0.81%**
How Many Times Higher than:					Value exceeds highest of lower socio-econ examples by:	Value exceeds highest of lower socio-econ examples by:	Value exceeds highest of lower socio-econ examples by:
Bethesda 3BR Condo?:	**18.36**	**16.66**	**15.26**	**19.44**	**$1,681,000**	**$781,000**	**$5,281,000**
Bethesda/CC 4BR Townhome?:	**4.83**	**4.38**	**4.01**	**5.12**	**But Surtaxes are <u>LOWER</u> by:**	**But Surtaxes are <u>LOWER</u> by:**	**But Surtaxes are**
Potomac 7BR SF Detached?:	**14.99**	**13.60**	**12.46**	**15.87**	**$32,244**	**$15,985**	**THE SAME!!**

NOTE: Any additional LATR or UMP/LATIP payments and/or proposed Utilization Premium Payments could even further exacerbate these horrifically regressive taxation effects, if the historic disinvestment in those lower socio-economic areas are ignored, and the cost burden to "bring to date" the historic unfunded infrastructure is placed on new development that had nothing to do with those past public facility inadequacies.

CHART 4 (Chart Showing Partial Mitigating Effect of Testimony's Proposal)

Mitigating Effect of <u>TESTIMONY'S PROPOSALS</u> on Examples of Otherwise Egregiously Regressive Taxation of Public Hearing Draft's Propoped School and Transportation Impact Surtax Policies

	Examples of Areas Adversely Affected by Historic "Prosperity Disparity"				Examples of Historically Prosperous Areas		
	Mont Village	**Aspen Hill**	(outside CBD) **Glenmont**	**Calverton**	(inside CBD) **Bethesda**	(outside CBD) **Bethesda/Chevy Chase**	**Potomac**
Type of Home	SFA Townhome (3BR)	SF Detached (3BR)	SF Detached (3BR)	SFA Townhome (3BR)	Condo High-Rise (3BR)	SFA Townhome (4BR)	SF Detached (7 BR)
Value of Home	**$359,000**	**$419,000**	**$409,000**	**$339,000**	**$2,100,000**	**$1,200,000**	**$5,700,000**
School Impact Zone	Turnover	Turnover	Turnover	Turnover	Infill	Turnover	Turnover
Activity Center?	No	No	No	No	Yes (HG P&J AC)	Yes (NON-HG AC)	No
Trans Policy Area	Yellow	Yellow	Orange	Yellow	Red	Orange	Yellow
Medial HHI (1 mile)	$68,844	$73,267	$83,641	$68,401	$125,158	$122,213	$255,612
Mediam HHI (3 miles)	$88,737	$85,200	$96,498	$80,851	$160,955	$152,557	$225,988
Avg Median HHI (1 & 3 mi)	**$78,791**	**$79,234**	**$90,070**	**$74,626**	**$143,057**	**$137,385**	**$240,800**
Countywide Med HHI	$108,000	$108,000	$108,000	$108,000	$108,000	$108,000	$108,000
Plus/Minus from Co Med HHI	-$29,210	-$28,767	-$17,931	-$33,374	$35,057	$29,385	$132,800
Regressive Tax Adjustment**	**-27.0%**	**-26.6%**	**-16.6%**	**-30.9%**	**32.5%**	**27.2%**	**123.0%**
Adjusted Surtax Amount:							
School Impact Surtax	$17,146	$15,867	$18,036	$16,240	$756	$17,939	$48,220
Transportation Surtax	$14,619	$17,967	$16,338	$13,846	$4,717	$20,391	$54,604
Total Impact Surtaxes	**$31,765**	**$33,833**	**$34,375**	**$30,086**	**$5,473**	**$38,330**	**$102,824**
(before any adjustments)							
Adjusted Surtaxes-% of Value	**8.85%**	**8.07%**	**8.40%**	**8.87%**	**0.26%**	**3.19%**	**1.80%**
How Many Times Higher than:					Value exceeds highest of lower socio-econ examples by:	Value exceeds highest of lower socio-econ examples by:	Value exceeds highest of lower socio-econ examples by:
Bethesda 3BR Condo?:	**33.95**	**30.98**	**32.25**	**34.05**	**$1,681,000**	**$781,000**	**$5,281,000**
Bethesda/CC 4BR Townhome?:	**2.77**	**2.53**	**2.63**	**2.78**	**But Surtaxes are <u>LOWER</u> by:**	**Surtaxes are higher by <u>only</u>:**	**Surtaxes are higher by <u>only</u>:**
Potomac 7BR SF Detached?:	**4.90**	**4.48**	**4.66**	**4.92**	**$28,360**	**$4,497**	**$68,990**

NOTE: Any additional LATR or UMP/LATIP payments and/or proposed Utilization Premium Payments could even further exacerbate these horrifically regressive taxation effects, if the historic disinvestment in those lower socio-economic areas are ignored, and the cost burden to "bring to date" the historic unfunded infrastructure is placed on new development that had nothing to do with those past public facility inadequacies.

***** Note: These adjustment do <u>NOT</u> make the Impact Surtaxes <u>progressive</u> (nor <u>proportionate</u>, as should be the case with ad valorem property taxes based on assessed values). Instead, these adjustment merely (and only paritally) mitigate the horrifically regressive taxation effect of the existing and the Public Hearing Draft's proposed Impact Surtaxes).***

This chart thus shows that, even with these adjustments to partially mitigate the regressive taxation, the higher valued homes are still not paying much more as a percentage of home values home values

****** Yes, the Betheda CBD High Rise Condo School Impact Surtaxes would go down substantially --- making the rgressive effect look even worse --- but high-rise condos in the Infill CBDs by Metro Stations generate such a small fraction of new students and SOV trips, and are in High Growth Job AND Population Activity Centers, where future density is desirable and should be encouraged and incentivized***

5. **To help advance the County's Imperative for Racial, Social, and Economic Justice and Equality, new revitalization development projects in the lower socio-economic areas of the County should effectively be granted an analogous form of "scholarship program" (akin to student loans for college tuition), whereby all applicable SSP/Impact Surtaxes would *not* be due and payable at *Building Permit*; but rather, paid over years via a Development District Revenue Bond Financing Structure** (recommended to be referred to, collectively, as "Build Montgomery" Development District Revenue Bonds, akin to "Build America Bonds" issued by the Obama Administration after the 2008 Financial Crisis). For all specially designated lower socio-economic areas that have been particularly and adversely affected by the County's historic "prosperity disparities" --- including those areas designated by the State as an "Enterprise Zone," and/or certified by the U.S. Treasury in 2019 as a "Qualified Opportunity Zones," and/or designated by the County Council as a strategic "Economic Opportunity Center[2]," and/or as otherwise may be specifically designated by the County Council in the future --- all new development should be granted the opportunity to use essentially an analogous form of a "*scholarship/student loan*" program, whereby all applicable Transportation and School Impact Surtaxes and all LATR or UMP/LATIP Surtaxes (and any applicable Utilization Premium Payment) that would otherwise be applicable to that new revitalization development would *NOT be due and payable at Building Permit*; but rather, would be due and payable via a County-participated Development District Revenue Bond Financing (e.g., *"Build Montgomery" Development District Revenue Bonds*), which repayment would be over a minimum 20-year and maximum 30-year repayment period (the length of time for which the County Council would determine, based upon the length of time the affected area has been adversely affected by historic disinvestment, which effectively operated as an actual (*de jure*) or *de facto* moratorium for that area). Importantly, such "Build Montgomery" Development District Bond Financing should also be available to assist funding for other public infrastructure investments needed (including for repairing or replacing old water and sewer systems in disrepair on account of past neglect or disinvestment in the area).

   Essential to helping make such "Build Montgomery" Development District Revenue Bond Financing for these lower socio-economic areas of the County marketable to the municipal bond market for public infrastructure, the County would facilitate the marketability of those bonds by also entering into a PILOT program for the relevant property (properties), which PILOT program would include elements substantially similar as the following (although the precise numbers would need to be fully negotiated with the prospective public infrastructure revenue bond issuers at the time of issuance based upon then-current bond market conditions) [3]:

   (a) cap the County's real estate tax collections on the subject property's land at an annual increase of 2.0% per year --- provided that the property would simultaneously contribute annually to a Community Benefit Program (a "CBP") specifically established to serve the subject property's community in an amount at least equal to the same amount by which the capped 2% annual real estate tax increase allocated to the land and collected by the County (thus, the property would have

[2] Again, please see attached Appendix A for more explanation of the Council's authority to (and its prior use of) a strategic designation of an "Economic Opportunity Center."

[3] Each development district bond financing structure would need to be custom-tailored to the conditions of the particular property and based upon then-current bond market conditions. These suggested terms, therefore, may vary from time to time and from property to property, based upon those then-current market conditions.

a minimum total annual added PILOT cost of 4% on the property's land, which also effectively make the County and the property owner share 50-50 on a 4% annual increase going directly to the CBP);

(b) phase-in/cap any added value of all vertical buildings constructed on the subject land over a 20-year, straight-line basis (e.g., a $1,000,000 building improvement would be phased-in and capped at $50,000 annually over 20 years), with the added annual real estate taxes allocated to the 20-year annual increase in assessment (based on then current real estate tax rates) would be paid 25% to the County and 75% to the "Build Montgomery" Revenue Bond Holders; and

(c) any additional real estate tax collections above rates paid under paragraphs (a) and (b) above would be paid 95% to the "Build Montgomery" Revenue Bond Holders and 5% to the County, until all debt and other obligations on the governing "Build Montgomery" Revenue Bonds is repaid in full. After such Build Montgomery Revenue Bonds are repaid in full, the PILOT program would then graduate the County real estate tax collections over a 5-year period in equal annual increases until the property is fully-assessed and the taxes collected are based upon the subject property's full market value.

The foregoing Executive Summary addresses only the most severely detrimental flaws of the existing SSP/Impact Surtax Policies that would remain unresolved by simply adopting the Public Hearing Draft as presented. There are a number of other suggested improvements to the Public Hearing Draft that would help further mitigate the fundamental flaws of the existing set of SSP/Impact Tax Policies, which are more fully analyzed --- together with recommended solutions --- in the attached Appendix B.[4]

The undersigned is scheduled to testify on June 11 and looks forward to addressing any of the Commissioners' questions or comments or any requests for further information at that time.

Respectfully Submitted,

/s/ Jonathan M. Genn

Jonathan M. Genn, Executive Vice President and General Counsel

cc: Gwen Wright, Director
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Lisa Govoni, Research & Special Projects
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Hye-Soo Baek, Intern, Research & Special Projects

[4] Also, for a more thorough discussion and analysis of the various forms of regressive taxation, and why the SSP/Impact Tax Policies constitute the most horrific form of regressive taxation possible, please read the attached Appendix C.

APPENDIX A

County Council's Authority to Designate (and the Transportation Impact Surtax Effect of) Strategic "Economic Opportunity Centers"

Whenever the County Council specifically designates a Master Plan area as a strategic "**Economic Opportunity Center**" with characteristics that are "similar in form and function to areas around a **Metro Station** or **central business district** with an ultimately **urban character**," that Plan area has all the applicable characteristics to be categorized within the "**Red**" Transportation Policy Areas. This is precisely what the County Council approved and adopted for the White Oak Science Gateway Master Plan ("WOSG MP") area in July of 2014 (see the language on page 54 of the WOSG MP, copied and shown on the following two pages of this Appendix A), which specifically states that the WOSG MP area should:

> "…be considered an **Economic Opportunity Center** similar in form and function to areas around a **Metro Station** or **central business district** with an ultimately **urban character**, and that the roadway and transit adequacy standards used in the Subdivision Staging Policy for areas that are currently designated as Urban be applied to the [WOSG Master] Plan area." (Emphasis added. See next two pages of this Appendix A.)

The adoption of the WOSG MP area predated the County adoption of the UMP and Transportation Policy Area categories. Obviously, therefore, there could be no reference to such a "Red" classification at the time of the WOSG MP adoption. However, when the UMP program was later adopted, with the associated color categories for Transportation Policy Areas (and the corresponding schedules of Impact Surtax rates), there was an unintended oversight which failed to factor that the County Council had, by that time, recently characterized the WOSG MP area as essentially similar to a Metro Station and CBD with urban character (which should have put the WOSG MP area in the "Red") category. Instead, the WOSG MP area was simply grouped with other "Orange" areas (which other areas do not have characteristics similar to a Metro Station or CBD).

During this 2020 quadrennial review and update of the SSP/Impact Surtax Policies, that original oversight can now be corrected, by including WOSG MP area into the "Red" category for all the reasons noted above. For similar reasons, the Purple Line Stations (e.g., Lyttonsville, etc.) should also be viewed as "similar in form and function as a Metro Station or CBD," and should thus also be accorded the same "Red" rate structure.

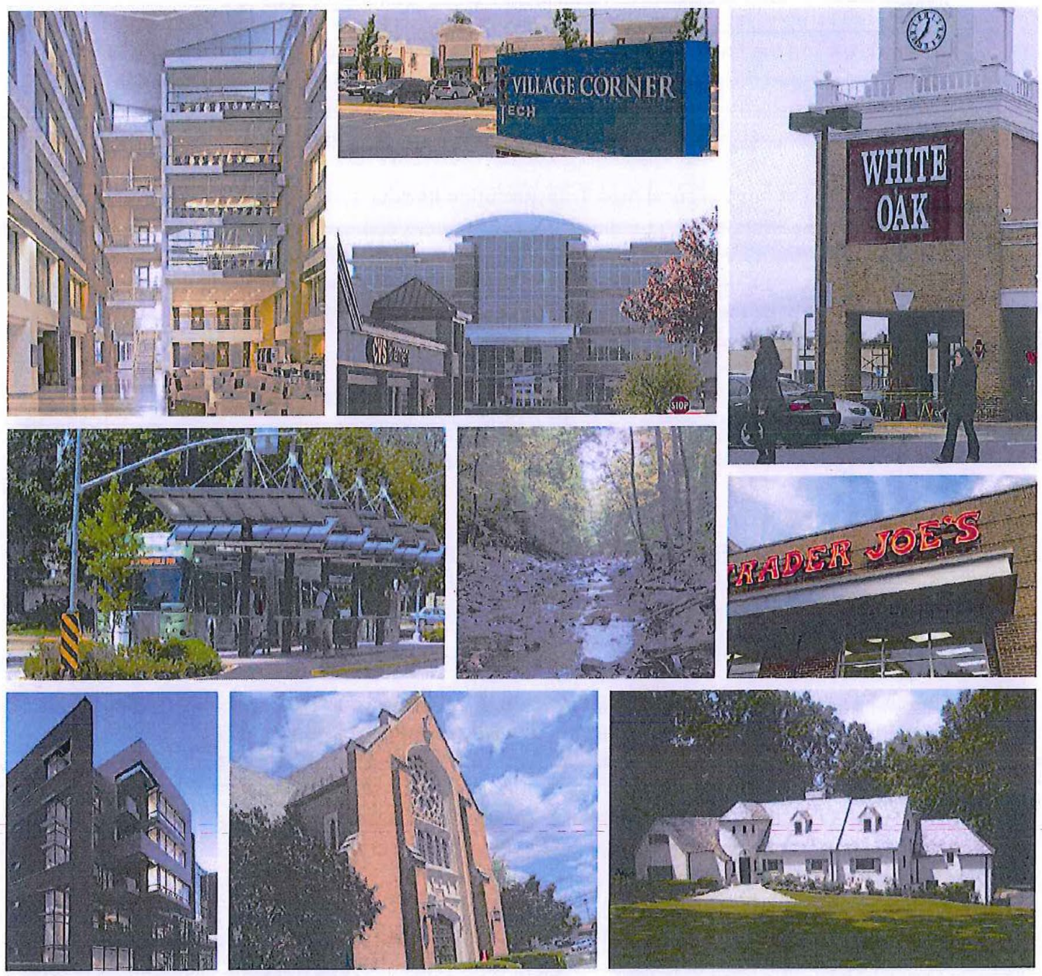
The easiest solution to this matter would be simply to change the description of the "Red" Transportation Policy Area category to apply to all "Metro Stations, Central Business Districts, Purple Line Stations, and Council designated Economic Opportunity Centers."

This preferential treatment would also act as an effective tool for the Planning Board to recommend and/or the County Council to approve future master plans for other lower socio-economic areas in the County, with similarly planned mixed-use and urban characteristics (such as in Aspen Hill, Glenmont/Wheaton, Burtonsville, etc.), using this special "Economic Opportunity Center" designation. In so doing, this "Economic Opportunity Center" tool would not only advance the Thrive Montgomery 2050 General Plan; but also, would help mitigate the horrifically regressive taxation effect that otherwise disproportionately burdens such lower socio-economic areas of the County.

JULY 2014

White Oak Science Gateway Master Plan

APPROVED AND ADOPTED



Montgomery County Planning Department
montgomeryplanning.org

Transportation Standards

This Plan recommends that in light of the County's economic objectives and its ownership interest in the Life Sciences property, the Plan area be considered an economic opportunity center, similar in form and function to areas around a Metro Station or a central business district with an ultimately urban character, and that the roadway and transit adequacy standards used in the Subdivision Staging Policy for areas that are currently designated as Urban be applied to the Plan area. Currently the Urban roadway standard is a minimum 40 percent ratio of forecast speed to uncongested speed (the borderline between Levels of Service "D" and "E") averaged over all arterials and roads of higher classifications.

This Plan recommends the Local Area Transportation Review (LATR) standard be raised from 1475 critical lane volume (CLV) to 1600 CLV (1.00 volume/capacity) within the Plan area. The rationale for a 1600 CLV (1.00 volume/capacity) standard stems from the Plan-recommended BRT network that would serve the area and offer a viable alternative to automobile travel. This is consistent with the County's policy of accepting greater levels of roadway congestion in areas where high quality transit options are available.

Intersection performance, assuming the Master Plan Development Scenario with the *full complement* of un-programmed improvements, is described below and shown on Figure 5. The full complement of the un-programmed improvements assumed in support of the intersection analysis includes:

- BRT Network
- Old Columbia Pike Bridge opened to vehicular traffic
- Planned US 29 grade-separated interchanges
- New local roads proposed in the Life Sciences/FDA Village Center
- Intersection geometric improvements

This Plan includes the following intersection improvements:

- Cherry Hill Road at Broadbirch Drive/Calverton Boulevard: on Broadbirch Drive, add an eastbound left-turn lane and an eastbound through lane; on Calverton Boulevard, change the westbound right-turn lane to a westbound right-turn and through lane; and on Cherry Hill Road, add a northbound left-turn lane and a southbound right-turn lane.
- MD 650 at Powder Mill Road: from Holly Hall, add an eastbound left-turn lane; on Powder Mill Road, add a westbound right-turn lane; and on MD 650, add a southbound left-turn lane.
- MD 650 at Lockwood Drive: on Lockwood Drive, add an eastbound left-turn lane.
- Powder Mill Road at Riggs Road: on Powder Mill Road, add a second eastbound left-turn lane.
- Old Columbia Pike at Musgrove Road: on Old Columbia Pike, add a southbound left-turn lane; and on Musgrove Road, add a westbound right-turn lane.

These specific improvements are a guide to right-of-way reservations at these intersections. The need for each intersection improvement will be revisited as part of specific development plan LATR reviews.

APPENDIX B

Additional Improvements to Public Hearing Draft Proposals to Mitigate Less Severe (Yet Fundamental) Flaws of SSP/Impact Surtax Policies

In addition to the most critically important revisions to the Public Hearing Draft outlined in Part B of this testimony (above) to mitigate the most severely detrimental flaws of the existing SSP/Impact Surtax Policies, the following are additional improvements to the Public Hearing Draft are also necessary to ameliorate less severe, yet nevertheless still fundamental flaws of the existing SSP/Impact Surtax Policies.

1. **Need Further Refinement and Additional Data-Driven and Context-Sensitive Information**. The Staff's deserves great credit for its innovative approach to have the SSP/Impact Surtax Policies more data-driven and context-sensitive. But more refinement and additional data-driven and context-sensitive information is required, so that decision-makers can enact the most strategic, effective, efficient, responsible, and sustainable SSP/Impact Surtax Policies, including the following:

    a. **HISTORICAL DATA**. Historical data would be needed to see "how we arrived at the current conditions" over over-crowded schools and over-congested roads, so the Planning Board and County Council can determine how new development pays its **proportionate** share (*but not more than its proportionate share*, by paying for current school or road inadequacies that are vestiges or legacies of historic circumstances, which the new development did not generate in any way). Such historical data and context should include:

        (1) For Development Application Reviews relating to school impacts (under Staff's recommendations 4.11 through 4.16), what percentage of new student population contributing to the *current* capacity issues were caused by the **historical "turnover effect"** of existing residential communities (e.g., sales of homes by "empty nesters" to new families, who then sent their children to the schools) versus new development **in that same school cluster**? The data compiled should not be a static "moment in time" compilation, but a dynamic "trends" analysis (i.e., an analysis from a least 3 historical moments in time, such as 4 years past, 8 years past, and 12 years past --- namely, cumulative data gained from each quadrennial review). Each retrospective analysis should compare the proportion of new student generation rates from the historical "turnover effect" within existing neighborhoods versus new development in that same school cluster (and not from a less relevant County-wide basis, which is essentially the approach adopted in the Public Hearing Draft[5]).

[5] Yes, the Public Hearing Draft analyzes a *county-wide* "turnover effect" in proposing the "Turnover School Impact Area." And yes, the Public Hearing Draft does recognize the limitations of a "one-size-fits-all approach." But, in the end, the Public Hearing Draft's "Turnover School Impact Area" still represents ~84% to ~88% of the County by land area and population (see Slides 14 and 15 of Mr. Sartori's May 25 Presentation); thus, rather than a "one-size-fits-100%" approach, there is a "one-size-fits-~84% to ~88%" approach, which ends up treating, for example, Poolesville the same as Forest Glen). While breaking down the one-size-fit-all to a one-size-fits-~84 to 89% percent is an improvement, there should be a further breakdown to do a more accurate data-driven, context-sensitive analysis of the diverse 35 school study areas.

