


GO COMMITTEE #2  
October 20, 2016

## MEMORANDUM

October 19, 2016

TO: Government Operations and Fiscal Policy Committee

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

SUBJECT: **Worksession 4:** Bill 37-16, Taxation – Development Impact Tax – Transportation and Public School Improvements - Amendments

**Please bring to this session the Bill 37-16 packets for September 22, October 6, and October 20.**

Below are the issues for which the Committee should attempt to make recommendations. Under each issue the option in *italics* represents the existing rule. Support is shown in (parentheses).

### I. SCHOOL IMPACT TAX

1. Countywide base rates
  - a. *Current base rates - see below*
  - b. Planning Board's proposed rates - see below
  - c. 10% higher than the Planning Board's proposed rates, if no school facility payments (CP Floreen, Council staff)
  - d. 20% higher than the Planning Board's proposed rates, if no school facility payments (MCCPTA)
  - e. Other

<i>Dwelling type</i>	<i>Current Base Rates/DU</i>	<i>Proposed Base Rates/DU</i>	<i>Change/DU</i>	<i>% Change/DU</i>
Single-Family Detached (SFD)	\$26,827	\$18,878	-\$7,949	-29.6%
Single-Family Attached (SFA)	\$20,198	\$19,643	-\$555	-2.8%
Multi-Family (except high-rise)	\$12,765	\$15,507	+\$2,742	+21.5%
Multi-Family High-Rise	\$5,412	\$5,570	+\$158	+2.9%
Multi-Family Senior	\$0	\$0	\$0	0%

2. Surcharge for single-family homes
  - a. *\$2.00/sf for each sf between 3,500-8,500sf*
  - b. \$6.00/sf for each sf between 3,500-8,500sf (Superintendent, Council staff)
  - c. Other

3. Charge for teardowns and expansions
  - a. *None*
  - b. \$6.00/sf for each sf between 3,500-8,500sf (Superintendent, Council staff, Christopher Bruch<sup>1</sup>)
  - c. Other
4. Regular updates to the school impact taxes
  - a. *Biennially in July of odd-numbered years, based on the change in the regional construction cost index over the prior two calendar years*
  - b. Biennially in July of odd-numbered years, based on changes reported by MCPS in construction cost/student and the student generation rate by type of household (Planning Bd., BOE, MCCPTA, Council staff)
  - c. Other
5. Limit on regular updates to the school impact tax rates
  - a. *No limit to the change due to the biennial update* (MCCPTA, Council staff)
  - b. Limit any increase or decrease to 5% (Planning Bd., BOE)
  - c. Other
6. Dedicate a portion of school impact tax revenue to land acquisition
  - a. *No* (BOE, Council staff)
  - b. 10% (Planning Board, MCCPTA)
  - c. Other

## II. TRANSPORTATION IMPACT TAX

1. Transportation impact tax rates – see next page
  - a. *Current rates*
  - b. Planning Board's proposed rates (MCCC, GBCA, GCCA, Sierra Club, developers)
  - c. Keep MSPA commercial rates at half the general rate; set housing at 75% (Chevy Chase)
  - d. Council staff's proposed rates
  - e. Councilmember Floreen's proposed rates – apply current General District rates countywide
  - f. Other

The Committee doesn't have to pick an entire rate package; it could take up the pieces separately:

- 1a. Should any change be from the current (2015) rates, or the countywide average rates based on relative trip generation across land uses?
  - a. *Current rates* (CP Floreen)
  - b. Countywide average rates based on relative trip generation rates (Planning Bd, Council staff)

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<sup>1</sup> Mr. Bruch proposed an increase based on the added number of bedrooms.

