GO Item 2
October 6, 2016
Worksession

MEMORANDUM

October 4, 2016

TO: Government Operations and Fiscal Policy Committee

FROM: Robert H. Drummer, Senior Legislative Attorney RHD
GO Glenn Orlin, Deputy Council Administrator

SUBJECT: **Worksession 2:** Bill 37-16, Taxation – Development Impact Tax – Transportation and Public School Improvements - Amendments

Please bring the SSP Report and Appendix to this worksession.
Bill 37-16 (as introduced) is in the September 22 GO worksession packet.

I. SUMMARY FROM SEPTEMBER 22 WORKSESSION

During its first worksession on September 22 the Committee reviewed the issues presented by Council staff concerning the amendments to the public school impact taxes. The Committee made the following recommendations (3-0); the Bill as amended by the Committee, to date, is on ©1-22:

1. Amend the first sentence in §52-93(d) to add "Revenues raised under this Article may be used to fund <u>planning, design, acquisition of land, site improvements, utility relocation, construction, and initial furniture and equipment for</u> any:" See lines 307-309 at ©17.
2 Remove line 316 at ©18 including land acquisition as a proper use of the tax revenue since it is added to the beginning of the subsection.
3. Remove the amendment to require 10% of the impact tax to be earmarked for land acquisition. See lines 213-214 at ©13 and 317-319 at ©18.
4. Decide on the base rates recommended by the Planning Board at a future meeting.
5. Requested staff to work with Finance and OMB to estimate revenue projections for a $4/sf increase in the surcharge on larger single-family homes, increasing it from $2/sf to $6/sf.
6. Requested staff to work with Finance and OMB to estimate potential revenue from taxing additions to homes for space over 3,500sf and under 8,500sf at $6/sf. Mr. Elrich asked staff to find out how DPS counts the number of bedrooms in a house.
7. Amended the Bill to remove the 5% cap on increases proposed by the Planning Board. See lines 301-302 at ©17.
8. Amended the Bill to change the dates for inflation increases to January 1 of odd numbered years, beginning with the new rates approved in the Bill on January 1, 2017. See lines 135-141 at ©10 and lines 294-304 at ©17.
9. Agreed with the Planning Board's amendment to permit a credit for land dedication only if it reduces the permitted density. Amended the language to add "development" before "site" on line 329 at ©18 for clarity.

10. Approved the staff suggestion to keep a 12-year life for the credit.
11. Approved the staff suggestion to limit the use of the credit to the same property only. See lines 385-390 at ©20.
12. Approved the staff suggestion to split the credit for Design for Life equally between the school impact tax and the transportation impact tax. See lines 78-99 at ©4-5 and lines 361-373 at ©19-20.
13. Agreed to the staff suggestion to remove the tax rate tables from the law and require the rates to be set by Council resolution after a hearing. Approved the introduction of a resolution to approve the new rates on September 27. See lines 107-117 at ©6-9 and lines 275-279 at ©16.
14. Asked staff to draft a definition of "cost of student seat" for Committee approval. See the definition of "construction" on lines 23-25 at ©2 and the definition of "cost of student seat" on lines 197-198 at ©13.

II. TRANSPORTATION IMPACT TAX: USES, CREDITS, REFUNDS, AND RATES

1. Purpose and intent. §52-48 is largely unchanged since the original impact fee bill was enacted in 1986. It has not kept up with the times, both in its terms and its scope. The Bill as introduced does not include changes in this section, but the Council should take the opportunity to update it. **Council staff recommends that it be re-drafted as follows:**

Sec. 52-48. [[Findings;]] Purpose and intent.

(a) The master plan of [[highways]] transportation indicates that certain [[roads]] transportation facilities are needed in planning policy areas. Furthermore, the [[Growth]] Subdivision Staging Policy indicates that the amount and rate of growth projected in certain planning policy areas will place significant demands on the County for provision of [[major highways]] transportation facilities necessary to support and accommodate that growth.

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(e) The development impact tax [[will]] funds, in part, the improvements necessary to increase the transportation system capacity, thereby allowing development to proceed. Development impact taxes [[will be]] are used exclusively for impact transportation improvements.

(f) In order to [[assure]] ensure that the necessary impact transportation improvements are constructed in a timely manner, the County [[intends to]] must ensure [[assures]] the availability of funds sufficient to construct the impact transportation improvements.

(g) The County retains the power to determine the types of impact transportation improvements to be funded by development impact taxes[[; to estimate the cost of such improvements; to establish the proper timing of construction of the improvements so as to meet APFO policy area transportation adequacy standards where they apply; to determine when changes, if any, may be necessary in the County CIP;]] and to do all things necessary and proper to effectuate the purpose and intent of this Article.

(h) The County intends to further the public purpose of ensuring that an adequate transportation system is available in support of new development.

[[(i) The County's findings are based on the adopted or approved plans, planning reports, capital improvements programs identified in this Article, and specific studies conducted by the Department of Transportation and its consultants.]]

[[(j)]] (i) The County intends to impose development impact taxes until the County has attained build-out as defined by the General Plan.

2. Uses and credits. The uses to which transportation impact taxes can be put are in §52-58. An important point to remember is that, generally speaking, whatever is identified as an eligible use of impact tax revenue can also legitimately be claimed as an eligible credit by a development. (The credit provisions are in §52-55.) The eligible uses of impact taxes are:

Sec. 52-58. Use of impact tax funds.

Impact tax funds may be used for any:

(a) new road, widening of an existing road, or total reconstruction of all or part of an existing road required as part of widening of an existing road, that adds highway or intersection capacity or improves transit service or bicycle commuting, such as bus lanes or bike lanes;

(b) new or expanded transit center or park-and-ride lot;

(c) bus added to the Ride-On bus fleet, but not a replacement bus;

(d) new bus shelter, but not a replacement bus shelter;

(e) hiker-biker trail used primarily for transportation;

(f) bicycle locker that holds at least 8 bicycles;

(g) bikesharing station (including bicycles) approved by the Department of Transportation;

(h) sidewalk connector to a major activity center or along an arterial or major highway; or

(i) the operating expenses of any transit or trip reduction program.

During the three decades transportation impact taxes have been imposed, about $93.5 million has been collected, and nearly all of it used to fund road improvements. Road improvement funding also dominates the $50.6 million of impact tax funds programmed in FYs17-22. Not surprisingly, most of the credits that have been granted over the years were also for road improvements.

(a) *Planning Board recommendations.* The Bill recommends two revisions to the use section. Subsection (e) would be amended to read: "hiker-biker trail <u>and other bike facility</u> used primarily for transportation." The Department of Transportation (DOT) is concerned about the added phrase:

The Executive Regulation associated with Transportation Impact Taxes and Impact Tax Credits includes specific criteria for hiker-biker trails used primarily for transportation. The proposed language is overly vague and will lead to confusion and misinterpretation in reviewing and certifying impact tax credits (©23).

Council staff understands that the Planning Board's intent was to allow for protected bike lanes (i.e., cycle tracks) to be an eligible expense. Protected bike lanes serve the same bicycle transportation purpose as hiker-biker trails and regular bike lanes, both of which are eligible expenses. **Council staff recommendation: Amend subsection (e) to read "hiker-biker trail <u>and protected bike lanes</u> used primarily for transportation."**

The other change would be to subsection (h). It would read "sidewalk connector to <u>or within</u> a major activity center or along an arterial or major highway." However, DOT notes:

While using impact taxes as a potential funding source for all CIP sidewalk projects if desirable, we do not believe that issuing tax credits for any sidewalk built as part of certain developments is in keeping with the underlying philosophy of granting transportation impact tax credits for what county would have otherwise built. Also, a sidewalk within an activity center is more of a local amenity as opposed to providing connectivity to the overall transportation network. Sidewalks are a fundamental requirement of new development construction, and including this provision will increase the amount of credits provided and will decrease the revenues collected from impact taxes (©23).

Council staff recommendation: Concur with DOT; do not render eligible a sidewalk connector within a major activity center.

(b) *Light rail and BRT.* Cynthia Bar testified that the list of eligible impact tax uses—and, therefore, eligible credits—be extended to include a "new or expanded public transportation facility, including light rail and bus rapid transit facilities" (©24-26). Her point is that impact tax uses and credits related to transit should not be limited to transit centers, bus shelters, and Ride On buses.

There is only one light rail line in the County's master plan: the Purple Line, which is a State project. The purpose of the transportation impact tax is to fund capacity-adding transportation facilities that are the *County's responsibility* to construct.[1] While the County has programmed about $46.5 million to the State project, this comprises only about 2% of the total cost, and there is no subset of the Purple Line that is explicitly funded by this 2%. Also, none of the $46.5 million programmed are impact tax funds.

The County's master-planned bus rapid transit (BRT) lines are primarily in State rights-of-way[2]. However, it appears clear that these will be the County's responsibility to construct; while the State did provide $10 million for initial phase of planning for the MD 355 and US 29 BRT lines a few years ago, it recently turned down the County's request for funding part of the preliminary design of the MD 355 BRT. So, while constructing new State roads and widening them are not eligible impact tax expenses, the Council should consider BRT—whether in State right-of-way or not—as eligible expenses.

A bus lane is already an eligible expense, and BRT has been interpreted as fitting under the "bus lanes" definition.[3] But including BRT as an explicit eligible expense would be useful in making clear that all of its route elements—bus lanes, BRT vehicles, and stations—are eligible. **Council staff recommendation: Add a subsection identifying bus rapid transit lanes, vehicles, and stations as eligible expenses.**

(c) *State roads.* Christopher Ruhlen testified that improvements to State roads required of a development should be creditable against the transportation impact tax. He notes that many necessary road improvements are not being funded by the State, but by developments as conditions of subdivision approvals, in order to meet their adequate public facilities requirements. He suggests

[1] Or, in Gaithersburg and Rockville, capacity-adding transportation facilities that are either the County's or the municipality's responsibility to construct.

[2] The major exceptions are the Corridor Cities Transitway, the Randolph Road BRT, the North Bethesda Transitway, and potentially a portion of the MD 355 North BRT.

[3] The Approved FY17-22 CIP's Rapid Transit System project, which funds BRT, includes $2 million in impact tax funding.

that many of these roads would be build sooner if the developers were to receive impact tax credits for their expenditure. Specifically, he proposes deleting subsection (b) of the credit section (©27-28):

> (b) A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-58 if the improvement reduces traffic demand or provides additional transportation capacity. [However, the Department must not certify a credit for any improvement in the right-of-way of a State road, except a transit or trip reduction 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.]

Council staff recommendation: Do not include this proposed amendment. As noted above, the purpose of the law is to fund transportation facilities that are the County's responsibility to construct. In the extraordinary circumstance where the County wishes to expedite a particular road improvement that is a developer's responsibility—whether it would be in a State or County right-of-way—it can do that directly with County funds. That is exactly what occurred in Clarksburg, where the County agreed to provide about $10 million to the Clarksburg Village developer to expedite the extensions of Snowden Farm Parkway, Little Seneca Parkway, and the improvement to the MD 355/Brink Road intersection. This is preferable to granting a blanket credit to any development required to improve a State road.