(2) For purposes of Development Application Reviews relating to **transportation** (including Staff's recommendations 5.1 – 5.7), more robust **historical** data is even *more essential* than for schools. Decision-makers cannot possibly determine accurately what an appropriate *proportionate share* of infrastructure costs should be allocated to new development without knowing what proportion of the current over-capacity of roads is attributable to historic SOV trips in peak direction during peak hours generated by *both* (a) existing residential and commercial "turnover effect" (unrelated to the new development), *and* (b) pass-through SOV trips originating and with destinations to locations outside the relevant TAZs. Moreover, historical data on the long-term effect of disinvestment (i.e., the arrearages or delinquencies of the public sector over the prior decades) on future roadway capacity in the relevant TAZs is also necessary[6]. Without this more robust information, any resulting SSP/Impact Surtax Policies would not be sufficiently "data-driven" or "context-sensitive." While Staff should be applauded for performing the "turnover effect" from existing residential communities with regard to school impacts, no such analysis appears to have been done about such a "turnover effect" relating to transportation impacts.

b. **FACTORING FORESEEABLE FUTURE TRENDS** (especially the reasonably foreseeable effects of **ACCESSORY DWELLING UNITS ("ADUs")**). In order to be truly "context-sensitive," so that any financial burden placed on new development would be proportionate, one cannot calculate accurately the *proportionate share* of new development's new SOV trip generation (in peak directions during peak periods) and new student generation rates for schools in *absolute terms* based upon a 20-30 year prognostications. Instead, the calculations need to be in *relative terms*, based upon a comparative analysis of the proportion of new development's generation of new students and new SOV trips in peak direction during peak periods (i.e., the numerator of the computation) in relation to all other external sources, including the "turnover effect" of existing residential communities in the same school cluster and in the same TAZs, and pass-through trips to/from outside the relevant TAZs (i.e., the denominator of the computation). In this regard, it is essential to factor in new students and new SOV trips that can reasonably be anticipated on account of the County recent "invention"/introduction of **ADUs** (such as the results of grandparents constructing an ADU annex to the home they have lived in for decades, moving

[6] For example, for over 20 years (since the County's adoption of the prior 1997 set of master plans for the area), the primary transportation corridor along U.S. Route 29 --- which, significantly, is the *only* U.S. Highway in all of Montgomery County --- has become over-crowded primarily on account of BOTH (a) pass-through SOV trips with originations from and destinations to locations outside of the WOSG area, whether to/from Howard County, Prince George's County, the District of Columbia, and now more frequently (on account of the ICC opening) to/from other areas of Montgomery County AND (b) the "turnover effect" of existing neighborhoods and commercial users (and not due to new development planned within the WOSG MP area. Meanwhile, during those same past 20 years, of the costs associated for programmed public investments in transportation capacity infrastructure along U.S. Route 29 **since those 1997 master plans, ~$400 to $500 Million remains unfunded** (with little expectation on how the public sector will "bring to date" this arrearage/delinquency dating back to 1997). Compounding these problems, the UMP/LATIP program governing the WOSG MP merely took a static "snapshot in time" approach, prognosticating 20+ years into the future the exact set of transportation improvements needed in the future (without appropriately accounting for what proportion of the over-crowding of the road network seen in that "snapshot" was caused over a 20-year historic perspective, practically 0% of that 20-year historic growth of SOV trips adversely affecting the US Route 29 corridor's over-capacity being generated by the new development planned for the WOSG MP. How can that be "proportionate"? It cannot be. The result of the WOSG MP UMP/LATIP is a disproportionate allocation to new development to contribute to the historic disinvestment (including the ~$400 MM to $500 MM arrearage/delinquency of the County/State/public sector from 20+ years ago).

into that ADU annex, and then having their children and grandchildren move into the family's main part of the home). This is not a "turnover effect." This is a reasonably foreseeable future "**accretive effect**" **caused by ADUs**. To the extent this "accretive effect" happens in older neighborhoods that do not have good access to transit and/or are located in already crowded school clusters, failing to account for ADU's potential to generate substantial increases in new student population and new SOV trip generation (in peak directions during peak periods) would grossly distort the proportionality of impact surtaxes to be placed on new development. As this "new invention" of ADUs plays out, and before the cascading effect of ADUs (in areas where dramatic growth would be extra burdens on the County's public facilities), it would be most prudent --- at least for this quadrennial period (until more "context-sensitive" data can be accumulated) --- *not* to allow a *"single unit" exemption* for any ADU anywhere in the County. Even though ADUs would accumulate on a one-at-a-time basis, it is reasonably foreseeable that (particularly in areas where growth is less than desirable for a "smart growth" Thrive Montgomery 2050 General Plan), that the ***aggregation* of ADU generation rates** of new students in the school clusters and new SOV trips in the TAZs **could completely dwarf** the generation rates of new mixed-use developments (especially in MWCOG "High/Highest Growth Jobs and Population Activity Centers") well ahead of year 2050. It thus would be unwise at this time to exempt even *a single* ADU from otherwise being charged the applicable school and transportation impact surtaxes. Correspondingly, if the "accretive effect" of ADUs is not accurately factored into new student generation and SOV trip generation rates, then all subsequent Annual School Tests, School Utilization Reports, and Mobility Assessment Reports (see Public Hearing Draft Recommendations 4.1 – 4.7, and 5.9, respectively) would be fundamentally flawed, would not accurately evaluate the proportionate share of new development impacts in relation to all the other contributing factors, and should thus be disregarded as being misleading and disproportionate.

2. **Other Improvements (Suggested Revisions) to the Public Hearing Draft's Methodologies**.

   a. There are material differences between the student generation rates of multi-family units built in the **1990s versus those built in the 2010's**. Based on Staff's analysis, the SGR from multi-family has decreased by nearly 30% from multi-family units built in the 1990's to those built in the 2010's (i.e., SGR rates of .154 in 1990's to .066 in 2010's). (See Slides 51 and 52 of Mr. Sartori's presentation at the May 25 Public Hearing). And, it is most reasonable to expect that trend to continue even lower in the 2020's. Accordingly, to be properly data-driven and context-sensitive, for purposes of the Development Application Reviews, SGR for new multi-family should NOT be lumped into one category of "1990 to date"; but rather, should only be using 2010's data (until even better evidence including 2020's become available for future quadrennial updates). For this reason, it may be necessary to revisit ALL the school impact surtax rate chart and further lower those rates, because only 2010's and sooner should have been factored (and not 1990's to date as a blended presumption of SGR of new development in 2020 and beyond).

   b. Similarly, and as referenced in the text of this testimony (on page 3 above), there are material differences in the SGRs **distinguishing high-rise multi-family from low-rise multi-family** (see, e.g., Public Hearing Draft Appendix, Figures G1, G5, G16, G18 on pages 50, 53, 59, and 60, respectively), where the data shows high-rise multi-family generating ~33% fewer students than low-rise multi-family. For these reasons, rather than lumping all the multi-family (high-rise and low-rise) into one category, high-rise and low-rise should be separated (with high-rise rates being ~33% of the low-rise rates). This is reflected in the proposed Chart 3 in the text (on page 4).

c. The Public Hearing Draft appropriately recognizes that enhanced transportation capacities due to **"imminent" rapid transit** for the Purple Line Station area (due to being designed, funded, and under construction) justifies the favorable "rapid transit" transportation impact surtax rates for those Purple Line Station areas[7]. Similarly, there should a corresponding recognition that the Flash Rapid Transit along US Route 29 is also "imminent" (due to already being designed, funded, and under construction for the WOSG MP area, in contrast to all the other future planned Flash Rapid Transit routes that have not been designed, funded, or under construction); and thus, in addition to being a unique and strategic "Economic Opportunity Center" (see Appendix A above), the WOSG MP area merits inclusion in the "**Red**" Transportation Policy Area category.

d. The Public Hearing Draft appears to need clarification to **avoid unintended double-taxation**. Specifically, any new development paying school and/or transportation impact surtaxes and/or any LATR or UMP/LATIP payments or UPP payments should be exempt from any recordation tax on transfer of title, to thus avoid any unintended double-taxation effect on those properties (for so long as those properties have or are contributing to pay their applicable SSP/Impact Surtaxes and/or LATR, UMP/LATIP, or UPP.

3. **The Need to "Give Credit Where and When Credit is Due"**. An effective and efficient set of SSP/Impact Surtax Policies should not only assess premiums (or penalties) for adverse impacts caused by new development; but should also encourage, incentivize, and reward (including, as appropriate, financial rewards) for the structural benefits that new development in mixed-use communities (especially in the MWCOG "High/Highest Growth Jobs and Population Activity Centers) create. This should include the benefits of reducing overall SOV trips in peak direction during peak periods that would otherwise be generated off-site from the new development.[8] This should also include the long-term and macro-scale infrastructure benefits (e.g., requiring fewer extensions of water lines, sewer lines, impervious surface construction of road networks, exurban schools, etc.). The updated 2020

[7] Although Staff suggested the favorable rates for Purple Line Station areas be a hybrid between the "Red" and "Orange" rates, as Commissioner Gerald Cichy queried, and as more fully reasoned in this testimony in Appendix A (on page 10 above), using the "Red" rates for Purple Line Stations would be more appropriate and would better advance the Thrive Montgomery 2050 goals.

[8] For example, the planned VIVA White Oak™ mixed-use development adjacent to both the consolidated FDA Headquarters (with currently ~10,000 employees, and expected to grow to ~18,000 employees) and the newly opened Adventist White Oak Medical Center ("WOMC") Hospital (with ~1,500 employees) currently have little to no option to commute to/from work without traveling on the peripheral roads. With the planned VIVA White Oak™ development intending to offer discount incentives to FDA and WOMC employees to reside in VIVA White Oak™, those FDA and WOMC commuters would remain within the internal roads of the three contiguous properties and thus VIVA White Oak™ would thereby reduce the number of SOV trips to/from FDA HQ and WOMC that would otherwise travel on those external roads. Moreover, by having both residential and commercial uses located in a MWCOG "High/Highest Growth Jobs and Population Activity Center," VIVA White Oak™ will attract commuters off of the peripheral roads, who may otherwise have had to pass-through to other activity centers. This is especially beneficial along US Route 29 (where for decades Howard County commuters have simply driven through to the District of Columbia or to the Colesville Road Beltway exist, who will now divert into VIVA White Oak™ and not clog US Route 29 south of the WOSG MP area. What credit should VIVA White Oak™ get for that benefit to the mobility network in the area?

SSP/Impact Surtax Policies (suggested to be renamed the 2020 "County Growth Policy) should include, therefore, appropriate "credits," such as the following:

a. To help advance the goals of the Thrive Montgomery 2050 General Plan, methodologies should be designed to credit "smart growth" new development in MWCOG "High/Highest Growth Jobs and Population Activity Centers" that will help to <u>remove</u> SOV trips in peak direction during peak periods from external sources (such as described in footnote 8 above).

b. Any applicable Transportation Impact Surtax generation rate used in a Development Application Review should be further reduced by the governing NADMS goals (e.g., 25%, 30%, 50%, etc.) imposed on the new development area under the applicable master plan.

c. As part of any LATR or UMP/LATIP payment structure, rather than have a static set of capital improvements in transportation infrastructure that were prognosticated 20-30 years in advance, allow for (and credit) a dynamic set of evolutionary investments made by new development that are state-of-the-art transportation mitigation capital improvements OR trip mitigation programs. Over time, the 20-30 prognostications can become ineffective, inefficient, and ultimately obsolete. It is unwise policy to inadvertently force wasteful expenditures of precious resources on 20 to 30-year prognostications on account of those static prognostications being specifically prescribed requirements to be in compliance with the particular land use approval. It is wiser policy to be flexible and dynamic to be most cost-effective and efficient with constantly evolving state-of-the-art trip mitigation capital improvements and strategies/programs. In such a dynamic approach, credit should be given to those state-of-the-art investments (especially if those investments are made to any master planned complete streets with roads, bikeways, sidewalks, etc. serving more than just the new development).

4. **<u>Regarding MPDUs, the Public Hearing Draft's "one-size-fits-all" approach lacks all "context-sensitivities."</u>** Regarding the recommended exemptions for **<u>MPDUs</u>** (see Recommendations 6.6), those recommendations are not adequately data-driven or context-sensitive. Omitted from this analysis is a relative comparison of over-abundance or undesirable concentration of MPDUs in certain areas of the County on account of historic patterns of MPDU (and correspondingly, the paucity of MPDUs in other areas of the County on account of the ability to "but their way out" of constructing MPDUs in that part of the County). Accordingly, the general desired policy to increase the supply of MPDU needs to be context-sensitive to the fact that certain areas of the County do not have the same need to increase the supply of MPDUs (and, indeed, many of the existing residents in surrounding neighborhoods ask for fewer MPDUs due to the historic concentration of MPDUs in the neighborhood). A County-wide study of all areas of the County to see where there are significant over-concentrations of MPDUs and where there are significant under-counts of MPDUs on account of the historic disparities should be a prerequisite before setting these MPDU percentage thresholds for impact surtax exemptions; in which case, there may be a need to adjust (up or down) the various percentages for exemptions (e.g., the 12.5%, 15%, 25% factors) depending on the degree of over-concentration or paucity of MPDUs in certain areas. For immediate purposes of this 2020 quadrennial update of the SSP/Impact Surtax Policies (i.e., the 2020 "County Growth Policy), perhaps such an **<u>adjustment metric could be based upon the percentage of FARM students by school cluster</u>**. For

example, the recommended percentages of MPDUs to trigger various milestone could be *increased or decreased in **inverse proportion** to the percentages of FARM students in the new development's school cluster is in relation to the County-wide median number of FARM students in all school clusters*.

5. **Grandfathering the Validity Periods for any Preliminary Plan Approved Prior to June 1, 2020**. Especially for attracting private sector investment in lower socio-economic areas of the County, the need for "**certainty**" in the land use approval process is vitally important. Not only do the prescribed (and proscribed) requirements need to be fixed and certain; but also, the **amount of surtaxes** over the life of the new development must be predictable and certain (so that any pro-forma for "financially challenged" revitalization projects in the County's lower socio-economic areas can "pencil out"). Without that predictability and certainty to help the project "pencil out," the County's lower socio-economic areas simply cannot compete to attract the otherwise risk-adverse private sector capital investment and institutional lending (the competition for whom is not just regional in the DC Capital Region, but nationwide). For this reason, and especially for the lower socio-economic areas of the County, there should be more "data-driven" and "context-sensitive" variable uncertainty associated with the applicable Validity Periods and when APFO studies need to be re-evaluated. Most significantly in this regard, any new statute relating to Validity Period should have appropriate grandfathering provisions and be inapplicable to any new development that obtained Preliminary Plan approval on or before June 1, 2020.[9] Any such uncertainties will put Montgomery County projects at a severe competitive disadvantage against other jurisdictions elsewhere in the DC Capital Region, as well as in other competitive jurisdictions around the country. All of these other jurisdictions are competing for the same quality commercial uses and competing for the same quality capital sources (who seek reliably certain timelines to obtain land use approvals and reliably certain costs of development that can be calculated in a financial viability model).

6. **Leveraging More Robustly a Very Powerful Tool the Planning Board Designed --- the "Public Benefit Point" System.** Among the best tools the County has --- which, with some further enhancement and features could be extremely powerful to balance all of the County's potentially competing policy priorities in land use decisions --- is M-NCCPC's very innovative "**Public Benefit Point**" system. Although the Public Benefit Point ("PBP") system is currently used primarily to calculate the 100-point threshold for bonus densities, this very innovative tool created by the Planning Board can be substantially enhanced and adapted to custom-tailor and prioritize the entire array of potentially competing policy objectives for each project coming before the Planning Board, such as:

    a. Affordable living opportunities (which is already surpassed a crisis "tipping point")
    b. Racial, Social, and Economic Justice and Equality policy objectives

[9] Specifically relating to VIVA White Oak™, which obtained in 2019 Preliminary Plan approval for its entire ~280 acre, ~12 million square feet of development (which development requires "advance funding" of hundreds of millions of dollars of infrastructure to serve development perhaps years or decades into the future), in order to have the needed certainty to attract the private sector capital investment and institutional lenders for all that "up-front, advance funding" of on-site infrastructure with a pro-forma that shows the new community can "pencil out," VIVA White Oak™ must be able to retain its Preliminary Plan approved phased Validity Period provisions, which would allow for each phase's 10-year Validity Period (each with extension ability up to 22 years) to continue on a rolling basis. VIVA White Oak™ is marketing this new community nationally and internationally to prospective end users and prospective capital investors and institutional lenders, on an "entitlement approved" basis. VIVA White Oak™ thus needs to be grandfathered from any proposed changes to the Validity Period laws and regulations that would be effective after June 1, 2020.

c. Job creation, MFD small- business opportunities, and other economic opportunities in lower socio-economic areas of the County
d. Enhanced Public Safety and Social "Safety Net" in areas in need of those programs
e. Environmental protection infrastructure/climate change initiatives (especially in aging "in-fill" areas of the County)
f. Exceptional quality of design and construction (so that high quality can be financially feasible in lower socio-economic areas of the County)
g. Public Parks, Places, and Spaces
h. Other necessary adequate public facilities, such as aging water pipes, sewer lines, electrical grid, telecommunication infrastructure (all governed by other quasi-public agencies and enterprises), as well as opportunities for installation of ultra-high speed broadband infrastructure and other features that are now essential (and will only continue to be even more essential) to prepare all areas of the County to not only prosper in the 21st Century innovation economy, but for even the most basic necessities (especially in a "post-covid-19" world).

The PBP System could be employed to custom-tailor and prioritize all these various (and sometimes competing) County public policy objectives to the specific new development. Moreover, using this adapted and enhanced PBP system can create and encourage powerful incentives/rewards for desired results (and, correspondingly, discourage conduct with powerful disincentives/penalties). For example, in some master plan areas, the County's policy priority to increase the job and economic opportunities for a lower socio-economic area of the County, as well as enhanced environmental protection facilities in older in-fill areas with few (if any) storm-water management may be a higher priority that funding certain road improvements. The PBP system could thus be used to score the PBP system to give greater value to the highest public benefit priorities. Moreover, SSP/Impact Surtax impositions could be adjusted to incentivize/reward the desired outcomes, by (for example) setting rates on the basis of the new development's commitment to the custom-tailored applicable PBP system (with subsequent financial benefits/incentives for exceeding the total PBPs originally committed, and with subsequent financial costs/disincentive payments imposed for failing to achieve the committed PBPs). This tool not only allows the County to custom-tailor the various (and often competing) public policy priorities most appropriately; but also, this use of the PBP system provides a powerful tool to incentivize/reward new development behavior that "goes above and beyond" the minimum standards (which are usually achieved at a substantial cost to the new development) and assess a cost/disincentivize the new development behavior that fails to meet the minimum committed standards. This method would better track the actual costs/benefits of pursuing these public benefits (while appropriately recognizing those public benefits are usually do not generate the revenues to paying back the capital investors and lenders of the new development who incurred those public benefit costs).

7. **<u>Creating a *More Reliable Source of Capital* for Schools, Roads, and Public Infrastructure (a *County-wide* "Build Montgomery" Development District Bond Financing Structure)</u>**. Presently, the County only collects SSP/Impact Surtax Policy revenues when the planned new developments <u>actually</u> move forward (i.e., at building permit). But, if the new development cannot proceed (often on account of not being financially viable with having to forward fund the Impact Surtaxes ahead of

the project's collecting any revenues), then those Impact Surtaxes the County had budgeted and relied upon to fund the needed infrastructure never materializes.

Furthermore, if the updated 2020 SSP/Impact Surtax Policies (the Staff's suggested "County Growth Policy") would reduce the impact surtax rates (for all the very legitimate policy reasons set forth in the Public Hearing Draft and further recommended by this testimony and testimony from others), then the logical "next question" becomes: "If we reduce the potential revenues that could be generated from the existing SSP/Impact Surtax Policies, where will the County get new source(s) of capital to fund the needed public infrastructure investments?" One very viable answer to that question would be using a County-wide "Build Montgomery" Development District Revenue Bond Financing Structure (similar to what is proposed in Part B.5 on page 8 above relating to a specific new development), but with the boundaries of the applicable Development District to be essentially the entire County[10]. As described below, such a County-wide "Build Montgomery" Development District Revenue Bond Financing could actually provide:

a. <u>More funds</u> for capital public infrastructure than under current SSP/Impact Surtax Policies;
b. <u>More reliability</u> in the collection of those capital funding sources; and
c. <u>Could allow for a **reduction** of property taxes</u> currently assessed on all County property allocated to CIP projects (because those capital improvement projects could be funded through the proposed form of "Build Montgomery" Development District Revenue Bond Financing)

Such County-wide "Build Montgomery" Revenue Bonds could be used to fund needed capital investment in transportation and school infrastructure resulting from the "turnover ratio" of existing residential and commercial properties that generate new single-occupancy vehicle (SOV) trips in peak periods and peak directions and generate new pupil generation impacting County schools in comparison to the ratio of new SOV vehicle trips in peak periods and in peak directions and new pupil generation from the new planned development (as calculated by M-NCPPC for the County Council on a <u>retrospective</u> 4 year analysis period during each quadrennial review and update of the SSP/Impact Surtax Policies, beginning with the 2020 quadrennial review and update). Such a "Build Montgomery" Revenue Bond program could replace, in part, the customary County CIP budget process using customary real estate tax revenues (and thus the County could reduce the overall real estate tax rates to cover only operating expenses and capital improvements not funded through the proposed "Build Montgomery" Revenue Bonds). Under such a "Build Montgomery" Revenue Bond program, the County Council could set an approved 4-year CIP for School and Transportation Capital Infrastructure Investments that would be funded through the Build Montgomery Revenue Bonds (with the source of repayment of those revenue bonds coming from an ad valorem surtax on all of the

[10] Because of Montgomery County's favorable bond rating, this proposed form of a "Build Montgomery" Revenue Bond would likely be among the most attractive revenue bonds in the bond market, and thus carry among the lowest interest rate costs to the Montgomery County taxpayers. For this reason, this type of approach should also be "scalable" at a broader geographic area, such as at the State of Maryland level (with the State's AAA credit rating) and should even be scalable to the broader DC Capital Region, with the favorable credit ratings of the District of Columbia, Maryland, and Virginia ("DiMarVa"); and thus, as a mechanism to fund regional transportation infrastructure in the DiMarVa Capital Region --- as is necessary to truly solve regional transportation challenges --- wouldn't that be just "DiMarVa-Lous"!!

County's existing commercial and residential properties[11]). The two most essential elements of such a proposed "Build Montgomery" Revenue Bond program are:

(1) revenues from such Build Montgomery Revenue Bonds may be used <u>ONLY for capital improvements</u> (and not for operating expenses), because capital improvements are for a sum certain, are amortized over a time certain, and are customarily considered investment in capital assets (whereas, operating expenses are infinite in amount, indefinite in time, and are customarily maintenance and operational expenses, not capital investments) --- all of which attributes are vitally important to bond markets investors; and

(2) the universe of existing properties potentially subject to the "Build Montgomery" Revenue Bonds must be <u>BOTH residential and commercial</u>, because:

(A) all owners of all types of properties (both residential and commercial) contribute to the impacts on the County's infrastructure (such as from turnover from existing properties), all owners of all types of properties benefit from capital investments in the County's infrastructure, and all owners of all types of properties should correspondingly contribute <u>proportionately</u> to the tax-burden costs (most appropriately on an ad valorem percentage of each property's value) to fund the capital improvements made to the County's transportation network and to the County's school system[12], and

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[11] While there are many methods and formulas that could be used to calculate each existing property's ad valorem Build Montgomery Revenue Bond impact surtax (which could be the source of further analysis and debate), this testimony's hypothesis suggests that the most equitable and rational method and formula would be <u>**an established ad valorem surtax rate (the revenues from which would go to the "Build Montgomery" Revenue Bond Holders) assessed on all properties within a TAZ, where the particular TAZ's average Median HHI increases by a higher percentage (from the prior triennial assessment period) than the County-wide average Median HHI over the same triennial assessment period (such higher percentage TAZs being referred to as the "Faster Appreciating TAZs"). All properties within all the County's "Faster Appreciating TAZs" would then be taxed on an amount equal to the particular property's prior assessed value multiplied by the percentage by which that TAZ's average Median HHI increased**</u>. For example, if a home's prior assessed value was $600,000, and in the following triennial assessment period, the average Median HHI of the TAZ in which that specific property is located grew by 11%, and the overall County's Median HHI grew by any rate less than 11%, then the "Build Montgomery" Revenue Bond surtax on that home would be the set amount of surtax on the 11% appreciation in value (i.e., $66,000; namely, the prior assessed value of $600,000 multiplied by the 11% by which that particular TAZ experience appreciation in value). This "Build Montgomery" Revenue Bond structure thus only taxes <u>**appreciation in values**</u> of the Faster Appreciating TAZs (which essentially accounts for the accelerated appreciation in values to which the public capital investment funded by those bonds contributed); thus, <u>a *premium form* of "Tax Increment Financing."</u> Or, another way of characterizing this surtax on the faster growing appreciation in value properties is a "<u>*dividend reinvestment*</u>" in the accelerated appreciation in value "dividends" that can be reasonably attributed to the public capital investments made through the "Build Montgomery" Revenue Bond Financing Structure. This method and formula would be equitable and rational, because: (1) capital investments in infrastructure ordinarily translates into higher growth by the properties benefitting from that capital investment (e.g., *a similar sized home of similar quality in one area of the County may have a much higher value than the same sized home of similar quality in another area of the County on account of <u>the historic capital investment in the public infrastructure</u>*); and (2) by benchmarking which properties are subject to the "Build Montgomery" Revenue Bond surtax in relation to County-wide Median HHI, the extent a property increases faster than the County-wide Median HHI after the public capital investment funded by the Build Montgomery Revenue Bond reinforces <u>*the equities of accelerated values stimulated by those capital investments funded by Build Montgomery Revenue Bonds*</u>. Of course, correspondingly, this formula would also effectively (and appropriately) exempt the properties that are at or below the County-wide Median HHI growth in values, because those TAZs did not enjoy the same accelerated appreciation in value after the public capital investments in infrastructure funded by the "Build Montgomery" Revenue Bond program..

[12] Even commercial properties benefit from the County's capital investment in the public school system, because businesses benefit from an educated workforce from which to hire their employees, and a strong public school system is a critically important attribute that can help businesses attract and retain their best workforce. In general, therefore, commercial properties should not be exempted from being subject to such proposed "Build Montgomery" revenue bonds, unless otherwise exempted for some other specific reasons

(B) if, for example, existing residential properties are indiscriminately exempted from paying their proportionate share of the cost burden to remedy the impacts on roads and schools (in part caused by their turnover on sale of their homes), the unintended consequence could be further exacerbation of the racial, social, and economic injustice and inequity, because such indiscriminately exempted existing residential properties might otherwise be among the most valuable properties in the County, which, in turn, would disproportionately tax-burden commercial properties in lower socio-economic parts of the County[13]; and

(C) if existing residential properties are indiscriminately exempted from the proposed Two-Tier Revenue Bond Financing structure, that exemption will only further exacerbate the already self-inflicted damage to Montgomery County's reputation as being "unfriendly" (and, indeed, even hostile) to business and commerce, which, in turn, will damage the County's prospect for attracting and retaining quality employers of County residents; and

(D) the broader the tax base as sources to repay the proposed "Build Montgomery Revenue Bonds" the greater the marketability of those Build Montgomery Revenue Bonds will be in the municipal bond market and the lower the interest rate (i.e., the cost of infrastructure improvements) would be assessed on the County's properties; and

(E) any other approach would require State of Maryland enabling legislation (which would be highly unlikely, let alone imprudent as a public policy matter, because of the potential to "open the floodgates" state-wide on similarly imprudent public policies).