### Transportation Impact Tax Options

<b><u>Land Use</u></b>	<b><u>Current:</u> <u>General</u> <u>District</u></b>	<b><u>Current:</u> <u>Red</u> <u>Areas</u></b>	<b><u>Current:</u> <u>Clarksburg</u></b>	<b><u>Planning</u> <u>Board:</u> <u>Red Areas</u></b>	<b><u>Planning</u> <u>Bd: Orange</u> <u>Areas</u></b>	<b><u>Planning</u> <u>Bd: Yellow</u> <u>Areas</u></b>	<b><u>Planning</u> <u>Bd: Green</u> <u>Areas</u></b>	<b><u>Council</u> <u>Staff*</u></b>	<b><u>Council</u> <u>Staff</u> <u>+5%**</u></b>	<b><u>Council</u> <u>President</u> <u>Floreen***</u></b>
<b>Residential Uses</b>	Cost/unit	Cost/unit	Cost/unit	Cost/unit	Cost/unit	Cost/unit	Cost/unit	Cost/unit	Cost/unit	Cost/unit
Single-family Detached	\$13,966	\$6,984	\$20,948	\$3,653	\$10,959	\$18,266	\$29,225	\$14,613	\$15,344	\$13,966
Single-family Attached	\$11,427	\$5,714	\$17,141	\$2,552	\$7,656	\$12,759	\$20,415	\$10,208	\$10,718	\$11,427
Garden Apartments	\$8,886	\$4,443	\$13,330	\$2,312	\$6,937	\$11,562	\$18,499	\$9,250	\$9,713	\$8,886
High - Rise Apartments	\$6,347	\$3,174	\$9,522	\$1,652	\$4,955	\$8,259	\$13,214	\$6,607	\$6,937	\$6,347
Multi-Family Senior	\$2,539	\$1,269	\$3,808	\$661	\$1,982	\$3,303	\$5,286	\$2,643	\$2,775	\$2,539
<b>Commercial Uses</b>	Cost/sf	Cost/sf	Cost/sf	Cost/sf	Cost/sf	Cost/sf	Cost/sf	Cost/sf	Cost/sf	Cost/sf
Office	\$12.75	\$6.35	\$15.30	\$6.72	\$13.45	\$16.81	\$16.81	\$13.45	\$14.12	\$12.75
Industrial	\$6.35	\$3.20	\$7.60	\$3.34	\$6.69	\$8.36	\$8.36	\$6.69	\$7.02	\$6.35
Bioscience	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	****	****	\$0.00
Retail	\$11.40	\$5.70	\$13.70	\$5.98	\$11.96	\$14.95	\$14.95	\$11.96	\$12.56	\$11.40
Place of Worship	\$0.65	\$0.35	\$0.90	\$0.35	\$0.70	\$0.88	\$0.88	\$0.70	\$0.74	\$0.00
Private School	\$1.05	\$0.50	\$1.35	\$0.53	\$1.06	\$1.33	\$1.33	\$1.06	\$1.11	\$0.00
Hospital	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Social Service Agencies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Charitable Institution	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Non-Residential	\$6.35	\$3.20	\$7.60	\$3.35	\$6.69	\$8.36	\$8.36	\$6.69	\$7.02	\$6.35

\* Council staff's proposal would also eliminate the 15% rate discount within ½-mile of 6 MARC stations.

\*\* The additional 5% would apply only if transportation policy area review, and its traffic mitigation payment requirement, were eliminated.

\*\*\* On top of these rates there would be a 5% surcharge until a countywide transportation demand management (TDM) program is adopted, to be partially funded with annual transportation management district (TMD) fees, at which point the 5% surcharge would expire.

\*\*\*\* Bioscience space would be charged as Industrial (if lab or light manufacturing space) or Office (if headquarters or other administrative space).

- 1b. Should rates be stratified as they are currently, set the same countywide by use, or stratified by area according to vehicle miles of travel (VMT) and non-auto-drive mode share (NADMS)?
  - a. *Current stratification* - i.e., General, MSPAs, Clarksburg
  - b. Countywide by use (CP Floreen, Council staff)
  - c. Stratified by use and area according to VMT and NADMS (Planning Bd., CSG, Sierra Club)
- 1c. Should the 15% rate discount within ½-mile of six specific MARC stations be continued?
  - a. *Yes*
  - b. No (Council staff)
- 1d. Should a bioscience project have its own rate of \$0 or be charged at the Industrial rate?
  - a. *Charged at \$0/sf rate*
  - b. Charged as Industrial (Council staff)
  - c. Other
- 1e. Should places of worship and private schools have a \$0 rate?
  - a. *No* (Council staff)
  - b. Yes (CP Floreen)
2. Should the rates be increased if the SSP transportation policy area review and its traffic mitigation payment requirement were eliminated?
  - a. *No*
  - b. Yes, by 5% (Council staff)
  - c. Yes, by other %
3. Should there be a discount for providing less parking?
  - a. *No* (DOT, Council staff)
  - b. Yes (Planning Bd., Sierra Club, CSG)
4. Use of, and credits against, impact tax funds - bikeways
  - a. *hiker-biker trail used primarily for transportation*
  - b. hiker-biker trail and other bike facility used primarily for transportation (Planning Bd.)
  - c. hiker-biker trail and protected bike lanes used primarily for transportation (Council staff)
5. Use of, and credits against, impact tax funds – sidewalk connector
  - a. *sidewalk connector to a major activity center or along an arterial or major highway* (DOT, Council staff)
  - b. sidewalk connector to or within a major activity center or along an arterial or major highway (Planning Bd.)