(d) *Transit and trip reduction programs.* Despite the number of categories of eligible projects, the Department of Permitting Services (DPS) has indicated that nearly all the credits have been granted for new roads, road widenings, or intersection improvements. DPS's experience that there have been no more than one or two credit applications in the other categories. One such category is subsection (i), the operating expenses of any transit or trip reduction program. This category is an odd one, since it is not a capital improvement, and does not fit the definition of adding transportation capacity. How does one calculate the value of a credit for an operating program that may have no termination date? And if it has a termination date, then what has it contributed to the master plan capacity at buildout?

Council staff recommendation: Delete subsection (i). This subsection was included early on, when there was an effort to provide more balance in the credit provisions between roads and transit. However, operating expenses of a transit or trip reduction program have never been funded with impact taxes, and they have been claimed as a credit only once in the last dozen years, according to DPS. Furthermore, there are now several transit and other non-auto-based use (and credit) categories that have the potential to be exercised.

(e) *ASCT.* This past year the Council funded a pilot for Adaptive Signal Control Technology (ASCT). The objective is ASCT is to better maximize flow through an intersection to the point where it is much closer to the intersection's theoretical capacity. National studies indicate that ASCT systems can improve travel time by 10-15% over conventional signal control timing. If an intersection is operating at well over capacity—well into the Level of Service F range—ASCT is likely to have little or no effect. Nevertheless, the 10-15% improvement would be experienced when an intersection is operating close to capacity, such as at Level of Service E.

Council staff recommendation: Include ASCT as an eligible impact tax expense. While not a transportation facility per se, it is an action that—in certain circumstances—would add transportation capacity.

(f) *Transferability of credits.* A principle of the impact tax law has been that credits can only be applied against the tax due with respect to the subdivision for which the credit was originally certified. The credit concept was created to protect a large development that is required to build a substantial capacity-adding project to serve the entire buildout of that subdivision. Usually the project is built first, and the developer receives a dollar-for-dollar credit for it. Subsequently the developer draws down from his or her earned credit as each phase of the subdivision is undertaken[4]. This continues until the available credit is exhausted. The credit follows the ownership of the property, should the subdivision be sold from one developer to another before it is completed. However, the credit does *not* follow from one property to another.

Buchanan Partners is the developer of the virtually completed Village West subdivision in the Germantown Town Center Policy Area. Although not required to do so, Buchanan Partners have agreed to construct a short extension of Waters Road to intersect with MD 118. In return for doing so, DOT has recently approved a credit of $960,000 for construction of a section of Waterford Hills Boulevard (which was not initially granted by DOT) and for an additional yet-to-be-determined amount for the Waters Road extension itself. The rub is that, since Village West is almost entirely built out, almost none of this credit can be used by Buchanan Partners. Buchanan Partners' proposed remedy would be to add a clause to §52-55 allowing such "excess" credit to be used by another property owner in the same policy area (©30-32).

Council staff recommendation: Do not approve this proposed provision, but explore another type of remedy specific to Village West. The provision would create a green market for excess credits throughout the County, and it would further sap transportation impact tax revenues.[5] However, Buchanan Partners has agreed to undertake the Waters Road extension without being required to do so. Certainly it would benefit from the extension by providing easy and visible access off MD 118, but this is a master-planned Business District Street that would provide a more general public benefit, too. Council staff will explore a more specific remedy to acknowledge this unique situation, with the hope that a mutually acceptable solution can be reported back to the Committee or the Council before the final Council worksession on Bill 37-16 in November.

(g) *Special provision.* In §52-55(a)(2) the Council had approved this special credit provision:

> (2) (A) An entity that received more than $20 million in credits under this subsection that were certified before July 1, 2002, may apply any unused credit to satisfy an obligation under Policy Area Mobility Review, or any applicable successor policy area transportation test, if:
>
> (i) the County Executive has identified the project for which a credit would be applied under this paragraph as a strategic economic development project; and
>
> (ii) the credit is used before November 1, 2015.
>
> (B) The total of any credits used under this paragraph to satisfy an obligation under Policy Area Mobility Review, or any applicable successor policy area transportation test, much not exceed $1.7 million.

[4] For single-family units, impact taxes are due within 6 months of building permit issuance or at final inspection, whichever is sooner. For multi-family units and non-residential development, taxes are due within 12 months of building permit issuance or at final inspection, whichever is sooner.

[5] Recall that in the Bill's fiscal impact statement OMB and Finance already have assumed that 68% of gross impact tax revenue is not collected, mostly owing the enormous amount allowable credits that have (and will be) granted. This provision would raise that percentage higher.

Council staff recommendation: Eliminate this provision. The allowable credit under this provision had to have been used by November 1, 2015.

3. Rates. Transportation impact tax rates, like school impact tax rates, differ by land use. While the school impact tax rate schedule is the same throughout the county, the transportation tax currently has four sets of rates: one for the "General District" (most of the county); one for Metro Station Policy Areas (MSPAs), set at 50% less than the General District rates; one for development within a ½-mile of the Germantown, Metropolitan Grove, Gaithersburg, Washington Grove, Garrett Park, or Kensington MARC stations, set at 15% less than the General District rates; and one for Clarksburg, set 50% higher than the General District rates for residential development and 20% higher for non-residential development. Furthermore, the transportation impact tax is not collected in the White Flint Policy Area in recognition that a special taxing district there collects revenue for transportation capital projects. As with the school tax, the transportation rates were raised across the board by about 70% in 2007, and since then they have been automatically increased biennially (in the July of odd-numbered years) according to the regional construction cost index.

Bill 34-15 was introduced on June 30, 2015 and a public hearing was held on July 21, 2015; among other proposed changes, it would apply the same transportation tax rates countywide (except in White Flint) just as the school impact tax rates are.[6]

(a) *Planning Board's proposal.* The Planning Board's discussion and recommendations on the transportation impact tax are on pp. 33-34 of the SSP Report and on pp. 76-101 of the Appendix (Appendix J). The Board's recommended transportation rate schedule is shown below.

Land Use	Red Policy Areas	Orange Policy Areas	Yellow Policy Areas	Green Policy Areas
Residential Uses	Cost/unit	Cost/unit	Cost/unit	Cost/unit
SF Detached	$3,653	$10,959	$18,266	$29,225
SF Attached	$2,552	$7,656	$12,759	$20,415
Garden Apartments	$2,312	$6,937	$11,562	$18,499
High - Rise Apartments	$1,652	$4,955	$8,259	$13,214
Multi-Family Senior	$661	$1,982	$3,303	$5,286
Commercial Uses	Cost/sf	Cost/sf	Cost/sf	Cost/sf
Office	$6.72	$13.45	$16.81	$16.81
Industrial	$3.34	$6.69	$8.36	$8.36
Bioscience	$0.00	$0.00	$0.00	$0.00
Retail	$5.98	$11.96	$14.95	$14.95
Place of Worship	$0.35	$0.70	$0.88	$0.88
Private School	$0.53	$1.06	$1.33	$1.33
Hospital	$0.00	$0.00	$0.00	$0.00
Social Service Agencies	$0.00	$0.00	$0.00	$0.00
Other Non-Residential	$3.35	$6.69	$8.36	$8.36

[6] The provisions of Bill 34-15 to extend the life of a credit from 6 to 12 years and to change how the credit for road reconstruction is calculated were separated out in Bill 47-15, which was enacted last December.

The Planning staff has also prepared a chart that shows—for each policy area and the major land use categories—how the Board's proposed rates compare to the current rates (©33), and the difference between the two sets of rates (©34).

The Board's impact tax rate recommendations tie with its proposal in the SSP that policy areas should be categorized into four geographic groups according to relative transit service and accessibility. "Red" policy areas are the current MSPAs; "Orange" policy areas are corridor cities (but not MSPAs), town centers, and emerging transit-oriented development areas where transitways (Purple Line, BRT lines) are planned; "Yellow" policy areas are lower density residential neighborhoods with community-serving commercial areas; and "Green" policy areas are the Agricultural Reserve and other rural areas. The Bill would group Clarksburg among the Orange policy areas, and would eliminate its status as separate district, within which currently the funds collected must be spent. The Bill would retain the 15% discount for development within ½-mile of the MARC stations noted above.

In calculating the tax rates, the following assumptions were used:

- *An estimated $1.6 billion needs to be collected from the tax over the next 25 years to cover 100% of the cost of County capacity-adding projects.* The Planning staff calculated that the FY15-20 CIP had $388 million for capacity-adding transportation projects, not including White Flint, for which County transportation improvements are funded with a special tax (see pp. 80-81 of the Appendix). The $388 million over 6 years translates to about $64.6 million annually. The staff posits that the amount spent for these projects over the next 25 years will be the same annually, on average, so the total would be about $1.6 billion.
- *Assume that roughly the same share of these costs would be funded by impact tax revenue.* About 10.4% of the cost of these projects were funded by impact taxes; the staff assumes this proportion would continue into the future. Therefore, about $168 million (in today's dollars) would be needed from the tax over the next 25 years.[7]
- *"Average" rates were calculated for each land use category that would raise the $1.6 billion over 25 years.* The rates were allocated by land use according to relative vehicle trip generation for each use. The average rates by land use category, compared to the current General District rates, are shown below:

Land Use Category	Current General District Rates	Calculated "Average" Rates
Single-family detached	$13,966/unit	$14,613/unit
Single-family attached	$11,427/unit	$10,208/unit
Multi-family garden apartments	$8,886/unit	$9,250/unit
Multi-family high rise	$6,347/unit	$6,607/unit
Multi-family senior	$2,539/unit	$2,643/unit
Office	$12.75/sf	$13.45/sf
Industrial	$6.35/sf	$6.69/sf
Retail	$11.40/sf	$11.96/sf
Place of worship	$0.65/sf	$0.70/sf
Private grade school	$1.05/sf	$1.06/sf
Other non-residential	$6.35/sf	$6.69/sf

[7] Recall that the amount collected over the past 30 years was about $93 million, but for more than half of those years funds were collected only in Germantown, Fairland/Cloverly, White Oak, and Clarksburg. Thus, $168 million countywide over the next 25 years is fairly consistent with the prior impact tax burden placed on new development.

- Adjust the "average" residential rates among the four geographic groups (Red, Orange, Yellow, and Green) according to their relative vehicle-miles of travel (VMT) per capita for home-to-work trips. Adjust the "average" commercial rates among the four groups according to their relative non-auto-driver mode share (NADMS) for home-to-work trips (for more detail, see pp. 39-40). The proposed adjustment factors are:

Policy Area Grouping	Residential Adjustment to the "Average" Rate	Non-Residential Adjustment to the "Average" Rate
Red (MSPAs)	0.25, a 75% discount	0.75, a 25% discount*
Orange	0.75, a 25% discount	1.00, no adjustment
Yellow	1.25, a 25% surcharge	1.25, a 25% surcharge
Green	2.00, a 100% surcharge	1.25, a 25% surcharge

*After reviewing the calculations, the Planning Board decided to propose reducing the adjustment factor by another third, to 0.50, a 50% discount from the "Average" rate. The rates in Bill 37-16 reflect this adjustment.