(such as being located within a State designated Enterprise Zone or located within a Qualified Opportunity Zone certified by the U.S. Treasury).

[13] There is simply no equitable justification to indiscriminately exempt all residential properties from such a proposed "Build Montgomery" Revenue Bond program, because why should (for example) a minority-female owned small family ("mom and pop") neighborhood business in a lower socio-economic area of the County (with, for example, an assessed property value of $150,000) disproportionately pay for the Build Montgomery Revenue Bond program; whereas, the a $2,000,000 residential condominium (owned, for example, as the primary residence of a hedge fund CEO of a company based out of state) be 100% exempted? This kind of indiscriminate exemption would lead, in practice, to an impermissible discriminatory surtax that does not bear a rational relationship between who contributes to causing the problem and who is required to pay for solving the problem.

APPENDIX C

FURTHER DETAILED ANALYSIS OF THE SSP/IMPACT SURTAX POLICIES' MOST EGREGIOUS FORM OF REGRESSIVE TAXATION

For the reasons more fully set forth in this paragraph (below), the current SSP/Impact Surtax policies often constitute the most horrific form of regressive taxation possible, where a considerably lower valued property actually pays a much higher dollar surtax than a considerably higher valued property. By way of background, the following generally describes the three most prevalent forms of regressive taxation:

(a) ***The Least Regressive Form***: A *uniform percentage tax, uniformly applied based upon the value of the product(s)* (e.g., a uniform sales tax on consumer products, or a uniform percentage ad valorem tax on real estate based upon assessed value). Though some may call a uniform percentage tax as "regressive," it really is not regressive as to the particular good or service being taxed proportionately. Because this form of taxation is calculated as a percentage of the applicable value, these taxes are actually proportionate, and thus not regressive, for that specific good or service. As a practical matter, however, these taxes have a regressive effect, when viewed in the totality of all taxes paid on one's potential disposable income over a minimum living wage.

Example: Assume a basic living wage to meet a minimum standard of living in the study area is \$30,000. Individual #1, with a \$45,000 per year salary (thus \$15,000 disposable salary over minimum living wage), has a 1% property tax on his/her home assessed at \$200,000 (thus a \$2,000 property tax). Individual #2, with a \$180,000 per year salary (thus \$150,000 disposable salary over basic living wage), has the same 1% property tax on her/his home assessed at \$600,000 (thus a \$6,000 property tax). As to the specific item being taxed (each individual's home), the percentage tax is not regressive; but truly proportionate and appropriate (\$2,000 for Individual #1 and \$6,000 for Individual #2). However, this same 1% proportionate tax does have a regressive effect with respect to the individuals' potential disposable income over the minimum living wage; namely, for Individual #1, a \$2,000 tax on \$15,000 (or 13.33% of that individual's potential disposable income over the minimum living wage), and for Individual #2, a \$6,000 tax on \$150,000 (or 4% of that individual's potential disposable income over a minimum living wage); thus, the regressive effect on disposable income is more than **3 TIMES** more costly to the lower salaried Individual #1 than the higher salaried Individual #2.

Thus, a uniform percentage tax on a specific good or service is not regressive as to the specific item taxed; but does have a practical regressive effect when calculated as a percentage of one's potential disposable income over a minimum living wage.

(b) ***The Truly Regressive Form of Tax***: A *uniform dollar amount tax or fee, uniformly applied without regard to the value of the product* (e.g., the uniform dollar amount charged, regardless of value, for automobile license plate renewals). This is truly regressive as to the specific item because the lower value item is taxed at the same dollar amount as the higher value item.

Example: Individual #1 with a $45,000 annual salary pays a $180 license plate renewal fee (i.e., 0.4% of salary) on a $15,000 car (so, 1.2% of value). Individual #2 with a $180,000 annual salary pays a $180 license plate renewal fee (i.e., 0.10% of salary) on a $60,000 car (so, 0.3% of value). The lower salaried Individual #1 is paying **4 TIMES** more on a percentage of salary basis, and **4 TIMES** more on a percentage of value basis, than the higher salaried Individual #2.

This regressive effect is even more pronounced when viewed on a percentage of potential disposable income over a basic living wage, similar to how calculated in (1) above. Using the same salary and living wage numbers as in (1) above, Individual #1 pays **10 TIMES** more of potential disposable income over minimum living wage than Individual #2 (i.e., 1.2% for Individual #1 versus only 0.12% for Individual #2).

(c) ***The Most Egregious Form of Regressive Taxation***: A *variable dollar amount of tax, variably applied, non-ad valorem without regard to value,* and often exacerbated by historic disparities in investment/disinvestment (such as School Impact Surtaxes, Transportation Impact Surtaxes, LATIP program). Under this most horrific form of regressive taxation, the lower value item (and usually the lower income individual) pays a dollar amount that can be even more --- and potential much more --- than the higher value item (and often the wealthier individual).

CHART 1 in the text of this written testimony provides real examples (based on real purchase prices in the areas identified) of how the Impact Surtax rates proposed in the Public Hearing Draft are among most egregious form of regressive taxation possible. And these regressive taxation effects exist before the potentially further regressive taxation of additional transportation related surtaxes (for LATR or UMP/LATIP payments) and potential additional school related surtaxes for the Public Hearing Draft's proposed Utilization Premium Payments.

Example of Additional Egregious Regressive Tax Effect by LATR/LATIP and the proposed Utilization Premium Payment. Because the flat dollar amount is calculated on current needs for infrastructure improvement, without any regard to the past historic disinvestment in the less affluent areas, the dollar amount of infrastructure costs needed to "bring to date" the current disinvested area "up to par" standards could be higher (or even greatly higher) than in more affluent areas. Indeed, the current set of LATIP fees could result in a $450,000 single family home in a historically disinvested area paying substantially more than a $2,000,000 single family home in a much more affluent area of the County.

From: Jane Lyons
To: MCP-Chair
Subject: Action alert: Say YES to ending Montgomery"s ban on new housing!
Date: Monday, June 8, 2020 9:17:27 AM

Montgomery's housing moratorium hurts housing and climate goals

Dear Casey,

We hope this message find you and your family safe and healthy. The past week has been incredibly emotional, and the Coalition for Smarter Growth shares in the deep sadness and anger over racial inequality and injustice. Read our full solidarity statement here.

CSG remains fully committed to furthering racial equity and justice through our work on housing, land use, and transportation. This includes making sure that everyone has an affordable, safe place to live and that our neighborhoods are diverse and mixed-income.

To that end, Montgomery County is updating its growth policy, and **planning staff recommends ending the county's ban on new housing**. Since July 2019, 12 percent of Montgomery County has been under a housing moratorium, including large swaths of Silver Spring, North Bethesda, and Wheaton. These areas are under a one-year automatic moratorium because certain schools are overcrowded.

But, **stopping new housing does not actually solve school overcrowding**. Less than 30 percent of the county's school enrollment growth can be attributed to new development. Most new students come from young families moving into existing single-family home neighborhoods -- not from new apartment buildings.

You can make your voice heard by:

1. Sending an email to the Planning Board!

2. Signing up to virtually testify on June 11th!

The moratorium hurts housing affordability, hampers progress on our climate goals, and hinders economic development. Rather than locating in a transit-oriented neighborhood, households and businesses alike are pushed into less desirable areas for growth. **The county should encourage new housing in major transit and job hubs, not ban it.**

In addition to ending the housing moratorium, we're asking the Planning Board to support other policies that encourage sustainable growth patterns, such as lowering the cost of new development in transit-accessible neighborhoods and increasing the recordation tax to better fund school construction and rental assistance.

Learn more about the county's growth policy in my latest Greater Greater Washington post.

Thanks,

Jane Lyons

Maryland Advocacy Manager
Coalition for Smarter Growth

Other active Montgomery County & Maryland action alerts:

- Ride On: Let's keep Ride On moving & safe
- Purple Line: Tell Maryland to keep the Purple Line on track
- Open Streets: Support open streets for better social distancing

---

Image from Andrew Benson, Flickr

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Coalition for Smarter Growth
316 F Street NE
Suite 200
Washington, DC 20001
United States

unsubscribe

From:	Jane Lyons
To:	MCP-Chair
Subject:	Testimony for June 11 (Item 7)
Date:	Tuesday, June 9, 2020 11:21:26 AM
Attachments:	2020.06.01 CSG Testimony for 6-11-20 - Full.pdf

Good morning,

Please accept this testimony (attached) on behalf of the Coalition for Smarter Growth for Item 7 on June 11, 2020. Can you please confirm that I have signed up to testify at the public hearing? (Also, am I signed up for Item 3, as well?)

Thanks!
- Jane

--
Jane Lyons (she/her) | Maryland Advocacy Manager
Coalition for Smarter Growth
316 F Street NE | Suite 200
Washington, DC 20002
(410) 474-0741 | jane@smartergrowth.net
Your gift helps keep CSG's advocacy going! Donate today!

June 5, 2020

Montgomery Planning Board
8787 Georgia Ave
Silver Spring, MD 20910

2020-2024 Subdivision Staging Policy (Item 7)

Testimony for June 11, 2020

Jane Lyons, Maryland Advocacy Manager

Chair Anderson and Planning Commissioners, thank you for the opportunity to testify. This testimony is on behalf of the Coalition for Smarter Growth, the leading organization in the DC region advocating for more walkable, inclusive, transit-oriented communities. Please see below for our comments on the 2020-2024 Subdivision Staging Policy (SSP) working draft. Generally, we urge you to support policies that encourage sustainable growth patterns and maintaining a high-quality school system.

Schools & Taxes:

1. **We strongly support the elimination of automatic housing moratoria throughout most of the county.** The staff recommendation to create School Impact Areas correctly takes into consideration the distinct development contexts of different areas and how those contexts impact school enrollment growth.

The current moratorium policy assumes that the majority of new student generation comes from new development. However, we now know from the data that stopping development does not actually solve school overcrowding – less than 30 percent of school enrollment growth can be attributed to new development. Most new students come from young families moving into existing single-family homes – not from new apartment buildings.

The working draft also correctly identifies the other negative impacts of the current housing moratorium policy, including worsening housing affordability, hindering economic development, and preventing sustainable growth patterns. Rather than locating in a transit-oriented neighborhood, households and businesses alike are pushed into less desirable areas for growth. We should do all we can to encourage new housing in major transit and job hubs, not ban it – especially during a recession.

2. **We support reducing the school impact tax to 100 percent of the cost of a seat,** maintaining the current rate at 120 percent in the Agricultural Reserve, and further lowering the rate to 60 percent in Activity Centers. This recommendation correctly recognizes that impact taxes are a tool to either incentivize or disincentivize economic development. In some cases, it may be worth lowering impact taxes in order to expand the overall, long-term tax base and promote growth in the places we want to see it. Although, we'd like to note that some of the identified Activity Centers in outer areas lack transit and are overly large.

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

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

We should not charge developers for impacts not caused by their project. If a school is already overcrowded, it is because of past student enrollment growth and points to a larger funding failure within the county to raise and allocate enough resources to adequately fund schools' capital needs. A future project will add to the overutilization, which is why future projects should contribute to the school impact fee pool to fund the seats of any students that project generates.

This recommendation will not build schools, just as the past School Facility Fees provided marginal funding at best – Utilization Premium Payments will only deter economic development. However, we would support increasing the school impact tax from 60 percent to 100 percent for projects located in Activity Centers with overcrowded schools.

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

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

We especially support an increase that is progressive, thus raising prices more on homes over $1.5 million, with an expansion of the first-time homebuyer exemption. Staff estimates that these changes would have raised roughly $20 million more for school construction in FY19. Nevertheless, if increasing the recordation tax is not feasible, we recommend instead adjusting the distribution of the revenue to increase the share going to schools and affordable housing.

5. **We oppose ending the impact tax exemption for downtown Silver Spring.**

As previously stated, impact taxes are a tool to either incentivize or disincentivize economic development, and it's important to consider the short-term tradeoffs for longer term benefits. The Silver Spring impact tax exemption is a perfect example of this: between 2006 and 2016, the exemption only cost the county $5.8 million. Although Silver Spring is the only Enterprise Zone to successfully graduate from the program, its future success is far from guaranteed, especially in the current difficult economic environment.

A few things that weren't mentioned: The working draft does not reference the capacity relief that boundary changes would bring system-wide, reducing the need for some expensive capital projects. Utilization is one of the three factors being examined by the current boundary analysis. We also urge the staff to make note of the effect that flexible school siting and creative project financing techniques could bring on the MCPS capital budget.

We recognize that these recommendations fall under the jurisdiction of MCPS and the Board of Education, not the SSP. Still, we believe those ideas warrant mentioning. Furthermore, it is apparent that there needs to be a better dialogue between MCPS, the Board of Education, Planning Board, and the County Council. Schools issues are greatly interconnected with housing, health, transportation, and more, and should be treated as such by the county's various institutions.

Transportation:

We appreciate and strongly support the move to better incorporate Vision Zero into the Subdivision Staging Policy, as well as the recommendation to increase intersection delay standards along Purple Line and BRT corridors. This small adjustment would save lives and support walkability around these future transit nodes.

We understand the objective to look at policy area transportation impacts for Master Plans, but are unsure why this should require a mandate within the SSP. If this recommendation moves forward, we believe that there should be higher standards than the baseline requirements to help us work towards our mode share, climate, and congestion goals. For example, we should set more equal standards for average time per trip. 19 minutes for auto trips and 52 minutes for transit encapsulates the transit inequities ingrained into our land use and transportation planning. We must do better.

Thank you for your consideration.

From:	Edward Amatetti
To:	MCP-Chair
Subject:	Testimony on County Growth Policy, June 10, 2020
Date:	Tuesday, June 9, 2020 3:36:17 PM
Attachments:	Planning Testimony draft.docx

Hello,

Attached is the write-up of the testimony I will be at the meeting of the County Growth Policy working draft. I look forward to seeing everyone tomorrow.

Ed Amatetti, President
Montgomery County Taxpayers League
301.728.6505

Testimony on the County Growth Policy working draft.
Ed Amatetti, President of MC Taxpayers League, June 10th, 2020
info@mctaxpayersleague.org   301.728.6505

The following is the commentary of the Montgomery County Taxpayers League on Montgomery Planning's "County Growth Policy working draft. Planning should be commended for considering new approaches. The League agrees with some, disagrees with others, and makes other forward-looking recommendations to enhance planning, promote economic development, and make the county more affordable for residents.

1. **The Taxpayers League strongly supports the significant recommendation to eliminate automatic housing moratoria.** Moratoriums are a blunt instrument that doesn't account for the unique circumstances of impact areas. It hinders economic growth and development, often in precisely those areas where growth is being promoted by the county and is naturally occurring either because of transit, jobs, and amenities being built by the county or for other reasons important to residents. Long-term it reduces tax revenues, and even hinders creation of new affordable housing as it slows development. Ironically, studies in SF, Oregon, and MN found that moratoriums even accelerate, or frontload, development as threshold numbers are approached – ensuring they will be. Even without these unintended consequences, we are still left with the fact that moratoria are not a very effective solution to school overcrowding. It is a poor substitute for thoughtful zoning policies. A poor substitute for better school boundaries, managing school constructions costs, and introducing cost-effective education alternatives.

2. The proposed **Utilization Premium Payments** is an improvement over automatic moratoria, but not a substitute for better policies, such as those discussed below.

3. **The League <u>cannot</u> support keeping the moratoria in Greenfield Impact Areas (meaning Clarksburg).** It is unfair and counterproductive. The rationale is that these are fast-growing areas with high enrollment growth. But, doesn't that mean this is where young families, who bring wealth and talent to our county, want to live there? We should bring jobs to Clarksburg – the kind that young families seek, such as tech, accounting, and consulting firms, instead of stopping development in one of the most desirable areas in the country,

4. **The League supports reducing the school impact tax to 100%.** However, we cannot support differentiated taxes, such as the lower 60% in Activity Centers. We will just exacerbate the problems we now face. The rationale is that this where growth should be focused. Says who? Not the people buying homes elsewhere. It is inequitable and continues the tradition of DownCounty being subsidized by the rest of the residents.

5. **The League <u>cannot</u> support increasing the recordation tax.** The League is on record for generally not supporting tax increases for good reason. Besides the negative effects on economic growth, the county does not control costs effectively, such as through regular performance reviews, objective justification for competing capital projects, and incentives to reduce costs. As we know, the county residents are on record for opposing tax increases as well.

6. **What's missing in the County Planning draft report.** The Taxpayers League wishes to point out important potential solutions to planning challenges not addressed in the draft report.
   - In the area of ***transportation***, the report contained nothing about allocating resources to projects with the highest return on investment, as opposed to ones not justified, such as BRT and bicycle tunnel;
   - Reduce ***school construction costs***, unfairly burdened by stormwater decrees and outdated building policies to build more school capacity. Try to get close to per pupil/per sq.ft. spending achieved in areas like TX;
   - ***School boundary changes*** that addresses overcrowded schools instead of being use bus kids far from their neighborhoods to promote educational equity;
   - ***Promote education alternatives***, such as PTHECHs and charter schools to achieve education equity faster, alleviate overcrowding, help pay for new schools, reduce operating costs, promote diversity, and advance poor neighborhoods educationally and economically simultaneously.

From:	Kominers, William
To:	MCP-Chair
Cc:	Sartori, Jason
Subject:	Subdivision Staging Policy -- Public Hearing Submission
Date:	Tuesday, June 9, 2020 8:50:42 PM
Attachments:	SSP WK Test MCPB 6.9.20.pdf

Dear Chair Anderson,

Attached is a letter with my comments on the Public Hearing Draft of the Subdivision Staging Policy.

Please place this letter in the Record of the hearing, as an expansion of my remarks to be presented at the hearing.

I wish to acknowledge the effort from Jason Sartori of your Staff in helping clarify many issues within the SSP.

Thank you.

Bill Kominers

William Kominers, Attorney
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William Kominers
Attorney
Phone 301-841-3829
wkominers@lerchearly.com

June 9, 2020

VIA ELECTRONIC DELIVERY

Casey Anderson, Chair
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Comments on Public Hearing Draft of 2020 – 2024 Subdivision Staging Policy ("SSP")

Dear Chair Anderson and Members of the Planning Board:

This letter contains comments on three of the recommendations contained in the Public Hearing Draft of the Subdivision Staging Policy.

The comments below are guided by the potential negative impacts on a number of clients, properties, and projects that would result from these recommendations. These comments oppose the recommendations in their current form, and request that instead, the Board delete those recommendations, or alter them substantially so that they do not have the negative consequences that can be foreseen. Comments on the implementation methodology for these recommendations are similar for all three. With regard to the other aspects of the SSP, this letter adopts the comments in the separate letter from our firm's land use practice group.

GENERAL.

The changes proposed in the Subdivision Staging Policy ("SSP") go to the heart of the perception, and unfortunately the reality, of a continuing problem for Montgomery County. There is a lack of continuity and certainty--except for the certainty of changes in rules that can radically undermine the assumptions on which a project and its approvals have been based. Each new SSP has significantly altered the previous playing field. Projects in process, or even approved, have not been fully protected. There is often a lack of explicit grandfathering for pre-existing approvals, so as to allow those projects to move forward to implementation relying on the same regulatory landscape for their subsequently required regulatory steps as when they were approved. The basic framework of the approvals should remain, so that at least as to any specific single project, its rules, after approval, should not differ.

MAXIMUM DURATION OF APF VALIDITY PERIOD (Recommendation No. 4-14).

SSP Proposal: Recommendation No. 4.14 of the SSP proposes to limit to 22 years the maximum total duration of APF validity periods, including extensions. This limitation would apply only to extension requests that are received after January 1, 2021 (the effective date of the SSP). Any existing APF approval that already exceeds 22 years will remain valid for the full duration of its existing validity period. However, after January 1, 2021, there could be no addition to that validity period available through an extension filed for the property. Specific, clear grandfathering should be provided for these existing approvals.

The County should not limit the APF validity period to 22 years. There are many examples in the County of projects that have APF approvals that last well beyond 22 years—because of the size and complexity of the project, the unique nature of the project, or similar reasons. The County will be depriving itself of the flexibility to make case by case determinations in the future. Flexibility is need to compete with neighboring jurisdictions to attract and/or to retain major business or developments.

If the Council retains the proposed limitation of 22 years for the APF validity period, a grandfather provision should be added to specifically protect those projects that have obtained APF approvals that exceed 22 years, so that there is no confusion on the term of the APF approval in the future. If there must be a limit, then protection for projects that have achieved site plan approval is a good start. But there must be clarity that the protection afforded is not lost as a result of amending the previously-approved site plan (except with respect to increases in the quantity of development).

The proposed change will prevent the implementation of many projects that are just the type of economic development, comprising quality jobs and growing numbers of jobs, that the County is or should be seeking. Cutting these projects off because of an arbitrary limitation, seems to be short-sighted. These are often projects that have been providing steady job growth, implemented over time, consistent with market forces. Market forces do not always conform to Montgomery County time schedules, as we can see with the COVID-19 pandemic.

Commercial development is not implemented in a continuous straight line, there are peaks and valleys, responding to demands of business and the market. Logical, deliberate buildout can require more time than planned, as internal and external conditions change. Often this necessitates longer durations and therefore more extensions.

The development horizon for many non-residential development projects extends well beyond 22 years. Especially with large scale, long-term developments, market conditions, multiple buildings or phases in a project, the logical buildout sequence, internal business decisions and changes of direction, and the external effects of recession or other financial challenges, all cause need for a longer period for implementation and therefore the longer period needed for APF duration.

There are many commercial projects that are already beyond 22 years in their APF validity. These are developments that have been proceeding for many years in a diligent, deliberate, organized manner, responding to corporate changes, increased facility needs, and changing operational practices of the industries. Implementation of the approved development fluctuates with these demands. But the economic benefit to the County is constant.

Commercial projects often have been conditioned on improvements or contributions designed to accommodate the APF impacts of the project. In order to proceed, those requirements must have been fulfilled. Having built or contributed to the improvements, the project has, in good faith, fulfilled its obligations to the County, and addressed its APF-related impacts. The public benefit of obtaining the improvements has already occurred, even though all phases of the development have not yet proceeded. In that interim, the public has had the benefit of use of the improvements without the corresponding development impacts. But, having provided the improvements needed to address the impacts, there is no reason why the project should not proceed, at whatever time economic and market conditions allow. In fact, it would be inequitable and a breach of trust not to allow the project to go forward, after having provided the facilities required by the regulatory approval. There is a vested contractual interest that must be respected.

Whether commercial or residential, approved projects become part of the background conditions for analysis by subsequent applications. They become factored into the overall approved development envelope. As a result, they create no additional contribution to crowding, whether of roads or schools. In fact, each provides surplus space until the project is actually built. For this reason, there is no need for a re-testing of APF at the time of extension—the project's impacts are already factored in.

Transportation impacts are no longer the impediment to other developments that they were in the past. Today, there are general financial solutions to inadequate transportation, through funds to support infrastructure (impact taxes, LATIP, White Flint taxing district) rather than causing subsequent applications to be stymied. Likewise, excepting Greenfield Areas, the new SSP addresses schools in a comparable way with the Utilization Payment when schools in Turnover or Infill Areas exceed certain levels. So, even school usage will not delay later projects in most of the County under the new SSP. As a result, there is no real need for, or benefit in, limiting duration of APF approvals. On the contrary, continued economic vitality argues for allowing extended time to implement these APF approvals.

FORMER ENTERPRISE ZONES IMPACT TAX EXEMPTION (Recommendation No. 6.5).

SSP Proposal: Recommendation No. 6.5 of the SSP proposes to eliminate the impact tax exemption for Former Enterprise Zones. This loss of exemption would apply to development that receives site plan approval after the effective date of the SSP (January 1, 2021).

Protection for projects that have received site plan approval is a good start if the exemption must terminate. However, any such provision should clarify that the Impact Tax Exemption, is not lost as a result of amending that previously-approved site plan (excepting any development beyond the quantities approved in the original site plan.)