6. Use of, and credits against, impact tax funds – light rail and BRT
  - a. *No for light rail; imprecise for BRT*
  - b. explicitly yes for light rail and BRT (Cynthia Bar)
  - c. no for light rail, yes for BRT (Council staff)
7. Use of, and credits against, impact tax funds – operating expenses of any transit or trip reduction program
  - a. *Retain*
  - b. Delete (Council staff)
8. Use of, and credits against, impact tax funds – State road improvements
  - a. *No* (Council staff)
  - b. Yes (CP Floreen, Christopher Ruhlen)
9. Dedicate impact tax revenue collected in Red areas to improvements in Red areas
  - a. *No* (Council staff)
  - b. Yes (CP Floreen)
10. Dedicate impact tax revenue collected in an area to pay for LATR improvements in that area
  - a. *No* (Council staff)
  - b. Yes (CP Floreen)

### **III. EXEMPTIONS AND REFUNDS**

1. Clergy houses
  - a. *No* (Council staff primary recommendation)
  - b. No, but specify that it is incidental and subordinate to a place of worship and that it be charged only the transportation impact tax's 'place of worship' rate (Council staff secondary recommendation)
  - c. Yes (Exec)
2. Student-built houses
  - a. *No* (Council staff)
  - b. Yes (CP Floreen)
3. Refund of difference between old and new rates if impact tax payments were made within 6 months of the rates going down
  - a. *No* (Council staff)
  - b. Yes (Councilmember Rice)

#### IV. GRANDFATHER CLAUSES/EFFECTIVE DATES

##### Impact tax rates

- a. For building permit applications filed on or after December 1, 2016 – 16 days after adoption, similar as in 2007
- b. For building permit applications filed on or after January 1, 2017 – when the PHED Committee recommends that the new SSP rules go into effect
- c. For building permit applications filed on or after March 1, 2017 – similar as in 2004 (Council staff)
- d. For building permit applications filed on or after July 1, 2017
- e. Other

#### V. ENTERPRISE ZONES AND FORMER ENTERPRISE ZONES

1. Former enterprise zone (Silver Spring) exemptions
  - a. *Retain exemptions for school and transportation impact taxes, and applicable school facility payments and traffic mitigation payments* (SS Chamber & SS developers – first choice)
  - b. Delete exemption for school impact taxes and applicable school facility payments, retain exemptions for transportation impact tax and applicable traffic mitigation payments (Planning Bd.; SS Chamber & SS developers – second choice)
  - c. Delete exemptions for both impact taxes, and applicable school facility and traffic mitigation payments (MCCF, Council staff)
2. Existing enterprise zone exemptions
  - a. *All development exempt from transportation and school impact taxes, and traffic mitigation and school facility payments* (Planning Bd., developers)
  - b. For housing, delete exemption for school and transportation impact taxes and applicable school facility and traffic mitigation payments;  
For commercial development, retain exemptions for transportation impact tax and applicable traffic mitigation payments (MCCF, Council staff)
3. Phase out of Silver Spring enterprise zone exemption
  - a. *None*
  - b. For building permits filed by November 15, 2017: full exemption  
For building permits filed by November 15, 2018: 50% exemption  
For building permits filed after November 15, 2018: no exemption (Council staff)
  - c. For subdivisions approved by November 15, 2017: full exemption  
For subdivisions approved by November 15, 2018: 50% exemption  
For subdivisions approved after November 15, 2018: no exemption (MCCF)
  - d. For subdivisions approved by November 15, 2017: full exemption  
For subdivisions approved by November 15, 2018: 75% of exemption  
For subdivisions approved by November 15, 2019: 50% of exemption  
For subdivisions approved by November 15, 2020: 25% of exemption  
For subdivisions approved after November 15, 2020: no exemption (Planning Bd., SS Chamber & SS developers)

4. Phase out of future former enterprise zone exemption
  - a. *None*
  - b. For building permits filed within 1 year of expiration: full exemption  
For building permits filed within 2 years of expiration: 50% exemption  
For building permits filed after 2 years of expiration: no exemption (Council staff)
  - c. For subdivisions approved within 1 year of expiration: full exemption  
For subdivisions approved within 2 years of expiration: 50% exemption  
For subdivisions approved after 2 years of expiration: no exemption (MCCF)
  - d. For subdivisions approved within 1 year of expiration: full exemption  
For subdivisions approved within 2 years of expiration: 75% of exemption  
For subdivisions approved within 3 years of expiration: 50% of exemption  
For subdivisions approved within 4 years of expiration: 25% of exemption  
For subdivisions approved after 4 years of expiration: no exemption (Planning Bd.,  
SS Chamber & SS developers)
5. Phase out of existing enterprise exemption for housing
  - a. *None*
  - b. For building permits filed within 1 year: full exemption  
For building permits filed within 2 years: 50% exemption  
For building permits filed after 2 years: no exemption (Council staff)
  - c. For subdivisions approved within 1 year of expiration: full exemption  
For subdivisions approved within 2 years of expiration: 50% exemption  
For subdivisions approved after 2 years of expiration: no exemption
  - d. For subdivisions approved within 1 year of expiration: full exemption  
For subdivisions approved within 2 years of expiration: 75% of exemption  
For subdivisions approved within 3 years of expiration: 50% of exemption  
For subdivisions approved within 4 years of expiration: 25% of exemption  
For subdivisions approved after 4 years of expiration: no exemption