Finally, the Board proposes a discount to the rates on p.44 of the SSP Report if parking supply is below the baseline minimum requirement in the zoning ordinance. In "Yellow" policy areas the percent discount reduction would be equal to the percent reduction of parking provided below the minimum; in "Orange" policy areas the percent discount would be double the parking reduction, and in "Red" policy areas the percent discount would be triple the parking reduction.

(b) *Testimony.* There was little testimony about the rates themselves. In the end, most stakeholders cared about the resulting rates, not the methodology. However, the Greater Bethesda Chamber had this to say:

> It is refreshing to see that in many instances impact taxes are proposed to decline, particularly in areas where land use policy encourages development. However, the methodology is intensely detailed and cryptic. Indeed, the impact tax formula required the Planning Board itself to artificially lower the rate for commercial development in the Core [Red] area by one-third. It is simply not a process that anyone can describe or explain to the public or to the investment community and financial institutions who hold our economic development future in their hands.

DOT's commentary, which was endorsed by the County Executive, does not support the structure of the parking discount. It noted that "Granting a credit to the transportation impact tax is not in keeping with the original legislative intent of impact tax credits, which is to offset the need for County investment in transportation infrastructure." Instead, DOT proposes exacting a new fee on providing spaces more than 65% of the baseline minimum in the zoning ordinance:

Percent of Baseline Minimum Parking Provided	**Fee**
Less than 65%	$0/space
65-75%	0.3 x fee rate/space
75-85%	0.5 x fee rate/space
85-90%	0.7 x fee rate/space
90-95%	0.9 x fee rate/space
95-100%	1.0 x fee rate/space
100-105%	3.0 x fee rate/space
105-120%	10.0 x fee rate/space
120-140%	20.0 x fee rate/space
More than 140%	50.0 x fee rate/space

The Council would set the "fee rate" in the table above. For example, if the fee rate were set at \$500/space, then a developer providing 12% less than the baseline minimum parking requirement (88% of the minimum), would pay a parking impact fee of \$350/space (0.7 x \$500). If he or she provided 30% more than the minimum, the fee would be \$10,000/space (20.0 x \$500).

The Agricultural Advisory Committee has written in opposition to the large proposed rate increase in the Green (rural) Policy Areas (©35-36). Anticipating that issues from Bill 34-15 would also be raised, several developers in MSPAs have written in opposition to eliminating the discount in MSPAs (an example is on ©37-38), just as they did at the public hearing during the summer of 2015. Last summer there was support from the developers to eliminate the impact tax surcharge in Clarksburg (©39).

(c) *Council staff comments on rates.* Impact taxes are supposed to be based on the capital cost needed to support various types of development. The Planning Board's proposed rates are based on the conclusion that Red (MSPA) area development generates less of a need for capital improvements than development in the Orange area, which in turn generates less need than development in the Yellow and Green (rural) areas. This certainly was true for the first 25 years of the impact tax program, when most transportation capital improvements were road-based. *However, that is not true now, and it will be even less true in the future.*

There are very few major master-planned County road improvements yet to be programmed: Observation Drive Extended and M-83 being the two largest. Together these two projects will cost about \$500 million, and M-83, which represents \$350 million of this total, is in doubt. Montrose Parkway East and Goshen Road South are programmed, but about \$135 million of their costs are shown as being funded with G.O. Bonds after FY22. There are a few other, less costly County road projects in the future. Examples are: the reopening of Old Columbia Pike over Paint Branch and its widening from White Oak to Fairland; the western extension of Little Seneca Parkway in Clarksburg; the Dorsey Mill Road bridge in Germantown; Summit Avenue Extended in Kensington. Taken together, future County expenditures on road improvements will likely be no more than \$1 billion (in today's dollars), and \$650 million if M-83 is not built.

On the other hand, the cost of master-planned non-auto-based County transportation improvements dwarfs the auto-based total. The cumulative cost of the Corridor Cities Transitway and the MD 355 North and South, US 29, and Veirs Mill Road BRT lines is about \$2.2 billion. The remaining master-planned BRT lines—New Hampshire Avenue, University Boulevard, Georgia Avenue North and South, and the North Bethesda Transitway will add at least \$1 billion more. In addition there will be a large number of smaller investments retrofitting the County with cycle tracks, hiker-biker trails, bike lanes, and sidewalk connectors, as well as additional buses needed to expand the Ride On fleet. Taken together, it would be reasonable to estimate that the total expenditures on non-auto-based capacity-adding County capital improvements will reach \$4 billion.

In this context, using vehicle-miles of travel (VMT) as a means of differentiating residential rates among geographic areas is not appropriate, because most of the future new County capacity expenditure will not be for private vehicles. Neither is non-auto-driver mode share (NADMS) appropriate for differentiating the commercial rates, because it does not take into account the distance a commuter travels. More representative would be using *person-miles of travel* (PMT) for both the residential and commercial rates, which reflect the distance component as well as the fact that most future expenditures will be for transit and other non-auto-based modes.

How do the Planning Board's relative rate differentiations compare to one based on PMT? Below is a chart showing the "calculated" ratio of impact by geographic group and what the Board is proposing as policy (both from Table 12 on p. 39 of the SSP Report) compared to the "calculated" ratio of impact using PMT for both residential and commercial development (calculated by Planning staff at the request of Council staff):

	Red Areas	Orange Areas	Yellow Areas	Green Areas
Residential: ratio of impact to County average, based on VMT in 2040	37%	79%	134%	226%
Residential: Planning Board's proposed ratio	0.25	0.75	1.25	2.00
Residential: ratio of impact to County average, based on PMT in 2040	51%	84%	127%	196%
Commercial: ratio of impact to County average, based on NADMS in 2040	81%	106%	124%	133%
Commercial: Planning Board's proposed ratio	0.75*	1.00	1.25	1.25
Commercial: ratio of impact to County average, based on PMT in 2040	96%	99%	104%	126%

*The Board recommended reducing this factor by another third, to 0.50: a 50% discount from the "Average" rate.

Using PMT produces slightly less differentiation among the relative impacts for residential development, but it results in virtually no differentiation for commercial development.[8] Taken alone, this finding suggests the transportation impact tax rates for residential development could differ among the four groups for residential development, but that the rates for commercial development should be uniform across the county.

However, another concern is where the facilities would be built and who they would serve. Most of the BRT routes, the bulk of the County's future transportation expense, are in the Red and Orange areas. The Green Area would not be served at all. Unlike Metrorail, BRT is not planned to have much park-and-ride access, so there would be little benefit to most people either living or working in the Yellow and Green areas.

This suggests that there is no strong rationale for differentiating the rates by group either for residential or commercial development. Without a differentiation, the rates that should be adopted are the "average" rates noted earlier. **Council staff recommendation: Set uniform rates countywide using the "2016 Rates When Applying 2007 Percentage Adjustment to 2016 Calculated Rates" in Table 10 (p. 38).** Below is a chart showing the current General District, MSPA, and Clarksburg rates compared to the "average rates:

[8] The PMT-based differential in the Green Area exists, but is much smaller than when based on NADMS. Furthermore, the amount of commercial development in the Green Area is extremely small.

Land Use Category	Current General District Rates	Current MSPA Rates	Current Clarksburg Rates	Council staff Rates
Single-family detached	$13,966/unit	$6,984/unit	$20,948/unit	**$14,613/unit**
Single-family attached	$11,427/unit	$5,714/unit	$17,141/unit	**$10,208/unit**
Multi-family garden apartments	$8,886/unit	$4,443/unit	$13,330/unit	**$9,250/unit**
Multi-family high rise	$6,347/unit	$3,174/unit	$9,522/unit	**$6,607/unit**
Multi-family senior	$2,539/unit	$1,269/unit	$3,808/unit	**$2,643/unit**
Office	$12.75/sf	$6.35/sf	$15.30/sf	**$13.45/sf**
Industrial	$6.35/sf	$3.20/sf	$7.60/sf	**$6.69/sf**
Retail	$11.40/sf	$5.70/sf	$13.70/sf	**$11.96/sf**
Place of worship	$0.65/sf	$0.35/sf	$0.90/sf	**$0.70/sf**
Private grade school	$1.05/sf	$0.50/sf	$1.35/sf	**$1.06/sf**
Other non-residential	$6.35/sf	$3.20/sf	$7.60/sf	**$6.69/sf**

Council staff's proposed rates are marginally higher than those currently charged now in most of the county, and much lower in Clarksburg, since its surcharge would be eliminated. There rates in MSPAs, however, would be slightly more than double what is now charged. OMB estimates that going to the "average" rate for MSPAs would generate about $9.3 million more in transportation impact tax revenue over the next 6 years, assuming that the higher rates would not go into effect until July 2017. This is a reasonable estimate, given that it is likely the Council will grandfather projects that are currently under construction from the higher rates, and that much of the construction underway will be completed by next summer.

When the Council established the MSPA rates with a 50% discount a dozen years ago, it did so for two reasons. First, the law then allowed impact taxes to be used primarily for new roads, widening existing roads, and new park-and-ride lots; almost none of these types of improvements were common in MSPAs (nor are they now). As noted above, the law has been changed over the past decade to allow transit and other non-auto-based improvements, and that the overwhelming majority of such expenditures in the future will be for such projects, for which MSPA developments are the primary beneficiary. Second, in 2004, very little of the development in the County was occurring in the MSPAs, and so the Council wished to provide an incentive to develop there. According to COG's Round 9.0 forecast, however, over 48% of the job growth in the County over the next decade will be in MSPAs, and most of the multi-family housing planned or under construction will be there.

The two most important questions that developers consider in whether or not to build are: "Is the market demand present?" and "Is the zoning sufficiently high and the building regulations not too tight so that the market demand can be met?" Cost is a factor, but a lesser one. The Council provided a large benefit to developers a few years ago when it deferred the impact tax payment (and traffic mitigation and school facility payments) to very late in the building process: near or at final inspection by DPS. This put in close correlation the time when housing units and commercial square footage are sold to when these taxes and fees are paid, thus effectively eliminating a developer's carrying cost.

There certainly is an inflection point where the rates, if too high, will lead in some cases to a decision not to file a development application, because the pro forma will not produce the requisite profit margin to undertake the risk. However, history has shown that tax breaks generally have had little effect on influencing development. As demonstrated by the recent Office of Legislative Oversight report on enterprise zones, even exempting all impact taxes and SSP fees, as well as substantial property and income tax credits, has not resulted in more than scant commercial development in Wheaton, Glenmont, and Long Branch. The one enterprise zone where employment has thrived is Silver Spring, but it is doubtful that the tax breaks paid a significant role. It is more likely that the $450 million public investment and the willingness for the County to assemble sufficient land for the Town Center were the keys to its success.

Where the higher rates will pinch are for developments that are well into development process. Certainly, a project under construction has very limited means of recouping the cost of a higher impact tax. The last time impact taxes were raised significantly, in 2007, the new rates were effective 18 days after adoption, and applied to all development for which building permit applications were filed after that date (©40-42). The Committee will take up the effective date issue on October 20.