Long term, phased projects are certain to have ongoing amendments of approved site plans over the course of implementation. These projects should not be penalized—by loss of the impact tax exemption—for simply modifying the physical layout of the site design.

Instead of relying just on site plans, a better approach would be to apply grandfathering to regulatory approvals generally, so that after obtaining any of the approvals in the regulatory continuum, (preliminary plan; sketch plan; site plan; permits), the project is allowed to complete the subsequent required applications under the same rules. This preserves the expectation of the project as approved, maintaining the underlying economic framework and assumptions.

Silver Spring and Wheaton, the Former Enterprise Zones, are not "done." They still have a long way to go. They are not self-sustaining. Do not pull the rug out from under them today. These areas, with their fragile market and lower rent structure, cannot absorb the combination of the new, proposed, lower impact tax rates for multi-family units in Infill Impact Areas and Activity Centers, plus the tax for transportation.

Silver Spring and Wheaton have a lower rental rate structure, but the same cost of regulation and construction. The Impact Tax exemption is what allows Silver Spring and Wheaton to make their lower rental rates economically viable, by reducing the cost economics of the project in a way that it can be sustained by a lesser income stream from those lower rents.

The Silver Spring Former Enterprise Zone essentially is coterminous with the CBD and the new Opportunity Zone boundaries. The fact that Silver Spring and Wheaton received Opportunity Zone designations shows that the Former Enterprise Zones are not ready to lose the benefits of having been Enterprise Zones.

The impact tax exemption is what allows the equalization of the marketplace between the Former Enterprise Zones and other areas of the County. The construction cost for buildings may be essentially the same, but the rental return in Silver Spring and Wheaton is far below that of Bethesda or White Flint.

Projects that have been approved in Silver Spring have relied upon the Impact Tax exemption as a part of their economic models. Several of these projects have been approved with multiple phases, intending to be implemented over time. Portions are begun, other portions remain for the future. However, that phasing process and long gestation and development process, was expected from the outset. These projects should not be adversely affected economically by the retrospective application of a change in the Impact Tax structure. While many have site plan review, and therefore would, in theory, be protected in the grandfathering recommended in the SSP, the likelihood is that over the course of the development process, site plan amendments will be required, as is often the case with multi-phased projects.

Regardless of the final decision on the merits of removing the exemption and applying to post-January 1 site plans, that eventual action, if implemented, should make clear that amendments to previously-approved site plans do not change the continued exemption of those projects. To truly be equitable, pending applications and approvals preceding site plans should be protected in a like manner, that allows these existing in-progress projects to proceed to completion using the previous tax exemption rules under which they applied or were approved -- while the exemption was a part of the law, and upon which law the application relied.

25% AFFORDABLE HOUSING IMPACT TAX EXEMPTION (Recommendation No. 6.6).

SSP Proposal: The SSP proposes to change the Impact Tax exemption for providing 25% affordable housing. (Recommendation No. 6.6.) The SSP would require three elements be present order to utilize the exemption: (i) not be in a Greenfield Area, (ii) all qualifying affordable units must be placed in the County's MPDU program, and (iii) the amount of MPDUs provided must be twice the standard MPDU requirement for the project location. These changes will be applicable to development that receives site plan approval after the SSP takes affect.

A number of private applicants have begun proposing 25% affordable housing, seeking to utilize the exemption. Now that the existing provision is finally achieving some success with the private sector, the County proposes to cripple the program in a way to effectively eliminate it for most developers. This seems to be the worst possible time to make these changes.

Use of the exemption has already been factored into the economics of projects. This change would undermine these projects as they go through the review process.

When the MPDU requirement is the standard 12.5%, doubling it to 25% is no change from current law, and therefore the SSP change is not really needed. In the areas requiring 15% MPDUs, needing to reach 30% is a probably a bridge too far. In those areas, most projects will simply stick to the required 15%, thus losing the additional 10% that could be encouraged by the current law. The amount lost is not the 5% difference between 25% and 30%, but the 10% between 15% and 25%.

The benefit of gaining the additional housing overall, as well as the added 10% MPDUs over the base 15% to achieve 25%, seems worthwhile, particularly in those areas where the 15% minimum applies. However, if the economics do not work at 30% MPDUs, but would work at 25%, then, the new SSP proposal would lose that additional 10%.

The exemption supports providing more housing generally, and with it more affordable units as MPDUs. As has been argued for many years, the best way to achieve more MPDUs is to provide more housing generally—which then increases the number of MPDUs required.

In some parts of the County with the 15% MPDU minimum requirement, the Impact Tax waiver is already significantly less valuable than in other locations, and thus unlikely to be used. In some areas, the economic value of the exemption is already negative at the 25% affordable housing rate, let alone the 30% that would now be required.

This proposal will effectively restrict the use of the exemption to HOC and other affordable housing providers only.

If changes are made, a grandfather provision should be added to protect projects that are in process and relying on the exemption as it is today. If the site plan approval after January 1 remains the trigger, there should be clarity that subsequent amendments do not change the protection received by the previously-approved site plan.

IMPLEMENTATION—APPLICABILITY AND TRIGGERS.

The loss of theses exemptions will apply to a development that receives site plan approval after January 1, 2021, the effective date of the SSP.

If site plan approval before January 1, 2021, is to be the measure of protection for use of these three existing exemptions, then there must be a clear understanding that there may be subsequent amendments to those previously—approved site plans without sacrificing the protected exemption. Given passage of time, changes in market, and evolution of design principles, site plan amendments can be expected. Particularly in phased projects or mixed use projects. Projects should not have the economic underpinnings taken away just by rearranging the site design.

The victims of these three recommendations are almost uniformly high quality development with local and general County benefits. They have proceeded in good faith, consistent with the rules of the system. Relying on the benefits and the rights that the SSP now proposes to revoke, these developments have persevered to weather many external market storms and help the County achieve its goals and prosper along the way. Not only are they not doing harm, they are affirmatively achieving "good." The Planning Board should reject these three recommendations.

Please place this letter in the Record of the public hearing of the SSP. I look forward to discussing this matters at the worksessions.

Very truly yours,

LERCH, EARLY & BREWER, CHARTERED

William Kominers

William Kominers

WK/paj

From: David Murray
To: MCP-Chair
Subject: Written Comments on the Proposed County Growth Policy
Date: Tuesday, June 9, 2020 9:23:42 PM
Attachments: 2020.06.09 - SSP-Comments.pdf

Dear Chairman Anderson,

I have attached written comments on the proposed County Growth Policy and request that they be included in the record and provided to Board Members.

If you have any questions or need additional information, please feel free to contact me.

Regards,
David Murray

To: Montgomery County Planning Board Chair Casey Anderson
From: David Murray, Montgomery County resident
Subject: 2020-2024 Subdivision Staging Policy (SSP)

Thank you for the opportunity to comment on the proposed County Growth Policy (the "Proposal"). The stated aims of the Proposal make me proud to live in Montgomery County (the "County"). But the Proposal recommends a large tax break for developers — at the expense of the County's other taxpayers — and fails to make the case that the tax break will generate any additional transit-oriented housing units. Furthermore, the draft fails to assess the impact that these recommendations would have on the County's ability to fund capital improvement projects, affordable housing initiatives, and government services, as well as the recommendations' impact on the County's economic competitiveness.

- The Proposal's base case appears to take at face value developers' claims that regulations and fees are the only barriers to delivering more housing units and largely ignores the high levels of multifamily housing development in infill areas during the past 10 years.

- The Proposal does not assess whether there are any other factors that would compel developers to continue to limit supply even if the County were to loosen regulations and reduce fees. Moreover, the Proposal does not put forward any recommendations that would make the delivery of more affordable housing units a more certain outcome.

- In many ways, the Proposal makes sense only if one assumes that developers are altruistic entities that will pass savings from tax breaks through to consumers or that they will abandon their clear preference for generating revenue from high rents and choose instead to generate revenue from increased volume.

As a result, the Proposal suggests that the County take great fiscal risks without any assessment of how likely the Proposal's recommendations are to produce additional affordable housing units or even any additional housing units of any kind. The Proposal is full of carrots but lacks any meaningful sticks to prod developers who are inclined to keep the carrots in the form of increased profit without delivering any affordable housing units beyond the bare minimum required by law.

Our generation has one chance to get development right in the County's infill areas. That opportunity is vanishing as new projects come online. At stake is not just the shape of housing in the County, but the very character of our community. Will we have diverse neighborhoods? Or will there continue to be great divides? The quality of the Proposal will determine how future generations answer that question.

The Proposal should more fully explore ways to make sure that Montgomery County becomes an even more inclusive community and that families of all income levels and backgrounds are able to live here. The Proposal would be strengthened — and more likely to achieve its desired outcomes — if the Proposal addressed the following five recommendations before it is finalized.

- **Recommendation 1:** The Proposal should include consideration of the effect that market conditions are having on housing growth before concluding that regulations and fees are the only barrier to housing growth.
- **Recommendation 2:** The threshold for triggering the utilization premium payments should be lowered to 90 percent of capacity utilization, without any other conditions.
- **Recommendation 3:** The term "new development" should be defined so that readers can weigh the claim that new development accounts for less than 30 percent of enrollment growth.
- **Recommendation 4:** The Proposal should consider the unintended consequences that lowering impact fees would have on the use of impact fee exceptions, which incentivize the construction of affordable housing.
- **Recommendation 5:** The Proposal should include more consideration of the effects that its tax recommendations will have on County revenue.

Recommendations:

1. **The Proposal should include consideration of the effect that market conditions are having on housing growth before concluding that regulations and fees are the only barrier to housing growth.**

    - In the 2010s, under the current regulatory and fee regime, the County added more multifamily housing units than it had during either of the previous two decades.[1] Despite a deep recession that had profound effects on the real estate market and investment climate early in the decade, the County added about twice as many multifamily units in the 2010s than it did in the 1990s,[2] before the current impact fee regime was in place. Moreover, new development is already concentrated in infill areas.[3]

    - The Proposal does not explain how the tax break would cause developers to build more units instead of protecting their high investor returns at both their new and existing properties by controlling inventory. Accordingly, the only guaranteed outcome of a tax break for developers already working in infill areas is reduced revenue for the County. Even without a tax break, developers working in the infill areas almost certainly will continue to create such development so long as demand supports the delivery of more housing units at developers' desired price points. The County currently has more than 140 approved housing development applications, the majority of which are for mixed use developments.[4]

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[1] Montgomery Planing Commission, "County Growth Policy," Public Hearing Draft, May 2020, Figure 22, Page 49, https://montgomeryplanningboard.org/wp-content/uploads/2020/05/attachment1_County-Growth-Policy-Public-Hearing-Draft.pdf.

[2] Id.

[3] Montgomery County, "Development Database and Map," https://mcatlas.org/developmentactivity/, undated, accessed June 6, 2020.

[4] *Id.*

- Before the pandemic, Montgomery County's vacancy rate was about 4 percent (among the highest in the area), and developers had already asked for approval to reduce the number of units in several high-profile, transit-oriented developments.[5] Those reductions will allow developers to continue charging very high rents in transit-oriented developments close some of our top schools. These rents will remain out of reach for many in our community. The unit reductions suggest that developers prefer to maintain high returns based on premium pricing instead of higher revenue driven by increased volume.

- The Planning Board should consider and incorporate creative proposals that discourage developers from downsizing projects once they have been approved and that discourage developers from underutilizing land in infill areas.

    - The Planning Board could consider proposing a system that gives the Housing Opportunities Commission an opportunity to become an investor when a developer seeks to reduce units, so that previously approved density levels are maintained and the County is able to add even more affordable units to these exciting new projects.

    - The Planning Board could also consider recommending new affordable housing impact fees for new projects that underutilize land in infill zones, similar to the way that it has recommended increasing the amounts generated for affordable housing when high-priced homes are sold. An underutilized plot in an infill zone has an even greater effect on housing affordability than one expensive single family home.

2. The threshold for triggering the utilization premium payments should be lowered to 90 percent of capacity utilization, without any other conditions.

- Montgomery County Public Schools ("MCPS") has said that it considers a range of 80 to 100 percent of capacity to be an efficient facility utilization range, according to footnote 8 of the Proposal. But the Proposal discards MCPS's expert judgment without any justification and proposes charging the premium impact fees only if utilization is above 120 percent. The basis for the 120 percent threshold is never explained, and, under the Proposal's framework, a school can be even more than 120 percent over capacity before triggering the premium fee schedule.

- The County already spends more per seat than it collects in impact fees per student generated. For example: The B-CC addition cost about $58,000 a seat two years ago;[6] it would surely cost more now. Current impact fees only generate about $55,000 in revenue per student generated. Based on the

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[5] *See*, for example, 7900 Wisconsin Avenue.

[6] Montgomery County, "Bethesda-Chevy Chase HS Addition," undated, https://apps.montgomerycountymd.gov/BASISCAPITAL/Common/Project.aspx?ID=P651513, accessed June 6, 2020; see also Montgomery County Public Schools, "Bethesda-Chevy Chase High School," undated, https://www.montgomeryschoolsmd.org/departments/regulatoryaccountability/glance/fy2018/schools/04406.pdf, accessed June 6, 2020.

County's current official student generation rates, the market rate units in a 58-unit high-rise project with eight moderately priced dwelling units ("MPDUs") in downtown Bethesda would have generated about two high school students and about $110,000 in impact fees for the addition of high school seats. That would have resulted in a net loss of $6,000 for the County when it added the needed capacity to B-CC.

- The Proposal recommends cutting school impact fees in half, so under the Proposal's recommendations, the shortfall would be even greater. If the County meets the goals of the Housing Needs Assessment, the shortfall could tally more than $50 million. Leveraging the whole tax base to pay for capital improvements to support affordable housing is a good use of taxpayer funds. Subsidizing capital improvements for high-end, market rate units is not. The school impact fee reduction makes sense only if developers are altruistic entities that will pass impact fee reductions onto consumers. The Proposal offers no evidence in support of this conclusion.

- School impact fees are unlike other revenue streams in that the County Council must spend school impact fees on school construction. They are also unlike other revenue streams in that they are intended to cover a cost that directly arises from the development activity upon which the fee is imposed. In other words, impact fees are not found money. They generate revenue, but that revenue is immediately allocated against a new cost that the County is certain to incur, a cost that the County would not incur but for the development activity. Reducing impact fee revenue without addressing costs will leave a gap in the budget. Accordingly, it is false to suggest that lost impact fees negatively affect the County's bottom line, especially because impact fees do not always cover the cost of adding seats required by new development.

3. The term "new development" should be defined so that readers can weigh the claim that new development accounts for less than 30 percent of enrollment growth.

- "New development" is not defined in the report, although the term is used frequently. The Proposal's argument against the moratorium and for its tax recommendations hinges on the statistics that it provides on "new development," so transparency is critical to evaluating the argument.

- If new development means projects delivered during the past decade, then "new development" would have accounted for about 5 to 7 percent of the housing inventory and about 30 percent of the enrollment growth.[7] Even if "new development" means residential units added in the past 20 years, then the number of units is still well short of 30 percent of the County's inventory, meaning that each housing unit in "new development" is a bigger driver of

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[7] Montgomery Planing Commission, "County Growth Policy," May 2020, Figure 22, Page 44, https://montgomeryplanningboard.org/wp-content/uploads/2020/05/attachment1_County-Growth-Policy-Public-Hearing-Draft.pdf.

enrollment growth than each existing housing unit.

- In light of the per unit impact of "new development" — whatever the time period — we should expect that any increase in "new development" will result in a commensurate increase in students and a resulting increased need for facilities. A roughly two-fold increase in deliveries — roughly what the County needs to add to account for demographic trends and economic growth[8] — would cause "new development" to account for a much greater share of enrollment growth than existing housing. In this case, the Proposal's tax regime would fall well short of generating the revenue needed to fund school construction necessary to provide seats for students in new housing. Succeeding in meeting the housing goal while cutting impact fees would put the County under great fiscal strain.

- Understanding enrollment growth in the context of housing growth is critical to understanding whether the plan's proposed cost allocations are fair and would result in enough revenue to support the capital projects that are required for growth. Without understanding what time period "new development" covers, it is impossible for readers to determine even how many new seats "new development" required. As presented, the Planning Commission appears to be playing games with statistics; while I am sure that was not the intent, it should be corrected.

4. The Proposal should consider the unintended consequences that lowering impact fees would have on the use of impact fee exceptions, which incentivize the construction of affordable housing.

- The Proposal includes maintaining existing impact fee exceptions for projects that are focused on delivering affordable housing. We should continue to support these exceptions — and seek ways to generate even more affordable housing — so that the County can better support diverse neighborhoods.

- However, lowering school impact fees in infill areas may have the unintended effect of eliminating the incentive for developers to build affordable housing in infill areas, because the cost savings from school impact fee waivers would be considerably less than the difference between market rate revenue and affordable housing revenue. In other words, lowering impact fees for market rate units could make building fee-exempt units less appealing and reduce the the number of affordable housing units that might be delivered otherwise.

- Infill areas are already the focus of most development activity in the County. The current fee and regulatory regime, together with market forces, has already succeeded in focusing developers' efforts in these areas; the necessity of this new tax break is thus unclear.

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[8] Montgomery County Planning Commission, "Housing Needs Assessment," April 2, 2020, https://montgomeryplanning.org/planning/housing/housing-needs-assessment/.

5. The Proposal should include more consideration of the effects that its tax recommendations will have on County revenue.

- The reduction in impact fees for the highest growth areas will reduce revenue, a loss that will need to be offset through higher recordation taxes (which may in turn reduce property values and could affect property tax receipts), higher property taxes, or higher income taxes. Our transfer and recordation tax rates are already the highest in the area.

- The recordation tax is already an unstable source of revenue. Recordation tax revenue dropped from $71.4 million in fiscal 2017 to $67.7 million in fiscal 2019 even though median housing prices increased.[9] Increasing the recordation tax — and thereby increasing transaction costs for residential real estate — may further erode the liquidity of the County's residential real estate market and reduce the amount collected in recordation taxes. The Proposal suggests that the County could generate an additional $20 million in recordation taxes if its recommendations are adopted, but the Proposal appears to assume that sale prices and sales volume would remain the same if taxes increase. As recordation taxes usually require buyers to put down additional cash at closing, the Proposal is misleading because this assumption is almost certainly incorrect.

- The appendices to the Proposal include a comparison of neighboring jurisdictions' impact fees, but it would be helpful for Appendix H to add a school construction cost comparison among selected jurisdictions as well. For example, some of the County's school projects are expected to cost more than $70,000 per seat.[10] How much do neighboring jurisdictions pay for each new seat? If other counties pay less, perhaps the best way for the County to reduce impact fees would be find efficiencies in school construction. The Proposal also would be strengthened if it also included a comparison of neighboring jurisdictions' recordation and transfer taxes, so that we can understand how the Proposal's tax recommendations would affect the County's overall economic competitiveness.

- Taxes are an important element of the affordability equation in the County, and they have a clear and direct impact on families' bottom lines. It is unclear whether reducing impact fees would result in lower rents or whether developers would merely capture the fee reductions as increased profit. Absent other regulatory interventions, developers are at least as likely to choose higher investor returns at each individual project over delivering more units with lower rents.

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[9] Montgomery County, "Operating Revenues,"https://apps.montgomerycountymd.gov/basisoperating/Common/BudgetRevSnapshot.aspx?ID=1, accessed June 6, 2020.

[10] Montgomery County, "Walt Whitman HS Addition," undated, https://apps.montgomerycountymd.gov/BASISCAPITAL/Common/Project.aspx?ID=P651704, accessed June 6, 2020; *see also* Montgomery County Public Schools, "Walt Whitman High School, undated, https://www.montgomeryschoolsmd.org/departments/regulatoryaccountability/glance/currentyear/schools/04427.pdf, accessed June 6, 2020.

From:	Rogers, Elizabeth C.
To:	MCP-Chair
Cc:	Sartori, Jason; Graye, Eric; "Jeff Kayce"; "Justin Kennell"; Wright, Gwen; Kronenberg, Robert; Robins, Steven A.
Subject:	RE: 2020-2024 SSP
Date:	Tuesday, June 9, 2020 10:15:15 PM
Attachments:	Letter to Planning Board - FY 2021 Subdivision Staging Policy (Chevy Chase Lake).pdf

Dear Chairman Anderson,

I apologize for any confusion but I am reattaching the testimony in a PDF format. Please use the attached PDF when including this letter in the record, to ensure no information gets lost in transmission.

Thanks,
Steve Robins
Elizabeth Rogers

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From: Robins, Steven A. <sarobins@lerchearly.com>
Sent: Tuesday, June 9, 2020 9:39 PM
To: 'MCP-Chair@mncppc-mc.org' <MCP-Chair@mncppc-mc.org>
Cc: 'Sartori, Jason' <Jason.Sartori@montgomeryplanning.org>; 'Graye, Eric' <eric.graye@montgomeryplanning.org>; Rogers, Elizabeth C. <ecrogers@lerchearly.com>; Robins, Steven A. <sarobins@lerchearly.com>; 'Jeff Kayce' <jkayce@bozzuto.com>; 'Justin Kennell' <Justin.Kennell@bozzuto.com>; 'Wright, Gwen' <gwen.wright@montgomeryplanning.org>; Robert Kronenberg <robert.kronenberg@montgomeryplanning.org>
Subject: 2020-2024 SSP

Dear Chairman Anderson: Attached please find testimony on behalf of Bozzuto Development Company regarding the 2020-2024 SSP. We will be participating at the Public Hearing on June 11th and will be available at the various worksessions. Thank you and the Board in advance for your consideration of our testimony.

Steve Robins/Elizabeth Rogers

Steven A. Robins, Managing Partner
Lerch, Early and Brewer, Chtd. rising to every challenge for 70 years

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Elizabeth C. Rogers
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June 9, 2020

Via Electronic Mail

The Honorable Casey Anderson, Chair
and Members of the Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

Re: 2020-2024 Subdivision Staging Policy
Chevy Chase Lake Policy Area Designation

Dear Chair Anderson and Members of the Montgomery County Planning Board:

On behalf of Bozzuto Development Company ("Bozzuto"), we are providing the following comments on the Public Hearing Draft for the 2020-2024 Subdivision Staging Policy, dated May 28, 2020 (the "Public Hearing Draft").

I. Background

Bozzuto has partnered with the Chevy Chase Land Company to redevelop the property located in the southwest quadrant of the intersection of Connecticut Avenue and Manor Road (the "Property"). The Property, which was previously improved with low-density retail buildings and a substantial amount of associated surface parking, is proposed to be redeveloped into a large mixed development containing up to 789,450 square feet of residential and non-residential uses ("Block B"). Block B also incorporates substantial public benefits and amenities, including an approximately half-acre Town Square and an elevated plaza that provides a direct connection to the Capital Crescent Trail and Purple Line Station, among other benefits. The first phase of Block B (including Buildings B2 and B3) is currently under construction, and the second, remaining phase (Building B1) is in for building permit review.

II. Change in Policy Area

Chevy Chase Lake is currently designated as an Orange Policy Area in the 2016-2020 Subdivision Staging Policy ("SSP"). When the 2016-2020 SSP was adopted, there was serious consideration given to designating the Purple Line stations in the County, including but not limited to, Chevy Chase Lake (the "Purple Line Station Areas") as Red Policy Areas. However, these areas ultimately were placed into the "Orange" Policy Area (consistent with their "parent" policy areas) given concerns about construction funding for the Purple Line. Now that the Purple Line construction is well underway, this concern is no longer relevant.

The Public Hearing Draft recommends creating a fifth category – the "Dark Red" Policy Area – for the Purple Line Station Areas. This change is recommended based on "…the availability of improved transit service and development potential the Purple Line will bring to the Purple Line Station policy areas." (*See* page 70, Public Hearing Draft). However, the Dark Red Policy Area appears to simply draw an arbitrary line directly in the middle, between the Orange and Red Policy Areas. While we are supportive of changing the Policy Area designation, we believe the Purple Line Station Areas should be afforded the same benefits as other fixed-transit accessible locations within the County. The Purple Line Station Policy Areas are exactly where the County also should be targeting and encouraging new development. In watching the Planning Board discuss the Staff Draft during the May 28, 2020 Planning Board session, we commend members of the Board in making a similar observation. To accomplish this goal, and to truly maximize this desired type of development at these critical and targeted locations, the Purple Line Station Areas, particularly Chevy Chase Lake, should be designated as Red Policy Areas.

