

**Testimony of Patricia Harris  
Development Impact Tax Amendments  
Montgomery County Council – October 1, 2024**

Good Afternoon President Friedson and Members of the County Council. I am Vince Biase with the law firm of Lerch, Early & Brewer stepping in for my colleague Pat Harris on behalf of URW, the owners of the Westfield Montgomery Mall. We respectfully request a minor revision to Section 52-47(b) of the Impact Tax legislation to extend the impact tax credit validity period for four years in instances where the applicant has made a significant transportation improvement of \$3 million dollars or more. Attached to our written testimony is the recommended revised language.

My testimony briefly summarizes our August 28th letter to the Council. In summary, in 2016 URW constructed the \$7 million transit center on the County owned property adjacent to Montgomery Mall in advance of the approved development that triggered the required transportation improvement. URW subsequently filed revised development applications in 2018 proposing a significant amount of residential development on the Mall site, along with increased retail, a hotel and office space, and these applications were approved in July 2020. As we all know, the world was a very different place in 2018 than it was in 2020 – think pre-Covid vs. Covid. The upshot has been that development on the Mall site has been delayed as a result of the pandemic, a school moratorium and a few other factors. As a result, development likely will not occur on the site prior to the expiration of the impact tax credit.

We want to emphasize that unlike some of the other impact tax credit provisions the Council is considering, the proposed revision to extend the validity period by four years does not result in the applicant paying less than what is currently required – it only ensures that they do

not end up paying the impact tax twice, simply because they frontloaded a needed transportation improvement. There is no reason they should be penalized for this and in fact, the County encourages the front loading of transportation improvements – it results in the benefit of the improvement without the impact of the development.

The proposed revision is limited in scope. It only applies to improvements made between 2016 and 2022 in excess of \$3 million dollars and the extension is only for four additional years. Importantly, prior to 2004, there was no expiration on impact tax credits. Moreover, there is precedent for this request. Recognizing that a \$3 million improvement is significant, the County's APF legislation allows for a 12 year extension of APF periods when improvements of \$3 million or more have been made.

We appreciate your consideration of this important request that will help ensure the development of needed residential units on the Montgomery Mall site.

Thank you.

**Bill 16-24 Development Impact Tax – Amendments**  
**Proposed Modification**

Insert at Line 87 of draft Bill 16-24:

Section 52-47(b)

(4) Any credit that was certified under this subsection on or after March 1, 2004, and before December 31, 2015, expires 6 years after the Department certifies the credit. Any credit that was certified under this subsection on or after January 1, 2016, expires 12 years after the Department certifies the credit, except that any credit certified between January 1, 2016 and January 1, 2022 in the amount of at least \$3 million expires 16 years after the Department certifies the credit.