Council staff recommendation: Do not include the parking discount in the impact tax rates. The zoning ordinance provides several opportunities to reduce parking below the baseline minimum (©43-44). Developers already have a strong incentive to reduce parking: it saves them considerable money. DOT estimates the average construction cost to be $35,000/space in an above-ground garage and $55,000/space in an underground garage. A further discount would simply drain revenue needed to fund the transit capacity necessary to carry the commuters that would otherwise be driving and parking.

DOT's alternative needs more work. Would the County really charge a fee on developers providing less than the baseline minimum? In any event, DOT's concept, even if revised, is sufficiently different than the subjects of Bill 37-16 that it should come forward in a different bill.

(d) *MARC station area discount.* Several years ago the Council established this discount to recognize that MARC, like Metrorail, is a transitway providing premium service, and so development nearby also should be incentivized with an impact tax rate discount, if not as large as for an MSPA. The Council settled on a 15% discount on development within a ½-mile of certain MARC stations. However, Metrorail and MARC are not remotely comparable. On a typical weekday Metrorail trains stop in MSPAs in one direction or the other 120 or 240 times during the morning and evening peak periods; MARC trains stop in one direction only 12-19 times during these peaks. **Council staff recommendation: Eliminate the MARC station area discount.**

(e) *Bioscience buildings.* Bioscience businesses are the only type of for-profit commercial developments that are not charged transportation impact taxes for their new buildings or additions. This status was granted because it was the Council's desire to highlight it as the County's primary economic development drawing card. But there are new types of business being sought after now; most recently, cybersecurity. Rather than exempting an entire type of business from the tax, the County should provide direct aid to particular companies—bioscience, cybersecurity, or other—which are vital to draw or retain because they provide unique economic development advantages for the County. Each of these companies should be subject to the tax, but the unique relocations and expansions could have their tax covered by an Economic Development Fund grant.

Council staff recommendation: Delete bioscience as a category. New bioscience buildings would either be charged at the Industrial rate if primarily lab space, or the Office rate if primarily a headquarters or administrative space.

(f) *Regular updates.* Currently both transportation and school impact taxes are updated cost index over the two prior calendar years. Finance uses the change in the index to calculate what the new tax schedules would be, publishes them in the County Register for comment, and implements them on July 1. Finance notes that all other taxes—property, income, energy, etc.—are updated on July 1, and that both government and business base many of their financial decisions on a fiscal year-by-fiscal year basis. The Planning Board is not recommending a change as to how or when transportation impact taxes are regularly updated.

At the last worksession the Committee tentatively agreed that the school impact tax should be updated on January 1 in odd-numbered years. However, as Finance has remarked, there is a tradition of adjusting rates on July 1, and adjusting both the school and transportation impact rates at the same time would provide more predictability to the building industry.

Council staff recommendation: Continue to have the effective date of the biennial updates to both school and transportation impact taxes occur on July 1 of odd-numbered years. The school impact taxes, as recommended by the Committee, would be based on MCPS's latest estimates of construction cost/student and students/household; this information would be provided to Finance early in an odd-numbered year so they could calculate what the new school impact tax schedule would be, publish it in the County Register for comment, and implement it on July 1 along with the updated transportation impact tax schedule.

In addition, the Council can still do a reset of the fee schedules off-cycle, by resolution after a public hearing. That is what occurred in 2007 and is what the Planning Board is recommending now. On October 20 the Committee will take up the matter of the effective date of the provisions in Bill 37-16.

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Bill No. 37-16
Concerning: Taxation – Development Impact Tax – Transportation and Public School Improvements - Amendments
Revised: September 29, 2016 Draft No. 3
Introduced: August 2, 2016
Expires: February 2, 2018
Enacted: ____________
Executive: ____________
Effective: ____________
Sunset Date: None
Ch. _____, Laws of Mont. Co. ________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

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

AN ACT to:
(1) modify the method of calculating the transportation and public school impact tax;
(2) create new transportation tax districts associated with policy area categories;
(3) adjust the transportation impact tax for residential uses based on Non-Auto Driver Mode Share associated with each tax district;
(4) adjust the transportation impact tax for non-residential uses based on Vehicle Miles of Travel associated with each tax district;
(5) authorize an adjustment to the transportation impact tax for providing parking below the minimum required under Chapter 59;
(6) modify the public school impact tax payable for property located in a former enterprise zone; and
(7) generally amend County law concerning the transportation and public school impact tax.

By amending
Montgomery County Code
Chapter 52, Taxation
Sections 52-47, 52-49, 52-53, 52-55, 52-57, 52-58, 52-59, 52-87, 52-89, 52-90, 52-91, 52-93, and 52-94

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

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

Sec. 1. Sections 52-47, 52-49, 52-53, 52-55, 52-57, 52-58, 52-59, 52-87, 52-89, 52-90, 52-91, 52-93, and 52-94 are amended as follows:

52-47. Definitions.

In this Article the following terms have the following meanings:

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

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

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

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

* * *

Charitable, philanthropic institution means a private, tax-exempt organization whose primary function is to provide services, research, or educational activities in areas such as health, social service, recreation, or environmental conservation.

Construction means the planning, design, acquisition of land, site improvements, utility relocation, building, and initial furniture and equipment for a capital project.

* * *

52-49. Imposition and applicability of development impact taxes.

(a) A development impact tax must be imposed before a building permit is issued for development in the County.

(b) An applicant for a building permit must pay a development impact tax in the amount and manner provided in this Article, unless a credit in the full amount of the applicable tax applies under Section 52-55 or an appeal bond is posted under Section 52-56.

(c) The following impact tax districts are established:

(1) [*Metro Station*: Friendship Heights, Bethesda CBD, Grosvenor, White Flint, Twinbrook, Rockville Town Center, Shady Grove Metro, Silver Spring CBD, Wheaton CBD, and Glenmont Metro station policy areas, as defined in the most recent Subdivision Staging policy, except as modified by paragraph (3) for the White Flint policy area;

(2) *Clarksburg*: Clarksburg policy area, as defined in the most recent Subdivision Staging Policy;

(3)] *White Flint*: The part of the White Flint Metro Station Policy Area included in the White Flint Special Taxing District in Section 68C-2; [and]

(2) *Red Policy Areas*: Bethesda CBD, Friendship Heights, Grosvenor, Glenmont, Rockville Town Center, Shady Grove Metro Station, Silver Spring CBD, Twinbrook, and Wheaton CBD Metro Station Policy Areas;

(3) *Orange Policy Areas*: Bethesda/Chevy Chase, Chevy Chase Lake, Clarksburg, Derwood, Gaithersburg City, Germantown Town Center, Kensington/Wheaton, Long Branch, North Bethesda, R & D Village, Rockville City, Silver Spring/Takoma Park, Takoma/Langley, and White Oak Policy Areas;

(4) *Yellow Policy Areas*: Aspen Hill, Cloverly, Fairland/Colesville, Germantown East, Germantown West, Montgomery Village/Airpark, North Potomac, Olney, and Potomac Policy Areas; and

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

[(4) *General*: Any part of the County, including any municipality, not located in an area listed in paragraphs (1) — (3).]

(d) Reserved.

* * *

52-53. Restrictions on use and accounting of development impact tax funds.

* * *

(h) Development impact tax funds collected from the [Clarksburg impact tax district] Red Policy Areas must be used for impact transportation improvements located in or that directly benefit [the Clarksburg] those policy [area] areas.

52-55. Credits.

* * *

(d) Any credit for building or contributing to an impact transportation improvement does not apply to any development that [is] has been previously approved under the Alternative Review Procedure for Metro Station Policy Areas in the County Subdivision Staging Policy.

* * *

(j) (1) A property owner must receive a credit for constructing or contributing to the cost of building a new single family residence that meets Level I Accessibility Standards, as defined in Section 52-18U(a).

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

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

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

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

(D) If at least 30% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of $1000 per residence.

(3) Application for the credit and administration of the credit be in accordance with Subsections 52-18U(e) and (f).

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

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

52-57. Tax rates.

(a) The Council must establish the tax rates for each impact tax district, except as provided in subsection (b), by resolution, after a public hearing advertised at least 15 days in advance. [[are:]][

Tax per Dwelling Unit or per Square Foot of Gross Floor Area (GFA)			
Building Type	*Metro Station*	*Clarksburg*	*General*
Single-family detached residential (per dwelling unit)	$2,750	$8,250	$5,500
Single-family attached residential (per dwelling unit)	$2,250	$6,750	$4,500
Multifamily residential (except high-rise) (per dwelling unit)	$1,750	$5,250	$3,500
High-rise residential (per dwelling unit)	$1,250	$3,750	$2,500
Multifamily-senior residential (per dwelling unit)	$500	$1,500	$1,000
Office (per sq. ft. GFA)	$2.50	$6	$5
Industrial (per sq. ft. GFA)	$1.25	$3	$2.50
Bioscience facility (per sq. ft. GFA)	$0	$0	$0

Retail (per sq. ft. GFA)	$2.25	$5.40	$4.50
Place of worship (per sq. ft. GFA)	$0.15	$0.35	$0.30
Private elementary and secondary school (per sq. ft. GFA)	$0.20	$0.50	$0.40
Hospital (per sq. ft. GFA)	$0	$0	$0
Cultural institution	$0.20	$0.50	$0.40
Charitable, philanthropic institution	$0	$0	$0
Other nonresidential (per sq. ft. GFA)	$1.25	$3	$2.50

] [[

Tax per Dwelling Unit or per Square Foot of Gross Floor Area (GFA)				
Land Use	**Red Policy Areas (Metro Stations)**	**Orange Policy Areas**	**Yellow Policy Areas**	**Green Policy Areas**
Residential Uses				
SF Detached	$3,653	$10,959	$18,266	$29,225
MF Residential				
SF Attached	$2,552	$7,656	$12,759	$20,415
Garden Apartments	$2,312	$6,937	$11,562	$18,499

High - Rise Apartments	$1,652	$4,955	$8,259	$13,214
Multi-Family Senior	$661	$1,982	$3,303	$5,286
Commercial Uses				
Office	$10.08	$13.45	$16.81	$16.81
Industrial	$5.01	$6.69	$8.36	$8.36
Bioscience	$0.00	$0.00	$0.00	$0.00
Retail	$8.97	$11.96	$14.95	$14.95
Place of Worship	$0.53	$0.70	$0.88	$0.88
Private School	$0.80	$1.06	$1.33	$1.33
Hospital	$0.00	$0.00	$0.00	$0.00
Social Service Agencies	$0.00	$0.00	$0.00	$0.00
Other Non-Residential	$5.02	$6.69	$8.36	$8.36

]]

(b) For any development located in the White Flint Impact Tax District, the tax rates are $0. [[:

Tax per Dwelling Unit or per Square Foot of Gross Floor Area (GFA)	
Building Type	*White Flint*
High-rise residential (per dwelling unit)	$ 0
Multifamily-senior residential (per dwelling unit)	$ 0

Office (per sq.ft. GFA)	$ 0
Industrial (per sq.ft. GFA)	$ 0
Bioscience facility (per sq.ft. GFA)	$ 0
Retail (per sq.ft. GFA)	$ 0
Tax per Dwelling Unit or per Square Foot of Gross Floor Area (GFA)	
Building Type	*White Flint*
Place of worship (per sq.ft. GFA)	$ 0
Private elementary and secondary school (per sq.ft. GFA)	$ 0
Hospital (per sq.ft. GFA)	$ 0
Other nonresidential (per sq.ft. GFA)	$ 0

]]

(c) [Any development that receives approval of a preliminary plan of subdivision under any Alternative Review Procedure must pay the tax at double the rate listed in subsection (a). However, any development approved under an Alternative Review Procedure that is located in a Metro Station Policy Area must pay the tax at 75% of the rate listed in subsection (a) for the same type of development in the General district.