Chevy Chase Lake's transformation into a walkable, transit-accessible, mixed-use district is underway. The current development in Chevy Chase Lake has been designed to promote utilization of the Purple Line and takes an important first step toward providing a critical mass of density around the Connecticut Avenue Station. More of this type of transit-oriented redevelopment must be encouraged though the SSP. By designating the Purple Line Station Areas as Red Policy Areas, the SSP will recognize the importance of this significant transit resource and encourage additional redevelopment along the Purple Line (including, but not limited to, the remaining phases of the Bozzuto/Chevy Chase Land Company Chevy Chase Lake development and other important projects). This redevelopment will promote ridership and utilization, thereby ensuring the long-term success of this important transit infrastructure. The SSP is the opportunity to implement this appropriate policy decision especially since this is likely what would have happened in 2016 if the Purple Line was fully funded for construction.

III. <u>Impact Tax Credits for County Projects within State Right-of-Way</u>

Currently, the County Code does not allow the County to certify any Development Impact Tax credits for improvements within a State right-of-way, subject to certain narrow exceptions (*see* Section 52-47(l)(2)).[1] This prohibition should be eliminated, as it does not align with current County policies and priorities. The time has come to allow for impact tax credits for improvements within State rights-of-way.

Increasingly, the County's master plans are becoming more focused on the major transportation corridors within the County – many of which are State rights-of-way (*e.g.* Connecticut Avenue, Wisconsin Avenue, Veirs Mill Corridor *etc*.). That is because development along these corridors more closely aligns with the County's sustainable development priorities. These functional and area master plans all recommend various transportation improvements (including bicycle and pedestrian infrastructure), often within the State right-of-way. MCDOT has taken the position based on the County Code that construction of these master planned

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[1] A credit may be issued for an improvement in the State right-of-way only if: (1) a transit program that operates on or relieves traffic on a State road or an improvement to a State road that is included in a memorandum of understanding between the County and either Rockville or Gaithersburg; or (2) the cost of an improvement in a Unified Mobility Program or the White Oak Local Transportation Improvement Program to the extent it exceeds the property owner's fee under a Unified Mobility Program or the White Oak Local Area Transportation Improvement Program.

infrastructure improvements in the State right-of-way (*e.g.* cycle track, shared use path *etc*.) are not eligible for Development Impact Tax credits, even though the same improvements unquestionably would qualify for credit if located within a County right-of-way. This certainly does not seem equitable, as in both instances the improvements being constructed are County projects (not State improvements). Just as discussed above, the SSP provides an important opportunity to promote the County's policy objectives by updating the Code to better align with modern County priorities.

IV. Conclusion

For all of these reasons, we respectfully request that (1) the Purple Line Station Areas, particularly Chevy Chase Lake, be designated as Red Policy Areas and (2) Chapter 52 of the Code be updated to allow for Development Impact Tax credits for County projects within the State right-of-way. We also may submit additional comments into the Record before it closes and will be available at the Board's various worksessions. We commend Staff's efforts on the Public Hearing Draft and very much appreciate the Board's consideration of our requests.

Sincerely,

Steven A. Robins

Elizabeth C. Rogers

Elizabeth C. Rogers

cc: Jeff Kayce
Justin Kennell
Gwen Wright
Robert Kronenberg
Jason Sartori
Eric Graye

From: Gus B. Bauman
To: MCP-Chair; Wright, Gwen
Subject: Moratoria Commentary LINK to "Seventh State"
Date: Wednesday, June 10, 2020 9:12:03 AM

Casey, Tina, Natali, Jerry, Partap; and Gwen---I hope this piece by me (the headline was not mine but the editor's) is helpful as you go forward.

http://www.theseventhstate.com/?p=13053

All the best,

Gus

Gus B. Bauman
Of Counsel

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Seventh State

MONTGOMERY COUNTY, PLANNING, ZONING

IT'S THE CIP, STUPID!

JUNE 10, 2020 | DAVID LUBLIN

By Gus Bauman.

Finally! After many years of heated controversy, Montgomery County is about to squarely confront its use of land use moratoria as a part of its growth policy regulations. The County Planning Board, after much study for its regular update of the County's Growth Policy, has crafted a proposal to largely eliminate land use moratoria in the County. The County Council will ultimately decide the terms and scope of the Growth Policy (titled in more recent years as the Subdivision Staging Policy.)

This correspondent is the former chairman of the Maryland-National Capital Park & Planning Commission and its MoCo Planning Board (appointed in '89, reappointed in '93). Let me offer some background and candid insight that may prove useful in the coming months as the proposal enters the political windstorm.

The MoCo Annual Growth Policy (the AGP; that was its name for many years) was created in 1986. Why? Because during the '80's, the County was experiencing high growth. It had previously created an Adequate Public Facilities Ordinance (APFO), which was embedded in the Subdivision Ordinance to apply to all new subdivision proposals.

To manage the APFO, the AGP was later instituted as a timing mechanism to match school and transportation needs with corresponding infrastructure development. Buried in the AGP system was the moratorium nuclear bomb—if school or transportation capacity in any defined area of the County became overloaded, then no new subdivision could be approved in that area until the county's capital budget (the Capital Improvements Program, or CIP) indicated that help was on the way through public improvements and/or private contributions to fix the identified public need.

The moratorium concept was always intended to be a rare, drastic action of last resort. It was never meant to be a routine tool in the planner's toolbox. Indeed, the very idea of a moratorium is contrary to comprehensive planning, zoning, and budgeting—i.e., to responsible government. For adopting a moratorium is, by definition, an admission of governmental failure. Doing it on a normative basis should be downright embarrassing.

Land use moratoria were supposed to be as rare as snow in June—they were to delay development approvals for a brief time in order that public and sometimes private funds could then target as quickly as possible where the infrastructure need was and fix it. In fact, the very purpose of a looming moratorium was to immediately direct capital funds to the targeted area in order to avoid the moratorium bomb from exploding.

This system only worked, however, where there was both a high growth rate that continued to pay taxes *and* where infrastructure spending was duly targeted by the County government to any area about to be thrown into moratorium.

But those two preconditions began sliding away in the late 1990's, and by the turn of the century, they were largely gone. Montgomery County's growth rate has been in the basement for some 15 years now. Yet the moratorium mechanism, meant to be only an emergency measure in the AGP, never went away. Indeed, it became a favorite fixture of the no-growth crowd. And that crowd has always controlled certain votes in County government.

The rich irony here is that a moratorium is, in truth, all about fiscal and budgetary policy and not a growth or density matter. Whether density on some tract is to be low, medium, or high, whether growth in some area is to be slow, moderate, or rapid, is a land use dynamic regulated by the community master plan as well as the zoning placed on properties. But during the 1990's, exclusionary forces in Montgomery County realized that use of moratoria could become a normal convenience to accomplish what they otherwise could not accomplish through planning, zoning, and environmental regulations.

Just starve the CIP of transportation spending on certain projects called for in County master plans, and SURPRISE!, the roads in an area are suddenly over capacity. Just redirect school capital funding projects away from certain developing and redeveloping areas, and SURPRISE!, schools in those areas become over capacity. The most extreme example of this practice was how prior County governments allowed the East County to be frozen for many years in moratorium while significant capital funding flowed west, north, and south.

Today's County Council can see what moratoria have wrought over the past two decades. When an area is placed into moratorium, neither new taxes nor fees can be generated in that area, creating the perverse effect of killing off the very revenues needed to help solve the identified problem. The County Planning Board knows what moratoria have wrought. The practice telegraphs to the business community to avoid investing in Montgomery when so many other nearby options exist called DC, Frederick County, Prince George's County, and the multiple jurisdictions in Northern Virginia.

Moratoria are all about erecting walls. The Montgomery County government should be knocking down walls. The County should be using its highly detailed master plans, its incredibly rigorous zoning, its adequate public facilities ordinance, its huge budget, as well as its growth policy, to channel public infrastructure improvements where they are needed.

It is telling that Montgomery County prides itself on having the toughest, most "sophisticated" planning, zoning, environmental, and transportation controls in the region as well as being blessed with a large tax base and corresponding budget, yet, simultaneously, it is the only regional jurisdiction that regularly applies that admission of governmental failure, the moratorium.

To paraphrase the famous presidential campaign slogan of the 1990's, "It's the CIP, stupid."

Gus Bauman is an attorney who lives in Silver Spring. He served two terms as chair of the Montgomery County Planning Board.

GUS BAUMAN LAND USE MONTGOMERY COUNTY PLANNING BOARD MORATORIA

From:	Dan Wilhelm
To:	MCP-Chair
Cc:	Afzal, Khalid; Sartori, Jason; Wright, Gwen; Stern, Tanya
Subject:	SSP Testimony for June 11
Date:	Wednesday, June 10, 2020 9:25:48 AM

Greater Colesville Citizens Association

PO Box 4087
Colesville, MD 20914

Tamarack Triangle Civic Association

Colesville, MD 20904

Labquest Community Partnership

Hillandale, MD

June 10, 2020

Montgomery County Planning Board
Attn: Casey Anderson, Chair
8787 Georgia Ave
Silver Spring MD 20910

Re: County Growth Policy (aka SSP)

Dear Chairman Anderson:

Executive Summary. The Greater Colesville Citizens Association (GCCA), Tamarack Triangle Civic Association and Labquest Community Partnership support 19 of the 39 staff recommendations without comment. Chief among these recommendations is the elimination for the schools moratorium and reducing the school Impact Tax. Although we oppose a few recommendations, we accepted the other recommendations in principle but changes are needed. We also identified a few errors that should be corrected.

While the staff developed a report that proposed changes to the SSP in the direction needed, they stopped before completing the goals they had laid out in Chapter 3. There are two primary shortcomings. First, they failed to recommend polices that focused growth around Activity Centers even after stating that is where growth needs to be focused.

Second, their agenda was to collect funds needed to fund school and transportation infrastructure. Their focus was on impact taxes, which today are so high as to preclude most new development except in areas with high property values. They ignored the much larger source of revenue, namely property and income taxes. The Impact Taxes and LATR costs need to be reduced to allow new development to economically proceed in order to access the property and income taxes. Recordation taxes should be the source to replace revenue that had previously been collected via impact taxes. The changes proposed below address these shortcomings.

Consider Thrive Montgomery 2050.

The Thrive Montgomery 2050 Vision, Goals, Policies and Actions report presented to the Board earlier on

June 11 should also be considered in the developing Growth Plan. A good number of the visions and goals support our recommendations below, including:

- This growth needs to consider the Complete Communities vision, including Goal 1.4 treating all communities equitably so that no community is disadvantaged by a disproportionate share of adverse impacts and capital investments. Steps need to be taken to actively address communities that have been disadvantaged in the past. White Oak is one of the communities in this category.
- Many of the goals in the Diverse Economy ensure a vibrant, strong and competitive cutting-edge economy by attracting major employers.
- The Safe and Efficient Travel Vision via strong use of three BRT corridors within White Oak and new development will also support walking and biking.
- The Affordability and Attainability vision supports the need to remove and reduce the existing regressive and uneconomical impact taxes, LATR/UMP costs, and Recordation Taxes. The costs should instead rely on Recordation Taxes that charge based upon property value. This change will also allow more affordable housing to be built.
- Diverse and Adaptable Growth Vision encourages infill development in Activity Centers as identified below under Key Takeaways.

Growth Policy Key Takeways. We thank the staff for the enormous amount of work they put into the update to the County Growth Policy as evidenced by the extensive amount of material and insight they provided in the staff report. The staff however failed to propose changes needed to achieve the purposes of the Growth Policy they identified in Chapter 3. The key takeaways from the first three Chapters of the staff report are:

- Page 1, first para: "It is evident that a one-size-fits-all approach to growth management is not sufficient…."

- Page 10, after Figure 3: "The areas forecasted to attract the majority of both household and job growth in Montgomery County coincide with the county's Activity Center locations." Page 11, first para: "The geographic pattern of expected growth in Activity Centers follows the counties major transportation and commercial corridors … nearly all of which are in close proximity to major transit facilities."

- Page 29, third para: "But Chapter 33A also states that the SSP is 'an instrument that facilitates and coordinates the use of the powers of government to limit or encourage growth and development. Therefore, the SSP …. is more than limiting development or ensuring adequate infrastructure".

We don't think the proposed Growth Policy changes fully address these Thrive 2050 visions or even the key takeaways provided in the Growth Policy Report, especially related to Activity Centers and impact tax rates. The transportation chapter especially fails to focus on Activity Centers outside of red areas. The SSP and related excessively high impact taxes/fees has been an instrument to limit growth and more needs to be done to encourage growth in Activity Centers. Encouragement is needed to achieve the other policy priorities of housing (including affordable housing), economic health and environmental resilience. Also, the staff in their recommendations fails to apply historical trends to the future. The Growth Policy needs to be forward looking, especially in relation to the definition of Activity Centers. We identify below what changes are needed to the staff's recommendations.

Chapter 3 (Policy Name). The three organizations support Recommendation 3.1 and encourages steps be taken to support new development, especially non-residential development that produces much more in taxes than the county must spend in services to support them. We note that the Transportation Chapter at the next to last paragraph on page 57 is still only concerned with limiting growth.

Chapter 4 (Schools)

1. The three organization support Recommendations 4.2, 4.3, 4.5 thru 4.10, and 4.13 thru 4.15

2. The three organizations support **Recommendation 4.1** about creating three School Impact Area classifications: greenfield, infill and turnover. It is unlikely that there will be more than the one Clarksburg greenfield Impact Area. We agree that most of the County should be classified as turnover since little new development will occur in these areas. We agree with the creation of the infill Impact area but think the classification of areas needs to match the Activity Center areas identified in Figure 4, not Figure 18. <u>All Activity Centers need to be included in the Infill category</u>. We suggest the Planning Board have the authority to add or delete Activity Centers based upon approved master plans. These Activity Centers need to have clearly defined boundaries. In White Oak for example, there should be three Centers, not one, as defined in the White Oak Science Gateway Master Plan. More is said later in item 6 under the Transportation Chapter about identifying Activity Centers.

3. The three organizations support the thrust of **Recommendation 4.4** of shortening the projection time horizon. However, considering how unreliable the MCPS projections are on a per school basis, we suggest <u>utilizing current year data.</u> Then the student projections from newly approved subdivisions can be added until MCPS provides a new projection. Our experience with the Hillandale Gateway project indicates that MCPS fails to account for students coming from proposed developments currently being considered by the Planning Staff even after much encouragement. The recent MCPS School Boundary Analysis shows that the boundary of many schools needs to be updated. Assuming MCPS starts making changes then the school enrollment projections even three years in the future will be more inaccurate.

4. The three organizations support only considering housing units built since 1990 as proposed in **Recommendation 4.11** but <u>opposes the change to lump low-rise and high-rise buildings together</u>. The data provided in the staff report shows that the student generation rates for these two different categories are substantially different. (see Appendix G, Figures 29, 40, and 42)

5. The three organizations oppose the idea of the Board having the ability to reject development applications in **Recommendation 4.12**. Rather the Board should have the ability to <u>provide conditional approval</u> until the Council and/or MCPS take actions needed to provide the needed infrastructure, which could include boundary changes.

6. The three organizations oppose **Recommendation 4.16** of charging an applicant a premium payment for situations where the school exceeds standards (Table 13). <u>We agree with those standards but oppose the extra payment.</u> Most of the students generation is in these areas are due to turnover, which is not the fault of the applicant. On a countywide basis, some 75% of the student generation is due to turn-over. If the green impact area is excluded, then the student growth is typically based upon turnover exceeding 90%.

Chapter 5 (Transportation).

1. The three organizations support Recommendations: 5.3 thru 5.5, 5.9, 5.10 and 5.2 thru 5.14.

However the text needs to clearly state that Recommendations 5.9 thru 5.14 apply only to producing Master Plans, not for LATR investigations.

2. The three organizations generally support the idea of **Recommendation 5.1** but do not agree with "all" related to functional plans, master plans and area plans. First, this statement should apply to only those projects that require a LATR, which doesn't apply to LATIP/UMP areas. Second, Page 139 of the bicycle Master Plan indicates that it does not require the County to construct all master-planned bikeways but instead it provides options for implementation. The text that follows says that those options will be considered in studies and that extensive public outreach is needed.

   Both the White Oak and Bethesda UMPs include projects to increase capacity on master planned roads. Developers can receive credits under them if they build the improvements. In the Viva White Oak development, GLDC is currently required to build the three master planned roads but not receive any credit for that work. We propose that they still be required to build the roads but receive credit where they pay for the improvements. One way to look at this situation is that the Master Planed Roads are on land dedicated for general public use. They would still be required to pay for the many other internal roads.

3. The three organizations support **Recommendation 5.2** but the proposed priority list needs to be adjusted. We recommend that transit improvements be done concurrent with pedestrian and bicycle improvements and, where conflicts occur, that transit be given higher priority.

4. The three organizations support **Recommendation 5.6** to eliminate LATR studies in Metrorail Station Policy Areas (MSPAs) since there are few improvements that can be made and thus the studies provide little information. Also as staff indicated, most recommended LATR improvements run counter to the direction Vision Zero would direct. Ideally an UMP and resulting fees should be developed before making this change. However, until such a time that they can be developed, a flat fee should be applied in order to provide uniformity among MSPAs. Suggest using the average of the LATIP fee for White Oak and Bethesda until individual MSPA fees can be established.

5. The three organizations support **Recommendation 5.7** to provide a uniform delay standard along the transit corridors, but question whether the 100 seconds is too much of an increase. Maybe 80 seconds would be more appropriate since that is the existing highest delay standard. The delay standards along the Purple Line need to also be 80 seconds, so Table 16 needs to be eliminated or changed.

6. The three organizations support the idea behind **Recommendation 5.8** to add Activity Centers along the Purple Line. We think that all Activity Centers must be treated the same. The Red Category consists of only Activity Centers and therefore the three MSPA Centers and other Activity Centers need to be included in the Red Category. The Purple Line actually provides premium transit just like Metrorail. BRT is also another example of premium transit and Activity Centers along it need to be added. Note that the US29 BRT had been scheduled to open in May 2020 but has been delayed due to the pandemic. The major Activity Centers along US29 are White Oak, Tech Road, Briggs Chaney and Burtonsville. Tech Road is part of the Life Sciences/FDA Village Center in the White Oak Science Gateway Master Plan. Also Activity Centers designed to support economic development need to be added, which include the three Activity Centers in the White Oak Science Gateway Master Plan. The only additional center is Hillandale.

Figure 31 should be changed to show all Activity Centers from Figure 18. As BRT is implemented or major economic development is pending, additional Activity Centers should be added. That also means that the impact rates should be the same for all red category Activity Centers, not what is proposed in Table 178.

7. The three organizations support the proposed auto and transit travel metric in **Recommendation 5.11** but it should apply only for job-related trips. Recommendation 5.10 and 5.11 are saying the same thing and thus the second one can be eliminated.

Chapter 6 Tax Recommendations

1. The three organizations support the following recommendations: 6.3, 6.4, and 6.7.

2. The three organizations oppose **Recommendation 6.1** since the data doesn't support this conclusion. See figures 29, 40 and 42 in the Appendices.

3. Per the discussion below concerning Economic Development in item 7, the three organizations support **Recommendation 6.2** with revisions to lower the school impact rate to 100% and provide a discount to incentivize growth in Activity Centers. We think the incentive should apply to all Activity Centers, because by definition those are the locations where development should be targeted. The Activity Centers need to be more focused than shown in Figure 33 and as discussed above. As explained in item 7 below, we think the proposed rates are still too high. Since the recordation tax is proposed to be increased in recommendation 6.8, we think the discount should be lowered from 60% to 50%. As discussed under paragraph 7 in this chapter, taxes need to be changed from a flat rate to a sliding rate based upon market value.

4. There are several recommendations at the top of Page 84 after providing a list of 9 exemptions (Table 19). The staff recommended retaining the first six and changing items 8 and 9 but doesn't address the 7^{th} (senior housing). The three organizations recommend keeping the senior housing exemption. There are so few students in senior housing that eliminating this exception is not worth trying to quantify. Students in senior housing facilities is contrary to their purpose and we expect that students reside there only for short periods of time to address unique family situations. Note that Recommendation 4.9 already contains this item.

5. **Recommendation 6.5** recommends keeping the exemption for active Enterprise zones but deleting it for former Enterprise zones. The three organizations support this recommendation.

   At the state level, Enterprise zones provide real property and state income tax credits for businesses in return for job creation and investment. At the county level, they are exempt from impact taxes as indicated Table 19. A similar federal program is Opportunity Zones, which are designed to drive long-term capital to distressed communities by providing tax benefits on investments in these zones. Since the goals are similar, we recommend that at the county level Opportunity Zones be exempt from Impact Taxes. Between the two programs, the depressed part of east county will benefit. This investment will start to address the long standing inequity situation here and addressing the Complete Communities Vision. Citizens in east county often share the impression that east county has been ignored by the county government in terms of investment for at least four decades.

6. **Recommendation 6.6** recommends modifying the exemption for 25% affordable housing. The

three organizations agree with the proposal that the units be placed in the MPDU program. However, we oppose the other two proposed conditions. Affordable housing should be provided in Greenfield Impact Areas (i.e., Clarksburg) as well as the remainder of the County. The last item of requiring twice as many MPDUs as the standard size will effectively just reduce the number of such times this exemption will be used. The development of MPDUs is a money-losing effort for developers and just adding the number of MPDUs will only make fewer such developments economic. The use of the exemption is also infrequently used, surely because of economics.

7. Economic Development. The discussion about tax recommendations focuses on impact taxes and recordation tax but fails to consider the effect of property and income taxes on generation of funds needed to build school and transportation infrastructure. The situation is different for residential and non-residential. The county collects much greater taxes from non-residential properties than it spends on services to support them. That is not the situation for residential properties. As an example, the economic impact study for Viva White Oak showed that the County would collect in excess of $1B (billion, not million) in revenue over 30 years than it would spend on services. That study included all the proposed development, both non-residential and residential. That $1B is far in excess of what the County would collect from Impact Taxes. This suggests the County should do what it can to encourage non-residential development or mixed used development. Global LifeSci Development Corp has found in discussions with bankers and prospective tenants that the Impact Taxes and other fees are already so high that the project is not economical. Based upon data in the Post, we think that it is often uneconomical to build in large areas of the county, except high price areas.

   Recommendation 5.6 proposes to eliminate LATR studies in all red areas but there is no recommendation to impose a LATR fee. It appears that staff wants a lower charge to developers to encourage economic development in Metrorail Station Policy Areas. We support the idea of encouraging economic development but suggest that the Transportation Impact Tax be discounted, especially in those Activity Centers where new development is encouraged. Those Activity Centers are shown in Figure 4 for population (eg, housing) and Figure 5 for jobs. We propose a discount schedule be applied to activity areas targeted for the greatest growth. Using the pattern identified in Table 18, we propose a 50% reduction in the red transportation rates since substantial funds will still be collected via the LATR charges, LATIP/UMP charges and recordation tax. The LATR and LATIP/UMP cover the vast majority of the transportation capacity increases that the County would fund. There charges are substantial. The UMP is striving to collect $101.8M in White Oak and $126.2M in Bethesda.

   There still needs to be a UMP type of fee for the Policy Areas where LATR is no longer required.

   Another reason to reduce impact fees and to rely on recordation taxes is to provide equality in charges. Developers don't have as much margin in lower cost areas to cover the county imposed costs as in higher cost areas. Therefore, developers generally can't economically build in lower cost areas. The County Taxes and fees are a fixed cost independent of its location but developers can only charge the going rate for an area, which varies substantially.

   For example, the taxes and expenses in Bethesda area (zips 20814/20815) are about 4.4% of the price of a house (see table below). By comparison, the typical taxes and expenses are over 12% of the price of a single family house in east Montgomery County (zip 20904) - almost three times as much. The Washington Post March 29 edition listed the median price of single family houses sold by zip code for 2018 and 2019. The 2019 median price was $469.9K for zip 20904, and in Bethesda $923K for 20814 and $1110K for 20815 - the average for Bethesda would become $1031K.

Page 57 indicated that the purpose of the Transportation Impact Tax is to collect funds. Where building is uneconomical, development will not occur and funds will not be collected. Thus the taxes and fees need to be reduced so that development can occur and taxes can be generated.