(d)] Any Productivity Housing unit, as defined in Section 25B-17(j), must pay the tax at 50% of the applicable rate calculated in subsection (a).

[(e)] (d) Any building that would be located within one-half mile of the Germantown, Metropolitan Grove, Gaithersburg, Washington Grove, Garrett Park, or Kensington MARC stations must pay the tax at 85% of the applicable rate calculated in subsection (a).

[(f)] (e) The County Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the rates set [[in]] under this Section.

[(g)] (f) The Director of Finance, after advertising and holding a public hearing as required by Section 52-17(c), must adjust the tax rates set in or under this Section on [[July 1]] January 1 of each odd-numbered year by the annual average increase or decrease in a published construction cost index specified by regulation for the two most recent calendar years. The Director must calculate the adjustment to the nearest multiple of 5 cents for rates per square foot of gross floor area or one dollar for rates per dwelling unit. The Director must publish the amount of this adjustment not later than [[May 1]] November 1 of each [[odd]] even numbered year.

52-58. Use of impact tax funds.

Impact tax funds may be used for any:

(a) new road, widening of an existing road, or total reconstruction of all or part of an existing road required as part of widening of an existing road, that adds highway or intersection capacity or improves transit service or bicycle commuting, such as bus lanes or bike lanes;

(b) new or expanded transit center or park-and-ride lot;

(c) bus added to the Ride-On bus fleet, but not a replacement bus;

(d) new bus shelter, but not a replacement bus shelter;

(e) hiker-biker trail or other bike facility used primarily for transportation;

(f) bicycle locker that holds at least 8 bicycles;

(g) bikesharing station (including bicycles) approved by the Department of Transportation;

(h) sidewalk connector to or within a major activity center or along an arterial or major highway; or

(i) the operating expenses of any transit or trip reduction program.

52-59. Transportation Mitigation Payment.

(a) In addition to the tax due under this Article, an applicant for a building permit for any building on which an impact tax is imposed under this

Article must pay to the Department of Finance a [Transportation] Transit Accessibility Mitigation Payment if that building was included in a preliminary plan of subdivision that was approved under the Transportation Mitigation Payment provisions in the County Subdivision Staging Policy adopted on ____.

(b) The amount of the Payment [for each building must be calculated by multiplying the Payment rate by the total peak hour trips generated by the development] is based upon the latest finding of adequacy for transit accessibility for each Policy Area as approved and applicable under the County Subdivision Staging Policy process. The initial findings of applicability and adequacy as adopted on _____ are as follows: [.]

Policy Area	**Transit Accessibility Mitigation**
Red Group	
Bethesda CBD	Exempt
Friendship Heights	Exempt
Grosvenor	Exempt
Glenmont	Exempt
Rockville Town Center	Exempt
Shady Grove Metro Station	Exempt
Silver Spring CBD	Exempt
Twinbrook	Exempt
Wheaton CBD	Exempt
White Flint	Exempt
Orange Group	
Bethesda/Chevy Chase	Adequate
Clarksburg	Inadequate, Full Mitigation
Derwood	Inadequate, Partial Mitigation
Gaithersburg City	Inadequate, Full Mitigation
Germantown Town Center	Inadequate, Full Mitigation
Kensington/Wheaton	Inadequate, Full Mitigation
North Bethesda	Inadequate, Full Mitigation
R&D Village	Inadequate, Full Mitigation

Rockville City	Inadequate, Full Mitigation
Silver Spring/Takoma Park	Inadequate, Full Mitigation
White Oak	Adequate
Yellow Group	
Aspen Hill	Inadequate, Full Mitigation
Cloverly	Inadequate, Full Mitigation
Fairland/Colesville	Inadequate, Partial Mitigation
Germantown East	Inadequate, Full Mitigation
Germantown West	Inadequate, Full Mitigation
Montgomery Village/Airpark	Adequate
North Potomac	Inadequate, Full Mitigation
Olney	Inadequate, Full Mitigation
Potomac	Adequate
Green Group	
Damascus	Exempt
Rural East	Exempt
Rural West	Exempt

In addition to the above, buildings in the Chevy Chase Lake, Langley Park, and Takoma/Langley Policy Areas are considered to have adequate transit accessibility as a result of programmed construction funds for the Purple Line.

(c) The Transit Accessibility Mitigation Payment is based upon a percentage of the tax due under this Article according to the following schedule:

(1) Full Mitigation Required – 25% of tax due under this Article; and

(2) Partial Mitigation Required – 15% of tax due under this Article.

The rate must be set by Council resolution, including a resolution that amends the Subdivision Staging Policy. [The Director of Finance must adjust the then-applicable Payment rate as of July 1 of 2015 and each later odd-numbered year by the annual average increase or decrease in a published construction cost index specified by regulation for the two most recent calendar years to the nearest multiple of $10. The Director must publish the amount of this adjustment in the County Register not later than May 1 of each odd numbered year. The Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the Payment rate or set different rates for different types of development.]

*   *   *

52-87. Definitions.

In this Article all terms defined in Section 52-47 have the same meanings, and the following terms have the following meanings:

Cost of a student seat means the construction cost of a school divided by the programmed capacity of the school.

Development impact tax for public school improvements means a tax imposed to defray a portion of the costs associated with public school improvements that are necessary to accommodate the enrollment generated by the development.

High-rise unit means any dwelling unit located in a multifamily residential or mixed-use building that is taller than 4 stories, and any 1-bedroom garden apartment.

Public school improvement means any capital project of the Montgomery County Public Schools that adds to the number of teaching stations in a public school.

[[*High-rise unit* includes any dwelling unit located in a multifamily residential or mixed-use building that is taller than 4 stories, and any 1-bedroom garden apartment.]]

52-89. Imposition and applicability of tax.

*   *   *

(c) [[A portion of the development impact tax equal to 10% of the cost of a student seat must be dedicated to land acquisition for new schools.

(d)]] The tax under this Article must not be imposed on:

(1) any Moderately Priced Dwelling Unit built under Chapter 25A or any similar program enacted by either Gaithersburg or Rockville;

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

(3) any Personal Living Quarters unit built under Sec. 59-A-6.15, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;

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

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

(6) any development located in an enterprise zone designated by the State or in an area previously designated as an enterprise zone <u>based upon the length of time since the expiration of its enterprise zone status. Within 1 year of its expiration, a full exemption must apply. Within 2 years of its expiration, 25% of the applicable development impact tax must apply. Within 3 years, 50% of the applicable development impact tax must apply. Within 4 years, 75% of the applicable development impact tax must apply. A project within an area previously designated as an enterprise zone must be required to pay 100% of the applicable development</u>

impact tax for public school improvements beginning 4 years after its expiration.

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

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

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

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

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

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

(A) construction begins within one year after demolition or destruction of the previous building was substantially completed; or

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

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

[(e)] [[(f)]] (e) If the type of proposed development cannot be categorized under the residential definitions in Section 52-47 and 52-87, the Department must use the rate assigned to the type of residential development which generates the most similar school enrollment characteristics.

52-90. Tax rates.

(a) The Council must establish the Countywide rates for the tax under this Article by resolution after a public hearing advertised at least 15 days in advance. [[are:

Dwelling type	*Tax per dwelling unit*
Single-family detached	[$8000] $18,878
Single-family attached	[$6000] $19,643
Multifamily (except high-rise)	[$4000] $15,507
High-rise	[$1600] $5,570
Multifamily senior	$ 0

]]

(b) The tax on any single-family detached or attached dwelling unit must be increased by $2 for each square foot of gross floor area that exceeds 3,500 square feet, to a maximum of 8,500 square feet.

(c) Any Productivity Housing unit, as defined in Section 25B-17(j), must pay the tax at 50% of the otherwise applicable rate.

(d) [Any non-exempt dwelling unit located in a development where at least 30% of the dwelling units are exempt from this tax under Section 52-89(c)(1)-(4) must pay the tax at 50% of the applicable rate in subsection (a).]

[(e)] (d) The County Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the rates set in this Section.

[(f)] (e) The Director of Finance, after advertising and holding a public hearing as required by Section 52-17(c), must adjust the tax rates set in or under this Section effective on [[July 1]] January 1 of each [odd-numbered] [[even-numbered]] odd-numbered year[[, or on November 15,]] in accordance with the update to the Subdivision Staging Policy using the latest student generation rates and school construction cost data [by the annual average increase or decrease in a published construction cost index specified by regulation for the two most recent calendar years]. The Director must calculate the adjustment to the nearest multiple of one dollar[[, except that the rate must not be increased or decreased more than 5%]]. The Director must publish the amount of this adjustment not later than [[May 1]] November 1 of each [odd numbered] even-numbered year.

52-91. Accounting; use of funds.

* * *

(d) Revenues raised under this Article may be used to fund planning design, acquisition of land, site improvements, utility relocation, construction, and initial furniture and equipment for any:

(1) new public elementary or secondary school;

(2) addition to an existing public elementary or secondary school that adds one or more teaching stations; [or] or

(3) modernization of an existing public elementary or secondary school to the extent that the modernization adds one or more teaching stations[[; or

(4) acquisition of land for a public elementary or secondary school]].

[[(e) Any funds collected for the acquisition of land must be placed in the MCPS Advance Land Acquisition Revolving Fund (ALARF), to be used for the purchase of property for new public schools.]]

52-93. Credits.

(a) Section 52-55 does not apply to the tax under this Article. A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-91(d), including costs of site preparation. [A credit must not be allowed for the cost of any land dedicated for school use, including any land on which the property owner constructs a school] A property owner may receive credit for land dedicated for a school site, if:

(1) the density calculated for the dedication area is excluded from the density calculation for the development site; and

(2) the Montgomery County School Board agrees to the site dedication.

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

(1) the estimated cost of the improvement or the fair market value of the dedicated land, if known then;

(2) the dates or triggering actions to start and, if known then, finish the improvement or land transfer; [.]

(3) a requirement that the property owner complete the improvement according to Montgomery County Public Schools standards; [,] and

(4) such other terms and conditions as MCPS finds necessary.

(c) MCPS must:

(1) review the improvement plan or dedication; [,]

(2) verify costs or land value and time schedules; [,]

(3) determine whether the improvement is a public school improvement of the type listed in Section 52-91(d) or meets the dedication requirements in subsection (a); [,]

(4) determine the amount of the credit for the improvement or dedication; [,] and

(5) certify the amount of the credit to the Department of Permitting Services before that Department or a municipality issues any building permit.