The Impact Taxes and development approval expenses include the following:

Category	Remark	Cost per house
School Impact Tax	Applies only to residential	SF Detached (SFD) $26,207 SF Attached(SFA): $27,598
Transportation Impact Tax	Varies by policy area category: Prices are SFD and SFA. Downtown Bethesda in red area and 20904 in orange and yellow areas.	Red: $7838 or $6413 Orange: $19,591 or $16,030 Yellow/Green: $24,490 or $20,038
Local Area Transportation Review (LATR) or Unified Mobility Plan (UMP)	White Oak UMP is set but others vary by local conditions. Bethesda UPM is being developed. Est. cost $126M. White Oak was $949M (or $584 without state interchanges). Assume same ratio as WO. (many of costs outside of Bethesda)	White Oak :SFD: $6400 SFA: $3200 Bethesda est.: $1400
Recordation Taxes	First $50K exempt, then $8.90/$1000 up to $500K and $13.50 above $500K.	20904: $3560 Bethesda: $10,080
Cost of going through the Planning Process.	This cost included effort to develop plans, work with planning staff and modify, often multiple times	Large cost
Total	Without Planning Process cost Assume White Oak Master Plan area of 20904	**20904: $55.8K (>11.9% of market price)** **Bethesda: $$45.6K (>4.4% of market price)**

In addition to creating jobs and increasing tax revenue, economic development will actually reduce the need to provide capital investments, especially for roads. If jobs are not provided in Montgomery County, they will go elsewhere. One effect would be that County residents must drive farther and others will drive through the county to reach jobs elsewhere. The result will be increased congestion and the need to provide more roads. Rather, the vision being developed for the General Plan update is that more people need to live, work and play within short travel distances. Ideally this travel will be via walking, biking and transit. The number of people who need to drive will thus be reduced and the need for road infrastructure will be reduced.

The idea of the impact tax is that the payment should be based upon the amount of traffic added to roads. The existing methodology fails to account for steps developers undertake to reduce the Non-Auto Driver Mode Share (NADMS). The Impact tax needs to be reduced further to account for NADMS. Page 77 discusses NADMS as a metric but doesn't discuss the fact that a major transportation policy is to reduce NADMS. While developers are encouraged to spend funds to reduce NADMS, they don't receive any benefit. <u>We propose that the revised Impact tax discussed in the prior paragraph be considered the base and that discounts be applied to it based upon the</u>

amount of NADMS a development is expected to achieve. We suggest the following formula: Impact Tax= Base Impact Tax Rate* (1-NADMS rate). Therefore, if the NADMS is 25%, then the formula is Base Tax *(1-0.25). For the single family house where the red base is $3919 (50% of the current $7838 rate as discussed above), the tax becomes $2939.25.The amount of NAMDS that development can achieve will vary dependent upon its nature. Some may not be able to achieve any, while others might achieve much more, even 50%. This approach acknowledges that one size doesn't fit all and so each development will pay based upon their situation.

Errors that need Correcting.

1. Page 11, top of page and Page 12, top of page. Both indicate that the FDA campus in White Oak is future. The campus exists with some 12,000 employees assigned to it and the text needs to be changed to reflect it. Granted an expansion is planned to 18,000 but who knows when that will occur?
2. The identification of Activity Centers is not consistent and confusing. We recommend eliminating reference to Activity Center TAZs (Figures 3-6) and showing only Activity Centers**.**
3. The Figures have some BRT segments missing. On Figure 3 and 28, the Randolph Corridor extends east of US29 per the White Oak Science Gateway Master Plan. On Figures 4, 5 and 6, the Randolph Corridor is entirely missing and the Purple line extends into PG County.

Thank you for considering our thoughts for improving the General Plan.

Sincerely

Daniel L. Wilhelm
GCCA President & Labquest Board Diector

Peter Myo Klin
TTCA President

Rob Richardson
Labquest Co-

From:	Gordon Brenne
To:	MCP-Chair
Subject:	Testimony Growth Plan, Gordie Brenne Taxpayers League
Date:	Wednesday, June 10, 2020 10:13:47 AM
Attachments:	SSP Testimony 6-11-20.docx

See attached. Looking forward to learning when I get to testify tommorrow. Gordie

Growth Policy, Montgomery County Planning Board Testimony 6/11/2020
Gordie Brenne, Treasurer Montgomery County Taxpayers League

We've got a mess on our hands and complicated planning practices have failed us. We are creating fewer jobs than our neighbors, and our median income is dropping. School, transportation, and affordable housing construction budgets aren't keeping up with enrollments, traffic, or housing demands because we've hit capital budget ceilings for borrowing due to a stagnant tax base and bad management. Similarly, WSSC has hit its capital ceiling and water and sewage system maintenance is being deferred because of declining revenues and costs that are out of control.

Instead of limiting growth to infrastructure constraints based on shortfalls in current policy and budgets, the Planning Board should accelerate growth to pay for more and better paying jobs, schools, transportation, and housing. This requires coordinating planning with budgeting, setting budgets based on planning growth targets that rank projects using return on investment analysis, and expanding our tax base to include higher performing commercial organizations. Fairfax County is a good model for this, just ask the new Director of Housing and Community Affairs whom we met with last month (or look at pg. 74 of the Appendix to the plan).

We are pleased to see recommendations to reform automatic moratoriums (Fairfax doesn't do moratoriums). The moratorium over several decades in east county cost our most needy residents dearly. Increasing growth and reducing county regulations to boost infrastructure is the way forward. The recommendation to review transportation capacity performance every two years is also a step in the right direction, but needs to be done annually to align with the budget and provide a timely focus on trends and exceptions.

The Planning Board can also make a similar difference with independent performance reviews for school and affordable housing strategies, and recommending what works best and adjusting plans accordingly. In other words, don't stick with strategies that limit growth- drive policy and budgets to achieve plans. One example would be to open up moratorium schools to charter school competition to increase capacity.

The Executive and Council set policy, but have no independent reviews of the efficiency and effectiveness those policies. Budgeting and planning for infrastructure have become decoupled, and the pesky problem of our capital budget ceilings continues because our plans don't prioritize investments with the highest return on investment to pay the resulting debt service. Independent recommendations from the Planning Board could help policy makers reshape budgets to grow us out of this mess, while allocating resources to projects with higher returns. This goes beyond creating a vision, and certainly means the Planning Board can't continue to layer on new safety requirements that prioritize roads last, unless roads have the lowest return on investment. This is about data driven performance management with investments that pay for themselves.

It's time to let markets and competition create innovative solutions to overcome these barriers. Specific thoughts on how markets can overcome barriers to school, transportation, affordable housing, water and sewer capacity, and the Planning Board's independent review role follow.

1. Schools

We applaud the notion that we should be "moving away from stopping growth when infrastructure is inadequate… and moving toward ensuring adequate infrastructure to allow the county to grow." Now, the growth plan needs to focus more on outcomes.

Eliminating automatic moratoriums, and excluding commercial projects and residential projects with less than one student at a school in moratorium makes sense. But increasing impact and recordation taxes, and imposing a new utilization premium payment don't make sense to pay for this. That will inhibit growth. **Instead, open up moratorium schools to charter school competition.**

2. Transportation

Rising above detailed and arcane local area transportation review (LATR), congestion standards and the like to produce a biannual mobility assessment report about the performance of major travel corridors shifts the Board to working for results. Even better would be an annual report, particularly if aligned with the budget cycle.

Instead of current County policies that allocate transportation resources based on questionable projections of costs and benefits, require independent return on investment analysis by the Planning Board. Instead of automatically ranking roads last for safety, go with return on investment rankings. This data driven approach could result in ranking public transportation projects with low returns, like home grown BRT, below road projects. As the state has found, use of PPP to grow transportation solutions place cost/benefit analysis of competing solutions under a microscope of the market. Similar to the Governor's plans for 270 and the Beltway, PPP can be used to complete road projects long deferred as too expensive by focusing on capturable benefits to pay for projects.

Big transportation questions include: will Vision Zero mitigation priorities for travel safety that place road projects last further stymie growth and favor projects with lower returns on investment like BRT, Metro rail, and the Purple Line? Will resulting inadequate returns on investment perpetuate debt ceiling constraints for infrastructure investments and require major crippling tax increases? How will these priorities work with transportation solutions like widening 270 and the Beltway? What happens to growth projections if the Purple Line collapses under the weight of cost overruns or diminished benefits?

3. Affordable Housing

The inventory of affordable housing is stuck at levels 10 year ago. Instead of current policies and practices, growth plan forecasts should be changed to reflect innovative approaches to make the housing budget more efficient and effective. This includes new DHCA strategies for housing development partner loans to increase leverage and shorten loan duration, increase locally funded vouchers to supplement HUD vouchers and as an alternative to costly and ineffective MPDU and HHS rent subsidy programs, and adding more partners for preservation to work around HOC limitations.

4. Water and Sewer

WSSC has a high risk of insolvency and the growth plan has no provisions for managing this. Insolvency will impede infrastructure development and maintenance. WSSC has hit its debt ceiling, just like the County has. Among other things, over investment in sewage treatment plants that are more costly than

Blue Plains have left the balance sheet a mess. The risks stem from a very high debt service ratio and low cash liquidity, an aging infrastructure of pipes and processing facilities, and a bloated operating budget. The impending recession will aggravate these risks further. Intervention by the state will be required to resolve this likely crisis, as happened in 1998. Breaking WSSC in two is the best solution to manageable governance and accountability that get us past this liquidity crisis and better strategies to maintain service to keep up with growth.

5. Independent Performance Reviews

These are in the form of annual program and strategy reviews to determine efficiency and effectiveness of growth strategies/policies as input to the budget approval cycle. Key performance metrics like number of jobs created, increased average job incomes, expansion of property tax base, improved school capacity, improved automobile capacity, increased affordable housing inventory, more competitive taxes burdens, and higher returns on investment. Delivering reports to policy makers before the budget cycle is completed is key to aligning planning with budgeting.

Gordie Brenne

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Silver Spring, Md 20910

301-588-7206

Brenne.gordon@gmail.com

From: Sarah Reddinger
To: MCP-Chair
Subject: SSP Testimony
Date: Wednesday, June 10, 2020 10:42:28 AM
Attachments: image002.png
image003.png
image005.png
Subdivision Staging Policy - Housing Moratorium Testimony 6.11.2020.pdf

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Good Morning,

I've attached testimony regarding the SSP. John Paukstis has signed up to testify virtually tomorrow evening on behalf of Habitat for Humanity Metro Maryland.

Thank you for your time and consideration.

Best,

Sarah Reddinger | Director of Program Services
O: 301-990-0014 ext. 27| **F:** 301-990-7536

Habitat for Humanity Metro Maryland
8380 Colesville Road, Suite 700, Silver Spring, MD 20910
CFC #99371 | MCC #2057 | United Way #8950

Website **ReStore** **Facebook** **Cars for Homes**

Habitat for Humanity®
Metro Maryland

June 11, 2020

Montgomery County Planning Board
Casey Anderson, Board Chair
8787 Georgia Avenue
Silver Spring, MD 20910

Subject: 2020-2024 Subdivision Staging Policy/County Growth Policy – Housing Moratorium

Montgomery County Planning Board,

My name is John Paukstis and I am the President and CEO of Habitat for Humanity Metro Maryland. We are a nonprofit provider of affordable housing, working to provide equitable access to homeownership in Montgomery County since 1982.

Habitat enthusiastically supports the recommendation of eliminating the automatic housing moratorium. While intended to address the important issue of overcrowding in our schools, the moratorium restricts much needed housing at all affordability levels and has not solved school overcrowding.

As you know, 12% of the County has been under moratorium since July of 2019. Unfortunately, this includes large parts of Wheaton, Silver Spring and North Bethesda, some of the most transit-oriented areas with large concentrations of jobs. By restricting new housing in these desirable, higher density areas, we are hampering our ability to address critical housing shortages in our County and limiting development impact taxes used to support school expansion.

Moreover, the Student Generation Rates by Housing Type Study by Montgomery Planning shows that less than 30% of student generation comes from new housing. Highest generation rates are due to turnover of existing single-family homes from adults with no school-aged children to families with younger children.

Habitat is also concerned that the automatic housing moratorium encourages disproportionate investment in schools under moratorium, typically in wealthier neighborhoods, while overlooking other schools with inadequate and substandard facilities, typically in lower income communities. This is inequitable and unacceptable. We must create a policy that encourages equitable and adequate investment in all schools across our County while also encouraging investment in housing that is affordable.

We thank the Planning Board for their time and leadership on this important issue.

Sincerely,

John Paukstis
President & CEO

From:	Alison Gillespie
To:	MCP-Chair
Subject:	Testimony regarding SSP for June 11, 2020
Date:	Wednesday, June 10, 2020 11:23:39 AM
Attachments:	SSP testimony from Alison Gillespie June 2020.docx

Attached please find my testimony, to be read on June 11, 2020 regarding the SPP.

Thanks

Alison Gillespie
301-385-0313

Alison Gillespie, June 11, 2020

Testimony to the Montgomery County Planning Board

Good evening, and thanks for the opportunity to speak about the Subdivision Staging Policy.

I first want to note that I am grateful that MNCPPC has taken meetings online. It has made it easier to participate – even easier than it was before COVID -- and I am glad that you aren't slowing down during this time. We need to prioritize economic growth and recovery as we move past the worst of the pandemic.

I am here tonight to ask that you eliminate the current housing moratorium as it is written into the SSP. I urge you to create another mechanism for triggering the building of new schools, and I'd like you to work more closely with MCPS, particularly in urban neighborhoods.

I am a parent of two children. My son graduated from Albert Einstein High School last year and my daughter is a junior there now. I am a proud resident of Forest Glen in Silver Spring and over the last 20 years have participated in the leadership of my community association and the local PTAs. I was very active in the recent Forest Glen sector plan process.

Over the last few months, I have also participated in many work sessions regarding the SSP and spent a lot of time reviewing data. It is very apparent that the moratorium is not working as it was seemingly intended. It is doing more harm than good.

If the moratorium was meant to ease crowding, it has failed my neighborhood miserably. My neighbors and I have not seen any significant new housing construction in decades, and yet our local schools remain overcrowded.

What we need are more schools in transit-oriented neighborhoods like mine. Halting home construction does not diminish that need.

What the moratorium *has* done is stifle our ability to be nimble and react in real time. As a county and a region we need MORE construction near Metro stations, and that includes building more amenities such as shops, restaurants, and day care centers. None of that can happen while we remain under the moratorium.

Some would have assumed that small, older houses such as mine, which was built in 1947, would not appeal to young families. But even during COVID houses are selling within hours of being on the market in my neighborhood and people with small children are moving in.

We don't need to build fewer homes. We need to build more schools.

This might mean schooling in a different type of building than those that MCPS staff favors. MCPS seems to be determined to continue operating its building plans as if it is 1963. They are unable or unwilling to make changes to their mid twentieth century ideals. But the sixties are over.

For this reason, I'm asking that you work with MCPS staff more closely and find a way to bring them into the planning conversations more actively. We need a new mechanism that will allow the building of schools to meet short term needs or specific educational objectives in urban places. That might mean temporary school buildings in offices. It might mean small micro schools. It might mean all kinds of things that people who do charter schooling in cities like DC and Baltimore do all the time. We need MCPS to think as if this is an urban place and it is the 2020s. We need ACTUAL planners to be working with MCPS and directing them.

Personally, I welcome more development in my neighborhood because I know we need to house more people and putting people close to transit and amenities is good for the environment.

Moratoriums that are too strict do nothing to address the real needs of this county on any level.

Thanks for your time and attention this evening.

Alison Gillespie

1826 Brisbane Court

Silver Spring MD 20902

From:	Todd Hoffman
To:	MCP-Chair
Subject:	Letter from Mayor Cecily Baskir re. 2020-2024 County Growth Policy Public Hearing Draft
Date:	Wednesday, June 10, 2020 11:38:08 AM
Attachments:	Letter re. County Growth Policy 6-10-20.pdf

Please see attached letter from Town of Chevy Chase Mayor Cecily Baskir. Thank you.

____

Todd Hoffman
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The Town of Chevy Chase

Cecily Baskir, *Mayor*
Joel Rubin, *Vice Mayor*
Barney Rush, *Treasurer*
Ellen Cornelius Ericson, *Secretary*
Irene N. Lane, *Community Liaison*

June 10, 2020

Mr. Casey Anderson, Chair,
and Members of the County Planning Board
Montgomery County Planning Board
8787 Georgia Avenue
Silver Spring, MD 20910

RE: 2020-2024 County Growth Policy Public Hearing Draft

Dear Chairman Anderson & Members of the Planning Board:

We write to share with you the Town of Chevy Chase's comments on the Public Hearing Draft of the 2020-2024 Subdivision Staging Policy, now known as the County Growth Policy.

Infrastructure that supports growth relies on periodic improvements and requires careful study to assess its adequacy to support new development. The Public Hearing Draft proposes significant changes to the tools used to assess the adequacy of that infrastructure and to fund it. Whatever methodology the Planning Board ultimately recommends in the County Growth Policy, it must be robust enough to exert pressure on the County and other key participants to make the necessary investments.

I. School Impact and Recordation Taxes

As an initial matter, we request information about how the proposed changes will affect revenues collected. How will the revenues under the new systems compare to what currently exists, and what is the anticipated net effect on funding for projected infrastructure needs? A comprehensive evaluation of the financial impact of the changes to school impact taxes and recordation taxes is necessary and should be made publicly available prior to further consideration of those changes.

II. Residential Development Moratoria

We want to ensure that school capacity is adequate. The automatic residential development moratoria have been the mechanism used to advance school infrastructure improvements and correct overcrowding. The County Growth Policy proposes to terminate the automatic moratoria, with a few exceptions. We recognize that there have been problems with how

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moratoria worked in some circumstances, but if they are to be eliminated, they must be replaced with effective mechanisms to ensure adequate school infrastructure. If the Planning Board recommends terminating the moratoria, then it needs to propose a new and effective tool upon which Montgomery County can rely when school infrastructure is stressed beyond its limits.

It is not clear how the proposed replacement (Planning Board review and the utilization premium payment) will ensure that school overcrowding is rectified in a timely manner. This proposed policy would allow the Planning Board to approve new residential development even when schools are severely overcrowded, without a plan in place to address that overcrowding.

In addition, the proposal to cease monitoring the ongoing impacts of new residential development on schools during a fiscal year may exacerbate the problem. We are skeptical that a blanket "red light" or "green light" policy for all development for a year complies with the mandate of Chapter 50's Adequate Public Facilities Ordinance.

III. Transportation: Traffic Still Matters

With respect to transportation, the County Growth Policy should continue to monitor and gauge traffic in all policy areas. Traffic impacts everyone, and we believe that motor vehicle traffic assessment still matters. Traffic congestion in highly urbanized areas, such as the "red" policy areas, can impose significant externalities on surrounding communities in the form of increased cut-through traffic, less safe conditions for pedestrians and cyclists (particularly in areas undergoing heavy construction such as the Wisconsin Avenue corridor), and increased mass transit time for area residents and workers who use bus mass transit.

In addition to assessing vehicular traffic, we support evaluating transportation adequacy from a multi-modal standpoint through the addition of the System Safety Adequacy, Pedestrian Safety Adequacy, Bicycle System Adequacy, and Transit System Adequacy tests to the Local Area Transportation Review (LATR). Pedestrian and bicyclist safety are important to us. We support Vision Zero, and we support incorporating its goals into the transportation adequacy analysis. In fact, that is part of why we strongly support funding in the Capital Improvements Program budget for the Capital Crescent Trail Tunnel under Wisconsin Avenue.

As we consider the impact of development over the next four years, we appreciate the opportunity to share our comments in advance of the Planning Board's June 11, 2020 hearing on the Public Hearing Draft of the 2020-2024 Subdivision Staging Policy.

Sincerely,

Cecily E. Baskir

Cecily Baskir
Mayor

From:	Barr, Stuart R.
To:	MCP-Chair
Cc:	Wright, Gwen; Kronenberg, Robert; Stern, Tanya; Sartori, Jason; Graye, Eric
Subject:	Lerch Early & Brewer - Comments on Draft 2020 Growth Policy (SSP)
Date:	Wednesday, June 10, 2020 12:53:38 PM
Attachments:	LU Group Comments to Planning Board on 2020 SSP - Final June 10 2020(3696558.5).pdf

Please see the attached comments from our Land Use Group on the May 28, 2020 Public Hearing Draft of the 2020 County Growth Policy (Subdivision Staging Policy). Thank you very much.

Stuart R. Barr, Attorney
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Lerch Early COVID-19 Resource Center

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June 10, 2020

By Electronic Mail
MCP-Chair@mncppc-mc.org

Casey Anderson, Chair
and Members of the Montgomery County Planning Board
Maryland-National Capital Park and Planning Commission
8787 Georgia Avenue
Silver Spring, Maryland 20910

RE: Comments on May 28, 2020 Public Hearing Draft of 2020-2024 County Growth Policy (a/k/a Subdivision Staging Policy)

Dear Chair Anderson and Members of the Planning Board:

This letter is submitted on behalf of Lerch, Early & Brewer's land use practice group regarding the recommendations contained in the May 28, 2020 Public Hearing Draft of the 2020-2024 County Growth Policy. Our firm represents a significant number of property owners, home builders, hospitals, biotech companies, private schools, senior housing providers, and many other businesses and clients in the County who stand to be impacted by the current recommendations and the ultimate final version of the document. Because of the significance of the Growth Policy, we provide comments below on each one of the schools, transportation, and tax recommendations from the Public Hearing Draft. We want to thank the Functional Planning Staff for its availability over the last several months to provide updates on the proposed ideas and recommendations and to answer various questions.

Preliminarily, we want to recognize the time, hard work, and thought that went into the Public Hearing Draft. It contains some very good themes – notably, curtailing the imposition of automatic moratoria, recognizing the impact from turnover of existing housing, and updating the impact tax structure in a more equitable manner. At the same time, similar to other broad-scale policy documents, it leaves some important details to be determined later, particularly with respect to Vision Zero principles. It also contains some ideas that we do not support, such as the proposed cap on the validity period extensions for determination of adequate public facilities. As discussed in our comments, we believe that many ideas from the Public Hearing Draft should be adopted while others should be modified or eliminated to advance the County's economic growth, housing objectives, and overall competitiveness more effectively.

Some of our individual attorneys will participate further in the public hearing process on behalf of specific clients or projects or with respect to specific items contained in the Public Hearing Draft. But on behalf of our entire practice group, we offer these comments which are organized according to the Index of Recommendations found on page 91 of the Public Hearing Draft.

Schools Recommendations: School Impact Areas

4.1 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.

Comments: We understand the School Impact Area classifications and the logic and data behind their creation. While we do not have concerns with the classifications in principle, we have concerns with the recommendations within the Greenfield Impact Areas (*see* further comments under Recommendation 4.8). Our understanding is that the Planning Department is working on either a detailed map reflecting impact area boundaries or some other easy mechanism for determining the applicable impact area for each property.

Schools Recommendations: Annual School Test and Utilization Report

4.2 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.

Comments: We support this recommendation.

4.3 The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle and high school, for the purposes of determining school utilization adequacy.

Comments: We support eliminating the cluster test.

4.4 The Annual School Test will evaluate projected school utilization three years in the future using the following school utilization adequacy standards:

- *Elementary School Adequacy Standard: Seat Deficit < 110 seats or Percent Utilization ≤ 120%*
- *Middle School Adequacy Standard: Seat Deficit < 180 seats or Percent Utilization ≤ 120%*
- *High School Adequacy Standard: Percent Utilization ≤ 120%*

Comments: We oppose the recommended change from the five year timeframe to the three year timeframe. The five year timeframe is more consistent with the County CIP process (six years) and more reliably reflects when students from new development will actually enroll. The proposed school utilization adequacy standards appear to be consistent with the current Subdivision Staging Policy.

4.5 The Annual School Test will establish each school service area's adequacy status for the entirety of the applicable fiscal year.

Comments: We support this recommendation.

4.6 The Annual School Test will include a Utilization Report that will provide a countywide analysis of utilization at each school level.

Comments: We support this recommendation.

4.7 The Utilization Report will also provide additional utilization and facility condition information for each school, as available.

Comments: We do not oppose providing additional information for each school. We also do not oppose, in principle, the observation that "The information would also facilitate discussions between developers and MCPS about potential ways the developers can make improvements to school facility conditions (roof replacements, HVAC system upgrades, etc.)" provided that the costs of any such improvements can be credited against applicable school impact taxes (consistent with Recommendation 6.3).

Schools Recommendations: Residential Development Moratorium

4.8 Automatic 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.

Comments: We support the recommendation to eliminate the automatic moratoria within the Turnover and Infill Impact Areas for the reasons outlined in the Public Hearing Draft (pages 43-45). But for those same reasons, we support elimination of the automatic moratoria in the Greenfield Impact Area as well (*i.e.*, moratoria should be eliminated across the entire County consistent with many other jurisdictions as set forth in Appendix I). The Clarksburg area is important for meeting the County's housing goals, and the single-family housing market is important particularly in the face of the existing pandemic.