* * *

(e) (1) A property owner must receive a credit for constructing or contributing to the cost of building a new single family residence that meets Level I Accessibility Standards, as defined in Section 52-18U(a).

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

(A) If at least 5% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of [[$500]] $250 per residence.

(B) If at least 10% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of [[$1,000]] $500 per residence.

(C) If at least 25% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of [[$1,500]] $750 per residence.

(D) If at least 30% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of [[$2,000]] $1000 per residence.

(3) Application for the credit and administration of the credit be in accordance with Subsections 52-18U(e) and (f).

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

(f) The Director of Finance must not provide a refund for a credit which is greater than the applicable tax.

(g) Any credit issued under this Section before December 31, 2015 expires 6 years after the Director certifies the credit. Any credit issued under this Section on or after January 1, 2016 expires 12 years after the Director certifies the credit.

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

52-94. School Facilities Payment.

* * *

(b) The amount of the Payment for each building must be calculated by multiplying the Payment rate by the latest per-unit student yield ratio for any level of school or individual school found to be inadequate for the purposes of imposing the School Facilities Payment in the applicable Subdivision Staging Policy and for that type of dwelling unit and geographic area issued by MCPS.

(c) The Payment rates must be set by Council resolution. The Director of Finance must adjust the then-applicable Payment rates [as of] on July 1 of [2015 and] each [later odd- numbered] even-numbered year, or on November 15, in accordance with the update to the Subdivision Staging Policy by using the latest student generation rates and school construction cost data. The Director must calculate the adjustment to the nearest multiple of one dollar. [based on the construction cost of a student seat for each school level as certified by the Superintendent of Montgomery County Public Schools for the two most recent calendar years, to the nearest multiple of $10.] The Director must publish the amount of this adjustment in the County Register not later than May 1 of each [odd numbered] even-numbered year. The Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the Payment rate or set different rates for different types of housing unit. The Council must not increase or decrease the rate by more than 5%.

* * *

Approved:

Nancy Floreen, President, County Council　　　　　　　　Date

Approved:

Isiah Leggett, County Executive Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council Date

Bill 37-16
MCDOT Comments
9/8/16

MCDOT's review on this bill is specifically related to its function as the agency responsible for the review and certification of Transportation Impact Tax Credits. Our comments are as follows:

Lines 9-10: The proposed language to be added to the definition of "Additional capacity" are transportation demand management activities, and do not add roadway or intersection capacity. MCDOT feels this additional language confuses the definition and will create interpretation problems in the submission and evaluation of transportation impact tax credit requests. We agree that the actual activities described - implementing or improving transit, pedestrian and bike facilities or access to non-auto modes of travel – are potentially eligible for transportation impact tax credits as listed in Section 52-58, but do not belong in the definition of "Additional capacity".

Lines 60-63: The language as drafted is unclear if the intent is to only allow taxes collected in one specific Red Policy Area to only be used in the same specific Red Policy Area (e.g., collected in Grosvenor can only be used in Grosvenor), or if taxes collected in the any of the Red Policy Areas can be used in any Red Policy Area (e.g., collected in Grosvenor can be used in any other red area).

Line 80: MCDOT suggests consolidating the tax rate table for White Flint as a new column into the table for the various policy areas.

Line 115: MCDOT is not clear as to the reason for including the proposed language "or other bike facility". The Executive Regulation associated with Transportation Impact Taxes and Impact Tax Credits includes specific criteria for hiker-biker trails used primarily for transportation. The proposed language is overly vague and will lead to confusion and misinterpretation in reviewing and certifying impact tax credits.

Line 119: MCDOT disagrees with including the words "or within" to this item. This section of the code is also the basis for determining what is credit eligible. While using impact taxes as a potential funding source for all CIP sidewalk projects if desirable, we do not believe that issuing tax credits for any sidewalk built as part of certain developments is in keeping with the underlying philosophy of granting transportation impact tax credits for what county would have otherwise built. Also, a sidewalk within an activity center is more of a local amenity as opposed to providing connectivity to the overall transportation network. Sidewalks are a fundamental requirement of new development construction, and including this provision will increase the amount of credits provided and will decrease the revenues collected from impact taxes.

Line 122: It appears the title of this section should change to Transit Accessibility Mitigation Payment.

TESTIMONY OF CYNTHIA BAR

BEFORE THE

MONTGOMERY COUNTY COUNCIL

BILL 37–16 – TAXATION – DEVELOPMENT IMPACT TAX

SEPTEMBER 13, 2016

Good evening. I am Cynthia Bar of Lerch, Early & Brewer, testifying in support of the Development Impact Tax legislation with some additional suggestions. I believe the Planning Board has appropriately evaluated the important role and impact of development in Metro Station Policy Areas, and has recommended appropriate impact tax rates for such development which I support. I also support their recommendation that projects providing reduced parking should be entitled to a reduction in the impact tax given the significantly lower trip generation resulting from a building with constrained parking. I understand that this provision will be added to the Bill.

I do, however, believe an additional modification should be made to the impact tax provisions to be consistent with the proposed Subdivision Staging Policy which you also are considering tonight. The Subdivision Staging Policy continues to direct Montgomery County development towards areas served by public transit, and further requires development projects to focus increasingly on providing non-automobile transportation improvements, including those in support of public transportation. This is consistent with the Department of Transportation's evolution towards a County with more urban development, fewer new highways and considerably more public transportation. However, as you know, the impact tax measures were drafted years ago when the County had a more automobile and road oriented philosophy, and hence they do not match in some ways current public policy on transportation. More specifically, Section 52–58 regarding the use of impact tax funds allows such funds to be spent on new Ride-On buses and bus shelters, and for Park and Ride lots, but it does not specifically mention that those funds can be spent on public transit facilities such as the Purple Line, BRT facilities or other planned public transportation improvements. I believe the legislation should be amended to make it clear that impact tax funds can be spent on any capital improvement project which is adding public transportation capacity and facilities. Similarly, the impact tax legislation allows developers to pay for certain transportation improvements rather than waiting for the public to provide them, and enables those developers to obtain credits against the impact tax that otherwise would be due when they provide those facilities. For years, this has traditionally meant credits for road improvements. As I have noted, however, there is an increasing focus on public transportation and other alternative transportation measures. Developers should be entitled to fund these types of improvements to address transportation needs and should receive impact tax credits when they do so, just as they receive them now for new roads, bus shelters and Ride-On buses. I have provided draft language attached to this testimony of how Chapter 52 should be amended to accomplish these objectives. Thank you for your consideration of my views.

(i) the operating expenses of any transit or trip reduction program.

(j) new or expanded public transportation facility, including light rail and bus rapid transit facilities.

52-59. Transportation Mitigation Payment.

(a) In addition to the tax due under this Article, an applicant for a building permit for any building on which an impact tax is imposed under this Article must pay to the Department of Finance a [Transportation] Transit Accessibility Mitigation Payment if that building was included in a preliminary plan of subdivision that was approved under the Transportation Mitigation Payment provisions in the County Subdivision Staging Policy adopted on ____.

(b) The amount of the Payment [for each building. must be calculated by multiplying the Payment rate by the total peak hour trips generated by the development] is based upon the latest finding of adequacy for transit accessibility for each Policy Area as approved and applicable under the County Subdivision Staging Policy process. The initial findings of applicability and adequacy as adopted on ____ are as follows: [.]

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LERCH EARLY & BREWER

ideas that work

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TESTIMONY OF CHRISTOPHER M. RUHLEN
BEFORE THE MONTGOMERY COUNTY COUNCIL

March 8, 2016

Bill 37-16, Taxation – Development Impact Tax –
Transportation and Public School Improvements -- Amendments

Good evening, for the record I am Chris Ruhlen with the law firm of Lerch, Early and Brewer. I am here to testify in support of the proposed impact tax changes recommended by the Planning Board with Bill 37-16, but also to suggest one further modification that I believe is appropriate.

With respect to funding public road infrastructure, the County currently distinguishes between development impact tax expenditures and credits for County roads and State roads. In some cases, Montgomery County is able to obtain full funding for new road improvements from the State and this distinction is not an issue. In other cases, however, State funds are stretched too thin to enable State funding, leaving the obligation for constructing State road improvements either to Montgomery County or to private developers. Clarksburg provides a good example of where past, pending and future road improvements for State roads – specifically for Maryland Route 355 and Maryland Route 121 – are not being funded by the State but by Montgomery County and private developers.

Like County roads, State road improvements provide important benefits to new and existing residents and workers and to the public at large. However, the current impact tax legislation ignores the reality that State road improvements are often not being funded by the State. While the current legislation enables Montgomery County to use impact taxes to fund a wide variety of improvements, and also allows developers who provide funding to obtain impact tax credits, the legislation does not allow credits to be granted for State road improvements even when the County or the private sector are providing the funding. In order to expedite construction of these desirable improvements, both County impact tax funding and private funding offset by impact tax credits should be encouraged. The thinking at one time was that not using impact tax funds for State roads would somehow force the State to fund them itself. In reality, however, this has often not occurred. Multiple times, standoffs with the State about funding those improvements have arisen, hurting the public until the County or the private sector provide funding to make sure State road improvements are built. To avoid these situations, impact tax funds should be available for State road improvements as should impact tax credits.

One case in point stands out. As noted, County and private sector funding has been used for a variety of improvements along both Maryland Route 121 and Route 355 in Clarksburg. These improvements have begun to address the long-standing complaint from Clarksburg residents about the inadequacy of road capacity. The improvements to Route 355, however, have not included needed upgrades at the intersection of Brink Road and 355 because developer obligations there will not be triggered until years from now. Given the progress on the other Route 355 improvements, this will soon result in a severe bottleneck at the intersection. At the same time, working with some of the developers responsible for participating in that improvement, I have been informed that they would be willing to fund that improvement and build it years ahead of time if they were able to obtain impact tax credits for their funding. I ask that you consider modifying the legislation to allow this to occur, and am providing a proposed change to Section 52-58 with my testimony that would accomplish this.

[(4) *General:* Any part of the County, including any municipality, not located in an area listed in paragraphs (1)-(3);]

(d) Reserved.

* * *

52-53. Restrictions on use and accounting of development impact tax funds.

* * *

(h) Development impact tax funds collected from the [Clarksburg impact tax district] Red Policy Areas must be used for impact transportation improvements located in or that directly benefit [the Clarksburg] those policy [area] areas.

52-55. Credits.

* * *

(b) A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-58 if the improvement reduces traffic demand or provides additional transportation capacity. ~~However, the Department must not certify a credit for any improvement in the right-of-way of a State road, except a transit or trip reduction 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~~.

* * *

(d) Any credit for building or contributing to an impact transportation improvement does not apply to any development that [is] has been previously approved under the Alternative Review Procedure for Metro Station Policy Areas in the County Subdivision Staging Policy.

* * *

BUCHANAN
PARTNERS
Developing Values. Building Relationships.