In lieu of an automatic moratorium in the Greenfield Impact Area, Recommendation 4.12 could be applied which would give the Planning Board discretion to deny a project based on particular school infrastructure data. While we do not favor a discretionary process as proposed in Recommendation 4.12 (*see* our comments below under that recommendation), the flexibility it offers would be preferable to an automatic moratorium, which is the worst case option. The most preferable alternative, however, would be to allow development to move forward within the Greenfield Impact Area without an automatic moratorium and without Planning Board discretion to deny a project based on particular school data, but with payment of the Utilization Premium Payment, as described in Recommendation 4.16. We support making the entire County consistent in that regard.

We ask the Planning Board to include flexibility with respect to the provisions for Greenfield Impact Areas, in particular Clarksburg. The vast majority of planned development in Clarksburg has already been approved. There are, however, two pending residential projects, filed under the current Subdivision Staging Policy rules and the school capacity calculations confirmed last November. Both projects would have satisfied the school capacity test when they were filed. The revised calculations for 2022, combined with the new proposed Growth Policy standards for a three-year test rather than a five-year test, however, would prevent these two projects from obtaining approval for an undetermined period of time. This result is particularly troubling because the boundary adjustment approved last year for Clarksburg High School was intended to address the capacity issues. (There is ample elementary and middle school capacity for both projects). There should be some relief either in the form of grandfather provisions or otherwise to enable these two pending projects to be approved. Their impact on high school capacity will be minimal and spread over a period of years, by which time other projects such as the Damascus expansion will address any concerns.

4.9 Exceptions to moratoria will include commercial development projects, residential projects estimated to generate fewer than one full student at any school in moratorium, and projects where the residential component consists entirely of senior living units.

Comments: We support the recommended exceptions. The *de minimus* exception should be clear in being interpreted as net additional units. For example, a project that proposes to remove one unit and build three new units should be considered two units (net additional units) for purposes of calculating the school impact and meeting the *de minimus* exception.

4.10 Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.

Comments: We oppose this recommendation. If any portions of the County are subject to potential moratoria then this exception should remain.

Schools Recommendations: Student Generation Rate Calculation

4.11 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.

Comments: We support this recommendation.

Schools Recommendations: Development Application Review

4.12 The County Growth Policy should explicitly allow the Planning Board to deny a residential development project in Turnover Impact Areas and Infill Impact Areas if it deems there is inadequate public school infrastructure, after consideration of the applicable data and circumstances.

Comments: We oppose this recommendation. To avoid any confusion, the summary of this recommendation should be clarified to reflect that Planning Board discretion would apply only if the Annual School Test determines that a school exceeds the adequacy standards. The

Planning Board would not have discretion to deny a project if schools meet the adequacy standards. Having said that, we are very concerned with this proposal because it potentially could lead to subjective determinations and arbitrary results. At the same time, this recommendation is preferable to an automatic moratorium in the Turnover and Infill Impact Areas. But we also believe that this recommendation is unnecessary and unwarranted in light of Recommendation 4.16 -- payment of the Utilization Premium Payments in Turnover and Infill Impact Areas. Additional payments would help address the capacity problem and are a known and fixed amount that provides certainty to an applicant. Planning Board discretion to deny a project, on the other hand, does not provide the certainty that is critical to the development industry and subjects the Board to case-by-case determinations, potentially inconsistent results, and legal challenges. The Planning Board conclusively determined that moratoria should be eliminated. Preserving this discretion directly contradicts this policy decision now and in the future.

4.13 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.

Comments: We oppose this recommendation. Extension requests are intended to preserve the original approval for the time period necessary to implement the project, and are not intended to subject the approval to a new Adequate Public Facilities test that could jeopardize the very project that is to be extended. Projected student generation from an approved project already is factored into background school capacity calculations and should not be difficult to monitor. If the Board feels differently, this additional testing requirement should be discretionary, as is the Board's current ability to request additional traffic information for an extension.

4.14 Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to cap the Adequate Public Facilities validity period for development to no more than 22 years, at which point the applicant can no longer request an extension of the approval and must restart the plan application process.

Comments: We adamantly oppose this recommendation, and if it is adopted, it will have serious impacts on important County projects. The County should not adopt this recommendation for a variety of reasons.

First, this appears to be a solution in search of a problem. The reason cited for this recommendation is that "Lengthy extensions can complicate long-term planning and school enrollment projection efforts" (Public Hearing Draft, page 53). Respectfully, we do not consider this to be a serious challenge. The Public Hearing Draft makes clear that new projects account for a very small portion of school enrollment growth. Approved projects become part of the background conditions for analysis of future development and can be monitored easily. Enrollment projection efforts only apply to residential projects. Although this recommendation falls under the schools recommendations, it would apply to all projects -- nonresidential projects and residential projects -- as currently proposed. Further, under the current development review process, we do not believe that long term projects create problematic "queueing" scenarios that prevent other projects. Whatever modest planning benefit might be achieved by imposing an automatic termination after 22 years does not outweigh the cost to the County and the significant cost to the potential projects which may need extensions for a variety of legitimate reasons.

Second, there are many valid reasons why projects require a lengthy validity period and multiple extensions. These include market conditions, changing industries or facility needs, ownership changes, financial challenges, internal business decisions, and changes of direction with respect to design and operational needs. Implementation of development should be deliberate, logical, and responsive to new demands in a constantly changing world. This takes time.

Third, the types of projects that require lengthy validity periods are often complex, large-scale, multi-phased, long-term projects that meet many County strategic policy objectives and significantly benefit the County economically. These are just the types of opportunities the County should be seeking and preserving. The County should not automatically prevent implementation of these important projects and deprive itself of the existing flexibility to make case-by-case determinations. Flexibility is necessary to compete with neighboring jurisdictions to attract and/or retain major businesses or developments.

Fourth, many projects provide public benefits in the form of infrastructure improvements or financial contributions well in advance of realizing full build out. It would be grossly inequitable not to allow projects to proceed after providing costly facilities required by the regulatory approvals. There is a vested contractual interest that must be respected.

Finally, projects seek entitlements and proceed in good faith based on an existing set of rules and expectations. This recommendation will detrimentally impact many projects, and it attempts to change an expectation on which projects have relied. If this recommendation is not rejected outright, then as an alternative it should only apply to completely <u>new</u> development approvals with original validity periods that commence after January 1, 2021, the effective date of the 2020 Growth Policy. All legacy development projects that received approval prior to January 1, 2021, regardless of their extension status, should be grandfathered and should be allowed to request amendments and extensions and without a statutory Adequate Public Facilities cap.

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

<u>Comments</u>: We support this recommendation.

4.16 Require applicants to pay Utilization Premium Payments in Turnover and Infill Impact Areas when a school's projected utilization three years in the future exceeds established adequacy standards.

Comments: This recommendation appears to be a return to something along the lines of the "School Facilities Payment" that was eliminated in 2016. As we stated in our comments on Recommendation 4.12, if this recommendation is adopted, and a project is subject to additional Utilization Premium Payments, then the Planning Board should not have the discretion to deny the project on school capacity grounds. We also question whether the three year time period for evaluating school capacity is the appropriate trigger (*see* comments on Recommendation 4.4). Finally, the recommendation is that the amount of Utilization Premium Payments, if applicable, will be established at the time of approval, but will be paid at building permit. At the time of building permit, if a school's projected utilization three years in the future no longer exceeds adequacy standards, then the Utilization Premium Payments should no longer be applicable.

Transportation Recommendations: Vision Zero

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.

Comments: When there are conflicts between multiple plans, the most recently adopted plan should supersede any prior plans. However, when a project has relied on a prior plan in the entitlement process before the adoption of a new plan, reasonable grandfathering provisions should apply.

5.2 Prioritize mitigation strategies designed to improve travel safety.

Comments: No one opposes safety. But the cost of trying to achieve maximum safety must be balanced with the County's underlying economic development objectives. The County Department of Transportation should actively participate in the safety evaluation and mitigation strategies. To the extent that safety measures slow or otherwise impair vehicle movements, then vehicular adequacy and delay standards must be adjusted accordingly.

5.3 Given the additional focus on Vision Zero principles in the development review process, add a specific 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.

Comments: The Vision Zero representative should be a DOT official who is familiar with the overall development review process and the inherent need to balance multiple objectives.

5.4 Introduce a Vision Zero Impact Statement for all LATR studies pertaining to subdivisions that will generate 50 or more peak-hour person trips.

Comments: It is difficult to comment on this recommendation without new LATR Guidelines and further information as to the required scope of these statements and how these statements must be prepared. All information necessary to prepare Vision Zero Impact Statements, such as accident investigation data, must be available and easily obtainable. Any proposed safety improvements resulting from a Vision Zero Impact Statement must meet a basic nexus and proportionality test. Any financial contributions collected based on the Vision Zero Impact Statement should be spent on Vision Zero improvements (as opposed to going into a general fund), and total funds collected across multiple nearby projects should not exceed the total cost of Vision Zero improvements that would serve those projects.

5.5 For LATR studies of new development generating 50 or more peak-hour weekday person trips, couple current multi-modal transportation adequacy tests with options that can be implemented over time utilizing Vision Zero-related tools and resources currently available and under development.

Comments: We oppose lowering the requirement for pedestrian, bicycle and transit system adequacy tests if the given mode generates at least five peak-hour trips by that mode (Public Hearing Draft, pages 64-66). This threshold is too onerous and would capture small projects that do not justify this level of testing. This testing is expensive and time consuming and would not be competitive with other local jurisdictions. Additionally, any potential improvements that are imposed cannot be disproportionate to the size of the project.

Transportation Recommendations: LATR in Metrorail Station Policy Areas

5.6 Eliminate the LATR study requirement for motor vehicle adequacy in Metrorail Station Policy Areas (MSPAs).

Comments: We support this recommendation. It is in line with policies articulated throughout the Public Hearing Draft.

Transportation Recommendations: Intersection Delay

5.7 Increase the intersection delay standard to 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.

Comments: We support this recommendation.

Transportation Recommendations: Purple Line Station Policy Areas

5.8 As depicted in the map below, place the three Purple Line Station policy areas in a new dark red policy area category. Conceptually, this change will reflect a "hybrid" between the red and orange policy area categorization. Commensurate with this new categorization, the congestion standard for signalized intersections and transportation impact tax rates in the Purple Line Station policy areas will change as described in Table 17 and Table 18, respectively.

Comments: The Purple Line Station policy areas should be categorized in the Red policy area. This categorization is what would have occurred in 2016 if the Purple Line was fully funded for construction. Alternatively, if Recommendation 5.7 is adopted, which increases certain intersection delay standards in Orange policy areas to 100 seconds/vehicle, then a better "hybrid" between Orange (100 seconds/vehicle) and Red (120 seconds/vehicle) would be 110 seconds/vehicle, as opposed to the 100 seconds/vehicle recommended (Public Hearing Draft, page 71).

Transportation Recommendations: Mobility Assessment Report

5.9 Continue producing the Mobility Assessment Report (MAR) on a biennial schedule as a key travel monitoring element of the County Growth Policy.

Comments: We support this recommendation.

Transportation Recommendations: Auto and Transit Accessibility

5.10 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.

Transportation Recommendations: Auto and Transit Travel Times

5.11 The proposed metric for auto and transit travel times is average time per trip, considering all trip purposes.

Transportation Recommendations: Vehicles Miles Traveled (VMT) per Capita

5.12 The proposed metric for vehicle miles traveled per capita (See Figure 30) is daily miles traveled per "service population", where "service population" is the sum of population and total employment for a particular TAZ.

Transportation Recommendations: Non-Auto Driver Mode Share (NADMS)

5.13 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.

Comments: We do not have enough information to take a position on Recommendations 5.10 – 5.13.

Transportation Recommendations: Bicycle Accessibility

5.14 The proposed metric for bicycle accessibility is the Countywide Connectivity metric documented in the 2018 Montgomery County Bicycle Master Plan (page 200).

Comments: We need additional time to assess how this metric will impact development projects.

Tax Recommendations

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

Comments: We support this recommendation.

6.2 Calculate standard school impact taxes at 100% of the cost of a student seat using School Impact Area student generation rates. Apply discount factors to incentivize growth in certain activity centers. Maintain the current 120% factor within the Agricultural Reserve Zone, except for projects with a net increase of only one housing unit, in which case a 60% factor would be applied.

Comments: As a general policy, development impact taxes should be lowered as much as possible to increase the County's economic competitiveness. Our understanding is that the Planning Department is preparing a detailed map or some other easy mechanism for determining whether a property is located within an Activity Center.

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

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

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

Comments: We support this recommendation.

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

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

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

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

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

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

Regarding the other current impact tax exemptions, we support maintaining all current exemptions. Additionally, we support exemption for Opportunity Zone properties within Central Business Districts. Finally, for dwelling units for seniors age 55 and above, we support converting the classification from "rate set at $0" to "exempt."

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

1. *not apply the exemption to school impact taxes in the Greenfield Impact Areas,*
2. *require the affordable units be placed in the county's MPDU program, and*
3. *require the project to include two times the standard share of MPDUs applicable to the project location.*

Comments: We oppose this recommendation. This proposal will effectively restrict the use of the exemption to HOC and other affordable housing providers only. A number of private developers have begun proposing 25% affordable housing, seeking to utilize the exemption. Now that the existing provision is finally achieving some success with the private sector, the recommendation proposes to cripple the program in a way to effectively eliminate it for most developers. This seems to be the worst possible time to make these changes.

The current exemption supports providing more housing generally, and with it more affordable units as MPDUs. As has been argued for many years, the best way to achieve more MPDUs is to provide more housing generally, which then increases the number of MPDUs required. When the MPDU requirement is the standard 12.5%, doubling it to 25% is no change from current law, and therefore not really needed. In the 15% MPDU areas, needing to reach 30% is excessive. In those areas, most projects will simply comply with the required 15%, thus losing the additional 10% that could be encouraged by the current law. The amount lost is not the 5% difference between 25% and 30%, but the 10% between 15% and 25%.

The benefit of gaining the additional housing overall as well as the added 10% MPDUs over the base 15% to achieve 25%, seems worthwhile, particularly in those areas where the 15% minimum applies. However, if the economics do not work at 30% MPDUs, but would work at 25%, then this recommended change would lose that additional 10%. In some parts of the County with the 15% MPDU minimum requirement, the impact tax exemption is already significantly less valuable than in other locations, and thus unlikely to be used. In some areas, the economic value of the exemption is already negative at the 25% affordable housing rate, let alone the 30% that would now be required.

Use of the exemption has already been factored into the economics of projects. If changes are made, then a grandfather provision should be added to protect those projects that are in progress, relying on the exemption as it is today, so there is no confusion about its continued use. If site plan approval after January 1, 2021 remains the trigger, there should be clarity that subsequent amendments do not change the protection received by the previously-approved site plan.

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

Comments: We support this recommendation.

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

Comments: Recordation Taxes should be as low as possible to make the County competitive when it comes to tax policy.

As a final general comment, and as emphasized several times in this letter, comprehensive grandfathering provisions are necessary. Protection should be provided for all projects that have filed, are in process, or have approvals that may require amendments later. Specifically regarding impact taxes and exemptions, we support Staff's recommendation in Appendix N (Page 121) related to the Transition from the existing Subdivision Staging Policy to the updated Growth Policy. This Transition language is important because projects with site plan approval have relied on current exemptions in their planning process. We propose that language be added to clarify that projects with site plan approval under the existing Subdivision Staging Policy provisions can propose a site plan amendment after the effective date of January 1, 2021 and still claim any exemptions under the existing Subdivision Staging Policy. This clarification would allow amendments to existing site plans approved under the existing Subdivision Staging Policy so that necessary changes can be made to plans without triggering unplanned costs or unnecessary expirations, all of which could prevent a project from moving forward. We thus propose the following:

> "Sec. 2. Transition. The amendments made in Section 1 must apply to any development that receives <u>original</u> site plan approval from the Planning Board after this Act takes effect."

* * *

We appreciate all of your efforts to solicit comments from various stakeholders and we thank the Board for its consideration of this input. We look forward to participating in the hearing on Thursday, June 11, 2020, and in the following worksessions. After you have had a chance to review our comments, we would welcome the opportunity to continue the discussion if you have any questions. Thank you very much.

Very truly yours,

LERCH, EARLY & BREWER, CHTD.
LAND USE PRACTICE

Stuart R. Barr

Christopher Ruhlen, Chair
Robert G. Brewer Jr.
Patricia A. Harris
Robert R. Harris
William Kominers
Patrick L. O'Neil
Susan M. Reutershan
Steven A. Robins
Elizabeth C. Rogers
Stacy P. Silber
Laura M. Tallerico

cc: Gwen Wright
Robert Kronenberg
Tanya Stern
Jason Sartori
Eric Graye

From:	Katya Marin
To:	MCP-Chair
Subject:	Re: MCCPTA comments on 2020 County Growth Policy-public hearing draft
Date:	Wednesday, June 10, 2020 12:55:28 PM
Attachments:	MCCPTA Comments 2020 Growth Policy 2020-06-11 FINAL.pdf

Could you possibly include this version instead? We added a page for reference.

Much appreciated if possible.

On Wed, Jun 10, 2020 at 12:13 PM MCP-Chair <mcp-chair@mncppc-mc.org> wrote:

> Good afternoon Ms. Marin,
>
> I am confirming receipt of your comments for distribution to the Planning Board and staff to review. I would also like to confirm if you are interested in testifying during tomorrow's Planning Board meeting? If so, could you please provide the following information so I may add your name to the speakers list:
>
> -Mailing address
>
> -Phone number you will use to call into the meeting
>
> -Speaker type (i.e. individual, community association representative, other group representative)
>
> Thank you!
>
> **Catherine Coello, *Administrative Assistant***
>
> The Maryland-National Park and Planning Commission
>
> Montgomery County Chair's Office
>
> 8787 Georgia Ave, Silver Spring, MD 20910
>
> Main: 301-495-4605 | Direct: 301-495-4608 | Fax: 301-495-1320
>
> www.MontgomeryPlanningBoard.org
>
> **From:** Katya Marin <katya.a.marin@gmail.com>
> **Sent:** Wednesday, June 10, 2020 11:41 AM

To: MCP-Chair <mcp-chair@mncppc-mc.org>
Cc: Sartori, Jason <Jason.Sartori@montgomeryplanning.org>; Friedson's Office, Councilmember <councilmember.friedson@montgomerycountymd.gov>; Meredith Wellington <Meredith.Wellington@montgomerycountymd.gov>
Subject: MCCPTA comments on 2020 County Growth Policy-public hearing draft

Chair Anderson, please accept the attached comments on the public hearing draft of the 2020 Growth Policy. We look forward to ongoing discussions in the coming months.

All best,

Katya Marin

MCCPTA SSP Chair

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Katya Marin
301.648.3237

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Katya Marin
301.648.3237

The Montgomery County Council of Parent-Teacher Associations
P.O. Box 10754, 500 N. Washington St., Rockville, MD 20849
301-208-0111 • office@mccpta.org • www.mccpta.org

everychild. onevoice.®

To: Mr. Casey Anderson, Chair and Members of the Planning Board

Re: 2020-2024 County Growth Policy – Public hearing Draft

June 11, 2020

Via email

Dear Chair Anderson and Commissioners,

Please accept the Montgomery County Council of PTA's June 11 testimony with attached comments on the 2020 Growth Policy:

I'm Katya Marin and I'm here on behalf of the MCCPTA. I'm submitting point by point comments, including support for many staff recommendations. In the interest of time now, I will make some general comments and highlight our key concerns.

I want to thank Planning Staff for their extraordinary work, particularly Jason Sartori and Lisa Govoni. This has been a truly transparent and inclusive process. Jason brought creativity and determination to breathe some life into the SSP. The overarching themes are fitting. In Montgomery County, one size does NOT fit all. A shift from limiting growth to ensuring infrastructure is not only welcome but overdue, since adequate infrastructure is the stated purpose of the SSP. Whether the 2020 growth policy will accomplish that will be determined over the coming months.

As you review Staff's recommendations, we ask that you bear in mind that the purpose of the subdivision regulations and this policy in particular—and your charge as the Planning Board—which is to make sure that we meet the needs of our residents as our county grows. New recommendations in the draft policy aim to steer development to specific areas. While commendable, housing and zoning objectives should be addressed in master plans, zoning code and the general plan, and *not* in the SSP. *This* document serves as the guidelines to accommodate that growth and ensure that our residents – present and future – have the facilities and support that they can and should expect *along with* their housing. Instead the draft currently prioritizes housing goals at the expense of schools.

As was highly anticipated, the new Growth Policy would eliminate automatic housing moratoria in most of the county. Moratoria are counterproductive in a number of ways, but they are not the problem, they are a symptom. A moratorium is triggered only in the worst of circumstances and only when no solution is in sight. In some cases, a moratorium actually works to expedite a solution. For this reason, many people agree that we still need an "emergency button," a reassurance that things won't go beyond a certain point. We don't have that here. So moratoria go away and premium payments don't even kick in until our schools reach 120%. Does this signal our surrender to gross overcrowding in our schools?

Other recommendations amplify this problem. This policy allows the Planning Board to approve new development when we know that our schools are well beyond capacity. It also proposes that we abandon efforts to track the cumulative impact of approved development. Recommendation 4.5 proposes a red-light / green-light approach for all development in a given year, without regard for remaining capacity, and essentially eliminates the Planning board's responsibility to meet APFO requirements.

Tax recommendations support housing in certain locations at the expense of our schools. Impact taxes are intended to cover the cost of the direct impact of new development, and we go to great lengths to calculate that impact. Impact taxes take into account the type of unit and its location, with already-low rates in activity zones. The discounts are overly complicated and defeat the purpose. As a result, we not only fail to test for adequacy, but we exacerbate the problem by giving up the money we need to meet new demand. We support a reduction of the standard impact tax rate **if and only if** impact taxes are applied consistently and in full across the county, **and** Utilization Premium Payments are imposed starting at 105%. This is simple and fair, and it recognizes that 120% is not acceptable; it's a crisis.

The Planning Board, in the SSP "must provide analyses of current growth and the amount of additional growth that can be accommodated by public facilities and services" and use the guidelines to manage growth and development "in a manner that best enhances the general health, welfare, and safety of the residents of the County." Here, the draft falls short. The result is increased overcrowding in schools, adversely impacting the health, safety, and welfare of our children and families, current and future.

Lastly, I want to highlight a very important sentence in this report that is not reflected in the policy recommendations. The Urban Land Institute Advisory Services Panel "**recommended seeking additional opportunities for systemic alignment in educational facilities planning and area master planning, to the greatest extent possible.**" There is currently no meaningful alignment or coordination between the Planning Board and MCPS, and this policy should especially strive to address that.

For reference:

The intent of [Chapter 50] is to is facilitate harmonious development and promote the health, safety, and welfare of the present and future inhabitants of the Maryland-Washington Regional District within Montgomery County under the General Plan. In particular, ***this Chapter provides a means to coordinate new facilities with other existing and planned facilities and make a determination of adequate public facilities****, land for public use, and the protection of natural resources and sensitive environmental features.*

Sincerely,

Katya Marin
MCCPTA SSP Chair

cc: Jason Sartori, Functional Planning and Policy Chief
Andrew Friedson, Councilmember D1
Meredith Wellington, Office of the County Executive

<u>Chapter 33A Planning policies for reference:</u>

Sec. 33A-15. Subdivision Staging Policy.

(a) Purpose; Policy.

(1) The purpose of this Article is to establish a process by which the County Council can give policy guidance to agencies of government and the public on matters concerning:

(A) land use development;

(B) growth management; and

(C) related environmental, economic, and social issues.

(2) The policy guidance will be provided through the adoption by the County Council of a subdivision staging policy, **which is intended to be an instrument that facilities and coordinates the use of the powers of government to limit or encourage growth and development in a manner that best enhances the general health, welfare, and safety of the residents of the County.**

(3) The County Council must adopt a subdivision staging policy every 4 years. The policy must include guidelines for the Planning Board, and other agencies as appropriate, for their administration of Section 50-35(k) and other laws and regulations which affect the adequacy and timing of public facilities needed to support growth and development. This policy is the growth policy referred to in Article 28 of the Maryland Code and in Section 50-35(k) and elsewhere in the County Code.