September 14, 2016

Hon. Nancy Floreen
President, Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Re: Impact Tax Credits
Transportation Impact Taxes

Dear ~~Ms. Floreen~~ Nancy,

As the Council considers the draft Subdivision Staging Policy, it also will be considering changes proposed by the Montgomery County Planning Board to the current transportation impact tax rates. This letter is to request that the Council consider a modest expansion of the impact tax credit provisions to enable a property owner to utilize earned transportation impact tax credits for other properties within the same transportation policy area.

We have a situation currently in Germantown West where we are constructing a master planned extension/relocation of Waters Road to connect to Maryland Rt. 118 opposite the Germantown MARC station. The right-of-way for this "connector" road is on an adjacent off-site property, and reaching an agreement and obtaining approvals for the connector road have taken approximately five years.

This connector road is not required to be built in conjunction with our development approvals for our adjacent Martens project, rather it is intended to provide greater accessibility for Germantown West residents to the MARC station and Maryland Rt. 118. In conjunction with the late development of the connector road, and the impact of its connection to the existing area road network, we recently earned $960,000 of transportation tax credits for our construction of Waterford Hills Boulevard and should qualify for additional credits for other improvements, including the connector road.

However, due to the late timing of earning our transportation impact tax credits, our Martens project buildout is approximately 95% complete and consequently our earned transportation impact credits cannot be used for our project. We think it is unfair for us to build infrastructure for the County and rightfully earn impact tax credits, but then not be able to use them.

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Accordingly, we respectfully request that the Council consider adopting a simple amendment to the impact tax credit statute that would allow earned transportation impact tax credits to be transferred to another property owner in the same transportation policy area. We have attached for your use suggested language for a simple and straightforward text amendment.

We believe that our request is fair and reasonable. We also believe that this credit transfer flexibility will be an incentive to facilitate earlier infrastructure investment and result in stronger economic development activity. Please note that our suggested language includes a caveat that the transfer of credits only be allowed in the proposed Red, Orange or Yellow areas of the County, and not the Green (or rural) transportation policy areas.

Thank you for your consideration in this very important matter.

Sincerely,

Buchanan Pinkard Germantown, LLC

Robert E Buchanan

Robert E. Buchanan

cc: Mr. Craig L. Rice, Member, Montgomery County Council, District 2
Mr. Glenn Orlin, Montgomery County, Deputy County Administrator
Mr. Steve Silverman
Mr. Robert G. Brewer, Jr.

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PROPOSED ZONING TEXT AMENDMENT

Transferability of Impact Tax Credits

Sec. 52-55. Credits

....

(b) A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-58 if the improvement reduces traffic demand or provides additional transportation capacity. However, the Department must not certify a credit for any improvement in the right-of-way of a State road, except a transit or trip reduction 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.

....

(j) After a credit has been certified under this Section, the property owner or contract purchaser to whom the credit was certified may transfer all or part of the credit to any successor in interest of the same property. However, any credit transferred under this subsection must only be applied to the tax due under this Article with respect to the property for which the credit was originally certified.

<u>Amend Sec. 52-55 by adding new subsection (k):</u>

<u>(k) Notwithstanding section (j) above, the property owner or successor in interest to whom the credit was certified may transfer the credit, in whole or in part, to another property owner(s) in the same transportation policy area, provided that the credit was earned in a Red, Orange or Yellow (but not Green) policy area. The Department of Transportation must adopt policies to implement the transfer mechanism.</u>

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Comparison of Current Transportation Impact Tax Rates to 2016 Proposed Rates																
	Single Family Detached		Single Family Attached		Garden Apartments		High Rise Apartments		Multi Family Senior		Office		Industrial		Retail	
	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed	Current	Proposed
Bethesda CBD	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
Friendship Heights	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
Glenmont	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
Grosvenor	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
Rockville Town Center	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
Shady Grove Metro	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
Silver Spring CBD	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
Wheaton CBD	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
White Flint	$6,984	$3,653	$5,714	$2,552	$4,443	$2,312	$3,174	$1,652	$1,269	$661	$6.35	$6.72	$3.20	$3.34	$5.70	$5.98
Bethesda/Chevy Chase	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
Clarksburg	$20,948	$10,959	$17,141	$7,656	$13,330	$6,937	$9,522	$4,955	$3,808	$1,982	$15.30	$13.45	$7.60	$6.69	$13.70	$11.96
Derwood	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
Gaithersburg City	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
Germantown Town Center	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
Kensington/Wheaton	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
North Betesda	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
R&D Village	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
Rockville City	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
Silver Spring/Takoma Park	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
White Oak	$13,966	$10,959	$11,427	$7,656	$8,886	$6,937	$6,347	$4,955	$2,539	$1,982	$12.75	$13.45	$6.35	$6.69	$11.40	$11.96
Aspen Hill	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Cloverly	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Fairland/Colesville	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Germantown East	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Germantown West	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Montgomery Village/Airpark	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
North Potomac	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Olney	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Potomac	$13,966	$18,266	$11,427	$12,759	$8,886	$11,562	$6,347	$8,259	$2,539	$3,303	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Damacus	$13,966	$29,225	$11,427	$20,415	$8,886	$18,499	$6,347	$13,214	$2,539	$5,286	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Rural East	$13,966	$29,225	$11,427	$20,415	$8,886	$18,499	$6,347	$13,214	$2,539	$5,286	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95
Rural West	$13,966	$29,225	$11,427	$20,415	$8,886	$18,499	$6,347	$13,214	$2,539	$5,286	$12.75	$16.81	$6.35	$8.36	$11.40	$14.95

Change in Current Transportation Impact Tax Rates compared to 2016 Proposed Rates								
	Single Family Detached	Single Family Attached	Garden Apartments	High Rise Apartments	Multi Family Senior	Office	Industrial	Retail
	Change in Rate	Change in Rate	Change in Rate	Change in Rate	Change in Rate	Change in Rate	Change in Rate	Change in Rate
Bethesda CBD	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
Friendship Heights	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
Glenmont	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
Grosvenor	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
Rockville Town Center	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
Shady Grove Metro	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
Silver Spring CBD	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
Wheaton CBD	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
White Flint	-$3,331	-$3,162	-$2,131	-$1,522	-$608	$0.37	$0.14	$0.28
Bethesda/Chevy Chase	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
Clarksburg	-$9,989	-$9,485	-$6,393	-$4,567	-$1,826	-$1.85	-$0.91	-$1.74
Derwood	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
Gaithersburg City	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
Germantown Town Center	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
Kensington/Wheaton	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
North Betesda	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
R&D Village	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
Rockville City	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
Silver Spring/Takoma Park	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
White Oak	-$3,007	-$3,771	-$1,949	-$1,392	-$557	$0.70	$0.34	$0.56
Aspen Hill	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
Cloverly	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
Fairland/Colesville	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
Germantown East	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
Germantown West	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
Montgomery Village/Airpark	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
North Potomac	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
Olney	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
Potomac	$4,300	$1,332	$2,676	$1,912	$764	$4.06	$2.01	$3.55
Damacus	$15,259	$8,988	$9,613	$6,867	$2,747	$4.06	$2.01	$3.55
Rural East	$15,259	$8,988	$9,613	$6,867	$2,747	$4.06	$2.01	$3.55
Rural West	$15,259	$8,988	$9,613	$6,867	$2,747	$4.06	$2.01	$3.55

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AGRICULTURAL ADVISORY COMMITTEE

September 30, 2016

The Honorable Nancy Floreen
Montgomery County Council President
100 Maryland Avenue
Rockville, MD 20850

Dear Council President Floreen: Bill 37-16- Taxation-Development Impact Tax-Transportation and Public School Improvements

On behalf of the Montgomery County Agricultural Advisory Committee-AAC, please accept this letter as our comments for Bill 37-16 Taxation-Development Impact Tax-Transportation and Public School Improvements-Amendments. Please understand that the AAC was not able to comment during the September 13, 2016 public hearing because we did not meet in the month of August due to the County Agricultural Fair and our September 20, 2016 meeting was the first opportunity for the Committee to discuss this Bill 37-16.

We in agriculture are very much concerned that the Council is considering raising the impact fees in outlying east and west ag districts of the county. The impact fees are already a very high barrier for the Montgomery County farmer who wants to build a house for his tenant or for his offspring to build on the child's lot.

Although the increase in tax money may be needed somewhere in the county, we feel that the green policy area increase is a special burden on the Ag Reserve farmers. We have a few specific points about this:

The added revenue is to be used for infrastructure improvements for transportation and public schools; although these improvements will most probably occur down county and not in the Agricultural Reserve. The Agricultural Reserve has the least amount of public services in the County (examples no internet, the majority of rural and rustic roads, very few public schools) although the proposed impact tax rate for the Agricultural Reserve-Green Policy Area is the highest of all other policy areas.

If an existing or new farmer needs a new home on the farm for the owner, a tenant farmer, or next the generation, this would be an added burden that may influence whether that farm is viable and profitable. Some farmers on our committee have said they will not be able to afford the costs to construct a house for their children on the child lot that they have reserved for their purpose.

The profitability of the individual farm will ultimately decide the fate of the Agricultural Reserve. If as a county we truly want the Ag Reserve to continue as farmland we should consider this impact fee and the unintended burden to farmers.

The AAC thanks the County Council for this opportunity to present our views on Bill 37-16 and please let us know if you have any questions.

Sincerely,

David Weitzer

David Weitzer, Chairman

WILLCO

September 28, 2016

Via email only to Councilmember.Floreen@montgomerycountymd.gov

The Honorable Nancy Floreen, President
and Members of the Montgomery County Council
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: Impact Tax – Metro Station Policy Areas

Dear President Floreen and Members of the Council:

As you are aware, the Government Operations and Fiscal Policy (GO) Committee will convene on Thursday, October 6 to continue work on Bill 37-16, Taxation – Development Impact Tax – Transportation and Public School Improvements – Amendments.

It is our understanding that the GO Committee will provide recommendations to full Council on whether Development Impact Taxes in Metro Station Policy Areas will DOUBLE, as proposed by Councilmember Elrich and Council Staff Deputy Director Glenn Orlin.

As a major stakeholder in the County and a developer in Metro Station areas, we share the Council's goal to increase accessibility and relieve traffic congestion surrounding Metro areas within the County. However, doubling the transportation Impact Tax, which has been in place for over 10 years, would jeopardize the ability of future developments located in Metro Station Policy Areas to obtain financing.

7811 Montrose Road, Suite 200, Potomac, MD 20854 301.279.7000 willco.com

The doubled tax will surely result in more projects seeking County financial support in order to offset the increase in the Impact Tax. In addition, the County only collected $476,000 last year from the tax so doubling it will not produce enough revenue to affect transportation funding. Therefore, it is simpler to preserve the current Transportation Impact Tax rate and simultaneously send a message that the County continues to prioritize Metro area development.

We appreciate your consideration of our request and look forward to hearing from you.