<u>Chapter 50. Subdivision of Land.</u>

Section 1.1. Purpose of Chapter 50

This Chapter provides for the legal division and subsequent transfer of land. The intent of this Chapter is to **facilitate harmonious development and promote the health, safety, and welfare of the present and future inhabitants** of the Maryland-Washington Regional District within Montgomery County under the General Plan. In particular, this Chapter provides a means to **coordinate new facilities with other existing and planned facilities and make a determination of adequate public facilities, land for public use, and the protection of natural resources and sensitive environmental features**. (Mont. Co. Code 1965, §104-2; Ord. No. 11-53, §1; Ord. No. 11-63, §1; Ord. No. 12-16, §1; Ord. No. 12-19, §1; Ord. No. 18-19, §2.)

<u>Division 50.10</u>

Section 10.3. Establishment of Adequate Public Facilities Guidelines

A. The Council must establish by resolution, after public hearing, **the process to determine the adequacy of public facilities and services. A subdivision staging policy approved by the Council may serve this purpose if it contains those guidelines.** To provide the basis for the Council resolution, the Board and the County Executive must provide the following information and recommendations to the Council:

1. the Board must **provide analyses of current growth and the amount of additional growth that can be accommodated by public facilities and services**. The Board must also provide recommendations of any changes in preliminary plan approval criteria it deems appropriate

MCCPTA Comments on 2020-2024 County Growth Policy Recommendations
Submitted to the Planning Board June 11, 2020

- *3.1: Change the name of the Subdivision Staging Policy to the County Growth Policy.*

  MCCPTA agrees that this name change will make the policy more accessible to stakeholders, and we support the change. However, the purpose of this document, per Chapter 50, is to ensure adequate infrastructure. Housing and growth priorities are addressed elsewhere in Montgomery County policies and zoning. This is our Adequate Public Facilities Ordinance, and its job is to guide the Planning Board in making sure that infrastructure like school, transportation, water and sewer. emergency services, and recreational space can support our growing population.

- *4.1: 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.*

  We commend the effort to classify our diverse county in School Impact Areas. One size does *not* fit all in Montgomery County.

  1) Please define objective criteria for how these areas are designated.

  2) There should be a fourth hybrid category encompassing turnover *and* infill, since many of our overutilized schools are in neighborhoods with both turnover and development impacts. These areas behave differently from the other three and have unique challenges and needs.

  3) This policy doesn't go far in enough in analyzing or addressing the school infrastructure challenges specific to each School Impact Area. It uses the designations primarily to discount impact taxes, and does so in the areas that are most expensive and most constrained. One can argue that lower transportation impact taxes make sense in an area served by public transportation, but meeting the demands on our schools only gets more and more difficult in these densifying areas.

- *4.2: 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 impact of development applications and master plans.*

  We welcome published School Test Guidelines, particularly as they relate to overcrowded schools in the absence of moratoria or any other mandated action where school capacity is inadequate. MCCPTA would like to participate in establishing these guidelines. Nothing in this policy explains how the Planning Board is expected to interpret or act on the proposed Utilization Reports, and more structure is necessary to make this an effective APFO.

4.3: The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle and high school, for the purposes of determining school utilization adequacy.

We have concerns that badly overutilized clusters might be overlooked without a cluster test for elementary and middle schools, however a well-designed Utilization Report can and should capture this information.

4.4: The Annual School Test will evaluate projected school utilization three years in the future using current utilization adequacy standards.

MCCPTA supports this change. MCPS's five-year forecast is notoriously bad. MCPS families and other Montgomery County community members have complained about forecasting accuracy and transparency for decades. MCPS's recent efforts to update their forecasting methodology showed no improvement on either front. For a number of reasons, the three-year forecast is an improvement.

1. MCPS forecasting is more accurate in the near years. It's not good, but it's better. MCPS consistently underestimates enrollment in our overutilized schools, with increasingly unreliable numbers in the out years (and specifically the currently used test year). Testing at three years instead of five will mean testing against more reliable forecasts.
2. The shorter period allows for much more insight and accuracy with regards to pipeline development. MCPS can incorporate what is permitted and under way, or about to commence, without having to speculate about the likelihood (or percent) of expected completion of residential projects and subsequent enrollment increases.
3. Programmed school capacity projects in the first three years the CIP are relatively reliable, and many are in fact in the construction phase at that point. Projects contemplated in the last three years of the CIP are often delayed or even removed. A three-year projection is more accurate on the capacity side as well as the enrollment side.

In short, a three-year test timeframe will greatly improve public confidence in the forecast and the School Test, and we fully endorse evaluating utilization three years in the future instead of five.

4.5: The Annual School Test will establish each school service area's adequacy status for the entirety of the applicable fiscal year.

MCCPTA adamantly opposes this change. The Planning Board and County Council are aware that the intention 2007 implementation of the staging ceiling was to measure the available capacity of schools on an annual basis, and to measure the cumulative impact of approved development against available capacity. The Planning Board failed to implement the test in this way, and later refused to correct the application of this policy, deeming it onerous, and unfair to applicants (since approvals may or may not result in imminent permitting).

This recommendation goes too far in the other direction, and is out of compliance with Montgomery County Subdivision Regulation 4.3.J.2, "The Board may only approve a preliminary plan when it finds that public facilities will be adequate to support and service the subdivision," and also 10.3.A.1, "the Board must provide analyses of current growth ***and the amount of additional growth that can be accommodated*** by public facilities and services" (emphasis added). It is unambiguous that the amount of additional growth – the *cumulative* impact of that additional growth – is supposed to be evaluated against existing and planned facilities.

Especially since automatic moratoria will not, in most cases, prevent development from proceeding, this is only relevant for purposes of calculating impact taxes and utilization premium payments. Cumulative impact should undoubtedly be tracked for purposes of funding the entirety of the capacity that will be needed.

This "red light, green light" approach flies in the face of any earnest efforts to uphold an APFO.

4.6: The Annual School Test will include a Utilization Report that will provide a countywide *analysis of utilization at each school level.*

MCCPTA supports an annual countywide analysis of utilization at each school level. However, only existing and planned capacity within the three-year test window can be used for evaluating proposed development. Decisions cannot be based on hypothetical solutions contemplated by the Planning Board or County Council. Only actual planned actions are relevant in planning and approving development.

4.7: The Utilization Report will also provide additional utilization and facility condition information for each school, as available.

MCCPTA supports the inclusion of additional facility information in the Utilization Report

4.8: Automatic 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.

We appreciate the effort to designate School Impact Areas, and we support these exceptions where moratoria exist. However the treatments proposed in this Growth Policy don't warrant the complexity involved. More effort should be made to address the problems to infill and Turnover areas as well. The Impact Areas as treated here are designed more to steer development than to address the capacity challenges distinct to each Area, and the expense of that is borne directly by our schools.

It's outrageous that the recommendation to eliminate automatic moratoria in most of the county was not accompanied by any new mechanisms to ensure adequate school infrastructure. The Planning Board *may* deny an application where schools are overutilized, but this policy attempts to abdicate the Board of the responsibility to pace growth with infrastructure. There is no safety measure, even in the most extreme circumstances. Again, we support the Annual School Test Guidelines and they should be more prescriptive.

A policy isn't measured by how it performs in ideal circumstances, it's measure by what happens when things go wrong. We believe there should be a reinstatement of a *some* "forcing factor," even if it is far less stringent. For example, we could impose a one-year moratorium in cases where a school is forecast to reach 150%, or where a school is over capacity (actual enrollment) by 120% for three years in a row without a programmed solution.

This draft Growth Policy enumerates the downside of moratoria, but fails to acknowledge that moratoria almost always result in funding for affected schools in areas of desired growth. This is not an optimal solution, but it is better than a policy with no mechanism whatsoever. This policy solves the “moratoria problem,” but fails to address the underlying problems.

4.9: Exceptions to moratoria will include commercial development projects, residential projects estimated to generate fewer than one full student at any school in moratorium, and projects where the residential component consists entirely of senior living units.

In the event that moratoria apply on in Greenfield Areas, MCCPTA approves of the changes to exceptions to moratoria. Because smaller projects like these have a high likelihood of proceeding, the impacts on any single school must be tracked cumulatively.

It is not clear why “commercial development” is listed here, and we take this to mean entirely non-residential projects. Please advise if this is not the case.

4.10: Eliminate the moratorium exception adopted in 2019 pertaining to projects providing high quantities of deeply affordable housing or projects removing condemned buildings.

MCCPTA does not have a position on this.

4.11: 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.

As indicated in Appendix G, and consistently in historical student generation rates, the student generation rates (SGR) for multifamily low rise are much higher than multifamily high rise. In fact, multifamily low rise SGRs are closer to single-family attached than to multifamily high rise. MCCPTA proposes that for at least the next four years, we calculate SGRs for units since 1990 as proposed (which will result in *significantly lower* SGRs for multifamily units than all-time), but continue to track the four established unit types.

REGIONAL STUDENT GENERATION RATES		ES	MS	HS	K-12
East Region Downcounty Consortium (Montgomery Blair, Albert Einstein, John F. Kennedy, Jr., Northwood and Wheaton clusters) and Northeast Consortium (James H. Blake, Paint Branch and Springbrook clusters)	Single-Family Detached	0.203	0.103	0.144	0.450
	Single-Family Attached	0.219	0.115	0.160	0.494
	Multifamily Low Rise	0.253	0.112	0.148	0.512
	Multifamily High Rise	0.088	0.036	0.047	0.171
Southwest Region Bethesda-Chevy Chase, Winston Churchill, Walter Johnson, Richard Montgomery, Rockville, Walt Whitman and Thomas Wootton clusters	Single-Family Detached	0.186	0.109	0.151	0.446
	Single-Family Attached	0.167	0.085	0.111	0.363
	Multifamily Low Rise	0.150	0.068	0.085	0.303
	Multifamily High Rise	0.041	0.018	0.025	0.084
Upcounty Region Clarksburg, Damascus, Gaithersburg, Magruder, Northwest, Poolesville, Quince Orchard, Seneca Valley, Sherwood and Watkins Mill clusters	Single-Family Detached	0.210	0.120	0.169	0.499
	Single-Family Attached	0.248	0.121	0.157	0.526
	Multifamily Low Rise	0.183	0.077	0.093	0.352
	Multifamily High Rise	0.020	0.008	0.010	0.038

Source: Montgomery Planning

One concern is that rates calculated for buildings since 1990 might be disproportionately thrown off by vacancies. This is not the case when we look at all-time units, but given the smaller sampling, we request an analysis of the potential impact of including vacant units in the denominator. Furthermore, known short term rentals (e.g. Airbnb) should be excluded from the unit count, particularly as they increase in volume.

1) Regarding School Impact Areas versus previously used county regions, MCCPTA would like to see a financial impact analysis of what the impact would have been over (at least) the last five years.
2) We seek clarification of "increased scrutiny" for development applications that fall within school service areas that "require intentional Planning Board review," and how they will be identified. These areas and approved projects exceeding available infrastructure should be brought to the attention of the County Council.
3) "Intentional review" should include community representation since it is impossible for the Planning Board and Council to have firsthand knowledge of all such affected areas.

4.12: The County Growth Policy should explicitly allow the Planning Board to deny a residential development project in Turnover Impact Areas and Infill Impact Areas if it deems there is inadequate public school infrastructure, after consideration of the applicable data and circumstances.

County code already requires the Planning Board to find whether all applicable facilities will be adequate. Eliminating the requirement to deny applications where facilities are not adequate (as this policy proposes) is already inconsistent with an effective APFO, and giving the Planning Board discretion to permit some applications and deny others does very little to improve it. If the Planning Board is authorized and/or expected to deny any applications, it will need a specific and consistent rubric for doing so. Please see notes on *Recommendation 4.8*.

4.13: 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.

MCCPTA enthusiastically supports this recommendation. Circumstances can change dramatically in 5-10 years, in all school impact areas, and retesting all infrastructure should be mandatory.

4.14: Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to cap the Adequate Public Facilities validity period for development to no more than 22 years, at which point the applicant can no longer request an extension of the approval and must restart the plan application process.

MCCPTA supports this recommendation.

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

MCCPTA enthusiastically supports this recommendation. MCPS can provide valuable insight to the Planning Board, and likewise has much to gain by being apprised of development activity, particularly the target market for a project, and anticipated timing.

MCCPTA asks that we be recognized as a Reviewing Agency so that the appropriate Area Vice President can be included on the Development Review Committee. At very least, the MCCPTA Area Vice President should be notified and included where the Annual School Test results are over 105%.

4.16: Require applicants to pay Utilization Premium Payments in Turnover and Infill Impact Areas when a school's projected utilization three years in the future exceeds established adequacy standards.

MCCPTA supports this recommendation. In fact, we support the elimination of moratoria if and only if Utilization Premium Payments are implemented at 105%. There is precedent for this, since School Facility payments were triggered at 105% until 2016. As proposed, the 2020 Growth Policy tolerates school enrollment up to 120% with no ramifications whatsoever. It's not acceptable to allow our schools to reach 120% utilization without intervention.

1) Utilization Premium Payments (UPPs) should be triggered in all school impact areas.
2) UPPs should be triggered at 105% utilization.
3) UPPs should be calculated based directly on the applicable impact tax payment by school level, an additional 25% of the cost per seat, with no cap. If all schools in the service area are constrained, then all schools in the service area need support.

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

MCCPTA proposes we defer this decision until 2024. Per our comments on 4.11, the SGRs for multifamily low rise and multifamily high rise have historically been very different. Whatever the SGRs, the impact taxes will reflect them, and the tax will be appropriate to the unit type.

6.2: Calculate standard school impact taxes at 100% of the cost of a student seat using School Impact Area student generation rates. Apply discount factors to incentivize growth in certain activity centers. Maintain the current 120% factor within the Agricultural Reserve Zone, except for projects with a net increase of only one housing unit, in which case a 60% factor would be applied.

MCCPTA opposes the use of the APFO and discounting of school impact taxes to incentivize growth in certain areas over other in this way. The objective of impact taxes is to recoup to cost of the additional infrastructure necessary to meet increased demand. Yes, impact taxes are been exempted in some cases to incentivize affordable housing, but there are other, better ways to drive development where we want it. Zoning policies and master plans are the appropriate way to drive the housing we want.

Impact taxes in Infill Areas are already adjusted to reflect the SGRs of those units, and they are significantly lower than Turnover and Greenfield Impact Areas. The rate for impact taxes should be 100% the cost of student seat in all School Impact Areas.

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

MCCPTA supports this recommendation and we hope that MCPS will take advantage of the opportunity to take advantage of a potentially effective and economical source of capital improvements.

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

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

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

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

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

- *6.6: Modify the current impact tax exemptions applied to all housing units when a project includes 25% affordable units to:*
  1. *not apply the exemption to school impact taxes in the Greenfield Impact Areas,*
  2. *require the affordable units be placed in the county's MPDU program, and*
  3. *require the project to include two times the standard share of MPDUs applicable to the project location.*

  MCCPTA does not support the complete impact tax exemption on projects providing over 25% MPDUs. However, if that policy is maintained, then we agree that the MPDUs should be placed in the county's MPDU program, and that the project should provide two times the standard applicable rate in that project's location. We think that the exemption should be applied consistently, i.e. including Greenfield Impact Areas.

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

  MCCPTA does not have a position on this.

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

  MCCPTA does not have a position on this.

From:	Wendy Jonas Calhoun
To:	MCP-Chair
Subject:	written testimony for SSP 6-11-2020
Date:	Wednesday, June 10, 2020 4:59:37 PM
Attachments:	Growth-Policy-response-written.pdf

Thank you,
Wendy Calhoun

Wendy Calhoun
Walter Johnson Cluster

6/11/2020
Comments on the Draft 2020-2024 County Growth Policy

I was active and involved in the last update to the SSP in 2016 and want to sincerely thank Jason Sartori and Lisa Govoni for their tireless outreach, their transparency, their time answering questions and discussing countless possibilities. Not to mention putting up with me. The WJ Cluster fully supports the MCCPTA position on each recommendation and will choose to emphasize just a few here now.

While there are certainly many recommendations within the draft Growth Policy to cheer, I will address those later. There is room for improvement, as many recommendations demonstrate that this policy will <u>not</u> allow for adequate infrastructure for our county's public facilities, specifically schools, as required, including:

- allowing the Planning Board to green-light continued and ongoing construction when schools are overcrowded (4.5);

- eliminating moratoria without replacing it with any emergency stop-gap for schools that are and will remain severely overcrowded with no solution in sight (4.8);

- beginning premium payments when schools are above 120% capacity (4.16). This significantly stresses our school system because a school at 120% capacity is already in crisis.

And, getting into specifics:

4.1, **What metrics are used to determine "*Turnover Impact Areas*" v "*Infill Impact Areas*" and how often are the data reviewed and how often is the status able to change**? We ask because while the WJ Cluster area has seen a large share of turnover to date, it also has seen a tremendous amount of infill take place with a great deal more in the pipeline, including two EYA townhome developments, multiple high rise projects within White Flint I, II and III, multiple high- and low-rise projects within Rock Spring, 309 single-family detached and town-homes at WMAL, and the high-rise projects at the Montgomery Mall, Ourisman and Pooks Hill Marriott sites. We are curious how close the WJ catchment area is to becoming an "Infill Impact Area" rather than "Turnover Impact Area" and how often the classification could change.

4.5, *The Annual School Test will establish each school service area's adequacy status for the entirety of the applicable fiscal year*. This recommendation gives the greenlight to allow approval of new dwelling units as long as the school capacity is under 120%. School catchment areas that are severely over capacity should not be allowed to build new dwelling units **until the capacity issues are solved**. Staging ceilings must be in place, and residential applications must be reviewed within school catchment areas with numbers tallied cumulatively to adequately support those living there now and those who will live there in the future. **This draft policy change undermines the spirit of adequate public facilities**.

4.7, *The Utilization Report will also provide additional utilization and facility condition information for each school, as available*. In theory, this sounds like a positive change. While we are not opposed to including additional facility information in the Utilization Report, we are concerned about consequential implications that could be drawn from the new information. Our concern is that the Planning Board could approve a development with the condition that the developer make an improvement at a nearby school. However, the Board has no authorization to do so and MCPS will not allow it. Thus, an already deteriorated school could be allowed to continue in a state of disrepair with an increasing student population.

4.8, We are not fans of moratoria because it never worked to achieve the intended goal. However, the Growth Plan needs an emergency stop gap measure to address continued development in catchment areas with severely overcrowded schools, which is what moratoria was supposed to be. It was intended to call attention to those schools that were at 120% + capacity and find a solution within the 6 years of the CIP. It didn't work because at times the Council added "placeholder projects" to take the number under 120% while building continued; it didn't work because projects that had already received approval and were in the pipeline were allowed to be built; it didn't work because it did not take into account neighborhood turnover; it just didn't work. We were hoping the new plan would invoke an emergency measure that would work when a school was in crisis because of overutilization. **We strongly encourage you to go back to the drawing board on this one and include an emergency measure to address severe school overutilization.**

4.12, *The County Growth Policy should explicitly allow the Planning Board to deny a residential development project in Turnover Impact Areas and Infill Impact Areas if it deems there is inadequate public school infrastructure, after consideration of the applicable data and circumstances*. Use of the word "allow" in this recommendation enables disingenuous interpretation and will lead to a further erosion of Adequate Public Facilities. **Changing the word "*allow*" to "*require*"** would provide clear direction and remove any possibility for misunderstanding. **At a minimum, there should be a clear and specific rubric for the Board to utilize to deny or approve a residential development project in any area with inadequate public school infrastructure**.

4.15, *Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS' official positions.* We wholeheartedly support this proposed change. However, it does not go far enough: **we request that an MCCPTA Cluster AVP or designee also be invited to the Development Review Committee**. Having local representation from a cluster resident is the most equitable and democratic approach to the planning process.

4.16, *Utilization Premium Payments in Turnover and Infill Impact Areas when a school's projected utilization three years in the future exceeds established adequacy standards.*   Utilization Premium Payments should not start when a school is at 120% capacity: By then it is already grossly overcrowded. **Payments must start at 105% capacity for all schools in all impact areas**. Since the payments are designed to help MCPS address overcrowding, and because it takes time to address overcrowding in a facility, payments must begin as soon as the school is at 105% overcrowded, and not wait until it's 120% overcrowded.

6.1, *Change the calculation of school impact taxes to include one tax rate for all multifamily units, in both low-rise and high-rise buildings, based on the student generation rate for multifamily units built since 1990.* Like MCCPTA, we propose this decision be deferred until 2024.

6.2*, Calculate standard school impact taxes at 100% of the cost of a student seat using School Impact Area student generation rates. Apply discount factors to incentivize growth in certain activity centers.*

Maintain the current 120% factor within the Agricultural Reserve Zone, except for projects with a net increase of only one housing unit, in which case a 60% factor would be applied.

We oppose the use of the APFO and discounting of impact taxes to incentivize growth in certain areas over another. The place for a policy like this is within zoning and master plans, not the SSP/Growth Policy.

Impact taxes in Infill Zones are already adjusted to reflect the SGRs of those units, and they are significantly lower that than Turnover and Greenfield Impact Areas. The rate for impact taxes should be 100% the cost of student seat in all School Impact Areas.

<u>Appendices</u>

Page 39, "*Since July 2019, 12 percent of the county's total land area has been placed in a residential development moratorium as a result of the FY 2020 Annual Schools Test*." **With 12% of the county in moratorium, clearly what we've been doing hasn't worked to maintain Adequate Public Facilities. Can you point to specifics in this Growth Policy that will help resolve overcrowded schools?** These areas are in moratorium BECAUSE the schools are severely overcrowded. We don't see what recommended changes will prevent severe overcrowding from becoming much worse going forward or will prevent additional schools from becoming overcrowded.

Page 40, figure 23, the majority of schools coming out of moratorium are doing so based on CIP projections. At the individual school level, how many of those projections will be accurate? While MCPS believes they get the projection numbers right county-wide, the projections are often significantly inaccurate when looking at individual school projections. How many of those schools currently in moratorium will actually be under 120% capacity during the next school year or the next six in the CIP? Making policies based on false numbers will continue to be damaging to overcrowded schools.

Additionally, how many schools that come out of moratorium because of CIP Capacity Relief, actually see the relief in the timeline stated in the CIP? Because of an ongoing lack of funding, projects frequently are delayed years, and sometimes over a decade. Making policies based on assumptions does not lead to good results: **MCPS and the Planning Board need a mechanism to refresh outdated assumptions to keep pace with more real time data**.

Page 127, By proposing the schools test numbers be completed only once per year, you will be keeping schools in "Open" status that should be included for "Planning Board Review" status. The results of testing conducted on 5/15 at Farmland ES, left it in "Open" status. However, real-time data, collected from the Farmland ES Principal on 5/31, had Farmland ES, capacity 714, at 891 students, which means it meets both criteria for "Planning Board Review" status: it is over 120% capacity (is at 125% capacity) and has a deficit greater than 110 seats (177 seat deficit). It should not be in "Open" status, it should be in "Planning Board Review" status.

Thank you for listening to these comments, and I hope it doesn't feel excessively critical. We are all working for the good of the County and all its' citizens, including our current and future students. Within the Draft Growth Policy there are several changes we heartily endorse and approve, and we thank you for their inclusion (see list below).

4.2, *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.*

4.3, *The Annual School Test will be conducted at the individual school level only, for each and every elementary, middle and high school, for the purposes of determining school utilization adequacy.*

4.4, *The Annual School Test will evaluate projected school utilization three years in the future using the following school utilization adequacy standards:*

- *Elementary School Adequacy Standard: Seat Deficit < 110 seats or Percent Utilization ≤ 120%*
- *Middle School Adequacy Standard: Seat Deficit < 180 seats or Percent Utilization ≤ 120%*
- *High School Adequacy Standard: Percent Utilization ≤ 120%*

4.13, *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.*

4.14, *Amend Chapter 50, Article II, Section 4.3.J.7. of the County Code to cap the Adequate Public Facilities validity period for development to no more than 22 years, at which point the applicant can no longer request an extension of the approval and must restart the plan application process*.

4.15, *Require MCPS to designate a representative to the Development Review Committee to better tie the development review process with school facility planning. Ensure this representative has appropriate authority to represent MCPS' official positions.* **With the request that an MCCPTA Cluster AVP or designee also be invited to the Development Review Committee**.

4.16, *Require applicants to pay Utilization Premium Payments in Turnover and Infill Impact Areas when a school's projected utilization three years in the future exceeds established adequacy standards.*

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

It is my sincere hope that with adjustments to some of the recommendations listed at the start of my testimony, along with many of the excellent recommendations listed above, we can create a plan to help the Board meet the APFO for all of our current and future residents, including our students.

Thank you for your consideration,
Wendy Calhoun on behalf of the WJ Cluster