Sincerely,

Jason L. Goldblatt
President & CEO

cc:
Councilmember.Berliner@montgomerycountymd.gov
Councilmember.Elrich@montgomerycountymd.gov
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Testimony of Steven A. Robins for Robert R. Harris, Lerch Early & Brewer on behalf of the Clarksburg Premium Outlets before the Montgomery County Council Bill No. 34-15 July 21, 2015

Good afternoon President Leventhal and Members of the Montgomery County Council. I am Steven Robins, an attorney with the law firm of Lerch Early & Brewer located in Bethesda, Maryland. I am here today for my partner, Bob Harris, testifying on behalf of the Clarksburg Premium Outlets. As you may recall, the Premium Outlets will be located on a portion of the Cabin Branch property on the west side of Interstate 270 in Clarksburg. We have been diligently pursuing the approvals for the Outlets and anticipate an opening in late 2016. This development will be a great addition to the Clarksburg community and will serve as a catalyst for quality, desirable development in this area of the County.

We support the provision of Bill No. 34-15 that eliminates the separate impact tax rates for Clarksburg and instead equalizes the rates with the County's general tax rate category. The County tax rate will put Clarksburg on a level playing field with those areas that pay the general rate. This, in turn, will have the desirable impact of affording those in Clarksburg an opportunity to provide more development activity in this area of the County that translates into job creation and revenue generation. As a developer in the Cabin Branch area, we are required to make improvements to state infrastructure, like the I-270/Rt. 121 interchange, for which impact credits may not be available. Equalizing the impact tax rate is the equitable action to take. The County still will collect substantial revenue – this is a win-win for Clarksburg and the County.

We appreciate the Council's consideration of our testimony in support of eliminating the separate impact tax rate for Clarksburg. Thank you very much.

Resolution No.: 16-377
Introduced: May 24, 2007
Adopted: November 13, 2007

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Council President at the request of the Planning Board

SUBJECT: **Impact Taxes - Rates**

Background

1. County Code §52-57(d) authorizes the County Council, by resolution, after a public hearing advertised at least 15 days in advance, to increase or decrease the transportation improvements impact tax rates set in §52-57(a).

2. County Code §52-90(d) authorizes the County Council, by resolution, after a public hearing advertised at least 15 days in advance, to increase or decrease the school improvements impact tax rates set in §52-90(a).

3. The Council finds that it is necessary to increase the rates of the impact taxes to more adequately fund urgent transportation and school infrastructure priorities. The existing rates shown below are the rates scheduled to take effect on July 1, 2007, as published in the May 1, 2007, Montgomery County Register.

4. A public hearing on this resolution was held on June 19 and June 26, 2007.

Action

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

1. Under County Code §52-57(d) the rates of the transportation impact tax are:

Building type		Tax per unit or sq. ft. GFA		
Residential				
General				
Single-family detached		[$6,264]	[[$8,380]]	$10,649
Single-family attached		[$5,125]	[[$6,856]]	$8,713
Multi-family residential (except high rise)		[$3,986]	[[$5,884]]	$6,776
High-rise residential		[$2,847]	[[$4,204]]	$4,840
Multi-family senior residential		[$1,139]	[[$1,682]]	$1,936
Metro Station				
Single-family detached	[$3,132]	[[$4,191]]	[[$7,987]]	$5,325
Single-family attached	[$2,563]	[[$3,429]]	[[$6,535]]	$4,357
Multi-family residential (except high rise)	[$1,993]	[[$2,943]]	[[$5,082]]	$3,388
High-rise residential	[$1,424]	[[$2,102]]	[[$3,630]]	$2,420
Multi-family senior residential	[$569]	[[$840]]	[[$1,452]]	$968
Clarksburg				
Single-family detached		[$9,396]	[[$12,572]]	$15,973
Single-family attached		[$7,688]	[[$10,286]]	$13,070
Multi-family residential (except high rise)		[$5,979]	[[$7,591]]	$10,164
High-rise residential		[$4,271]	[[$5,422]]	$7,261
Multi-family senior residential		[$1,708]	[[$2,169]]	$2,904
Non-Residential				
General				
Office		[$5.70]	[[$11.55]]	$9.69
Industrial		[$2.85]	[[$5.40]]	$4.85
[Bioscience facility		$0.00]		
Bioscience facility		$0.00		
Retail		[$5.10]	[[$18.80]]	$8.67
Place of worship		[$0.30]	[[$0.55]]	$0.51
Private elementary or secondary		[$0.45]	[[$0.75]]	$0.77
Hospital		$0.00		
Social service provider		$0.00		
Other non-residential		[$2.85]	[[$4.85]]	$4.85
Metro Station				
Office	[$2.85]		[[$5.80]][[$7.27]]	$4.85
Industrial	[$1.40]		[[$2.65]][[$3.64]]	$2.43
[Bioscience facility	$0.00]			
Bioscience facility	$0.00			
Retail	[$2.60]		[[$9.50]][[$6.50]]	$4.34
Place of worship	[$0.15]		[[$0.30]][[$0.38]]	$0.26
Private elementary or secondary school	[$0.20]		[[$0.35]][[$0.58]]	$0.39

Hospital	$0.00		
Social service provider	$0.00		
Other non-residential	[$1.40]	[[$2.40]][[$3.64]]	$2.43
Clarksburg			
Office	[$6.85]	[[$13.90]]	$11.65
Industrial	[$3.40]	[[$6.40]]	$5.78
[Bioscience facility	$0.00]		
Bioscience facility	$0.00		
Retail	[$6.15]	[[$22.55]]	$10.46
Place of worship	[$0.40]	[[$0.65]]	$0.68
Private elementary or secondary school	[$0.60]	[[$0.65]]	$1.02
Hospital	$0.00		
Social service provider	$0.00		
Other non-residential	[$3.40]	[[$5.80]]	$5.78

2. Under County Code §52-90(d) the rates of the school improvements impact tax are:

Dwelling type	**Tax per unit**		
Single-family detached	[$9,111]	[[$22,729]]	$20,456
Single-family attached	[$6,833]	[[$17,112]]	$15,401
Multi-family (except high rise)	[$4,555]	[[$10,815]]	$9,734
High-rise	[$1,822]	[[$4,585]]	$4,127
Multi-family senior		$0	

3. This Resolution takes effect on [[September]] December 1, 2007. The rates set in this Resolution apply to any building for which an application for a building permit is filed on or after that date. Subsections (b) [[and (c)]] through (f) of County Code §52-57 and subsections (b) [[and (c)]] through (f) of County Code §52-90 apply to the rates set in this resolution as if the rates were set under subsection (a) of the respective section.

This is a correct copy of Council action.

Linda M. Lauer

Linda M. Lauer, Clerk of the Council

I. Adjustments to Vehicle Parking

1. In General

a. Reduced parking rates under Section 6.2.3.I are not mandatory. The maximum number of parking spaces allowed in a Parking Lot District or Reduced Parking Area is based on the baseline maximum in the parking table under Section 6.2.4.B.

b. Adjustments under Section 6.2.3.I to the minimum number of required parking spaces must not result in a reduction below 50% of the baseline parking minimum or shared parking model minimum.

2. Special Uses

a. The parking minimum resulting from a Special Uses adjustment may not be further reduced by additional adjustments under Section 6.2.3.I.

b. Restricted Housing Types

The baseline parking minimum in the parking table under Section 6.2.4.B may be reduced for restricted housing types by multiplying the following adjustment factor times the baseline minimum:

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Housing Type	Adjustment Factor
MPDUs and Workforce Housing	0.50
Age-Restricted Housing	0.75
Senior Housing	0.50

c. Religious Assembly

i. The deciding body may reduce the required number of parking spaces:

(a) to 0.15 spaces per fixed seat for a Religious Assembly located within 500 feet of any commercial or industrial parking lot where sufficient spaces are available during the time of services to make up the difference; or

(b) to 0.125 per fixed seat for a Religious Assembly used by a congregation whose religious beliefs prohibit the use of motor vehicles in traveling to or from religious services conducted on their Sabbath and principal holidays. The required number of parking spaces may be off-site if the Religious Assembly is located in a Parking Lot District or Reduced Parking Area or within 500 feet of any commercial parking lot where sufficient spaces are available during the time of services or other proposed use of the building.

ii. The parking space requirement does not apply to any existing building or structure located in a Commercial/Residential, Employment, or Industrial zone that is used for Religious Assembly, if the existing parking meets the requirements for any commercial or industrial use allowed in the zone.

3. Shared Parking

a. An applicant proposing development with more than one use may submit a shared parking analysis using the Urban Land Institute Shared Parking Model (Second Edition, 2005) instead of using the parking table in Section 6.2.4.B.

b. The minimum number of required parking spaces under the shared parking model may be adjusted under Section 6.2.3.I.4 through Section 6.2.3.I.6.

4. Car-Share Space

One car-share space located near an entrance is equal to 2 required parking spaces for residential uses or 3 required parking spaces for commercial uses.

5. Unbundled Residential Space

In a Parking Lot District or Reduced Parking Area, if residential parking for Townhouse Living and Multi-Unit Living is sold or rented separately from the purchase or lease of a residential unit, the baseline minimum parking requirement is:

Use	Baseline Minimum
Townhouse Living	0.75
Multi-Unit Living	
Efficiency	0.50
1 Bedroom	0.50
2 Bedroom	0.75
3+ Bedroom	0.75

6. **Federal Tenants**

The minimum number of parking spaces required for Office used by a federal government tenant under a long-term lease is 1.5 spaces per 1,000 square feet of Office gross floor area.

7. **Adjustments Allowed Only in Commercial/Residential and Employment Zones**

a. **NADMS Percentage Goal**

i. The baseline parking minimum or shared parking model minimum may be reduced by the Non-Auto Driver Mode Share (NADMS) percentage goal recommended in the applicable master plan, up to a maximum reduction of 20%.

ii. The baseline maximum vehicle parking standard must not be changed by the NADMS percentage goal.

iii. The NADMS percentage goal adjustment must be calculated before any other adjustment is taken.

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b. **Carpool/Vanpool Space**

One carpool or vanpool space located near an entrance is equal to 3 required parking spaces. A carpool or vanpool space that is unoccupied after 9:30 a.m. may be made available to all vehicles if a sign is posted on the property notifying the public.

c. **Bike-Share Facility**

A bike-share facility with a minimum of 10 spaces may be substituted for 3 vehicle parking spaces if the bike-share facility is accepted by the Department of Transportation as part of an approved comprehensive plan of bike-sharing stations.

d. **Changing Facilities - Showers and Lockers**

The deciding body may reduce the required number of vehicle parking spaces by 3 spaces for each additional changing facility provided above the minimum required under Section 6.2.6.A.4. A changing facility must include a shower and lockers provided separately for each gender.

(Legislative History: Ord. No. 18-08, § 20.)

Section 6.2.4. Parking Requirements

A. Using the Parking Tables

Uses on the parking table match the allowed uses and use groups in Article 59-3. The number of required spaces is based on a metric specific to each use. If the proposed intensity of the use is less than the metric in the tables in subsection B and C, the baseline minimum is calculated using a fraction of that metric. The number of vehicle parking spac-es required also depends upon whether the property is located in or outside of a Parking Lot District or Reduced Parking Area.