Montgomery County Council

Committee Joint
Staff: Robert H. Drummer, Senior Legislative Attorney
Purpose: Final action – vote expected
Keywords: #WMATAPilot
Search terms: WMATA, Metro property, taxes

AGENDA ITEM #8C
October 6, 2020
Action

SUBJECT

Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property - Established

Lead Sponsors: Councilmembers Riemer and Friedson
Co-Sponsors: Councilmembers Glass, Navarro, Council President Katz, Councilmember Albornoz, Council Vice President Hucker and Councilmember Rice

EXPECTED ATTENDEES

Richard Madaleno, Acting CAO
Finance Director Michael Coveyou
DHCA Director Aseem Nigam
Casey Anderson, Planning Board Chair
Gwen Wright, Planning Director
Nina Albert, WMATA

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Joint GO-PHED recommended approval with amendments (4-1, Councilmember Jawando opposed)
- Action – Council vote expected.

DESCRIPTION/ISSUE

Bill 29-20 would require the Director of Finance to offer a payment in lieu of taxes for a residential or commercial high-rise building constructed by a private developer on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro Station. The Bill would require the payment in lieu of taxes that would exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development. The Committee made the following amendments:

1. permit the developer to assign the rights to the project;
2. added a labor provision requiring the developer to agree to avoid hiring contractors and subcontractors with past wage and hour violations;
3. permit the Finance Director to begin the PILOT in year 2;
4. excluded special area taxes from the exemption; and
5. require a qualifying project to include at least 50% rental housing.

SUMMARY OF KEY DISCUSSION POINTS

- Does encouraging this type of development provide a reasonable return to the County for the loss of property tax?
- Should the exemption be automatic, or should each proposed development be reviewed independently?

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Agenda Item 8C
October 6, 2020
Action

M E M O R A N D U M

October 1, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property - Established

PURPOSE: Action – Council vote required

Government Operations and Fiscal Policy/Planning, Housing and Economic Development Committee recommendation (4-1, Councilmember Jawando opposed)**:** enact Bill with amendments.

Expected attendees:
- Richard Madaleno, Acting CAO
- Finance Director Michael Coveyou
- DHCA Director Aseem Nigam
- Casey Anderson, Planning Board Chair
- Gwen Wright, Planning Director
- Nina Albert, WMATA

Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property - Established, sponsored by Lead Sponsors Councilmember Riemer and Friedson and Co-Sponsors Councilmembers Glass, Navarro, Council President Katz, Councilmember Albornoz and Vice President Hucker and Councilmember Rice, was introduced on July 7, 2020. A public hearing was held on July 28 and joint Government Operations and Fiscal Policy/Planning, Housing and Economic Development Committee worksessions were held on September 16 and September 23.[1]

Background

Bill 29-20 would require the Director of Finance to offer a payment in lieu of taxes for a high-rise building constructed by a private developer on property leased from the Washington

[1]#WMATAPilot
Search terms: WMATA, Metro property, taxes

Metropolitan Area Transit Authority (WMATA) at a Metro Station. The Bill as amended, would require the payment in lieu of taxes that would exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development or the following year. The Joint GO-PHED Committee amended the Bill at a worksession on September 16 to require at least 50% of the project to include the construction of one or more high-rise residential apartment buildings. The Committee amended the Bill to permit the Finance Director to begin the PILOT in the second year after property taxes are levied and excluded taxes levied under special area taxing laws from the PILOT. The Committee also added a requirement for the developer to provide written assurances that the construction contractors and subcontractors hired for the project did not have significant wage and hour violations in the 3 years before hire.

WMATA does not currently pay property tax because it is an instrumentality of the State of Maryland.[2] Property tax can be levied against a lessee of government property used for a private purpose under Md. Tax-Property Code Ann. §6-102(e). WMATA has agreed to a long-term lease with a developer of some of its property at the Grosvenor-Strathmore Metro Station. Md. Tax-Property Code Ann. §7-501 authorizes the Council to enact a law providing for a payment in lieu of taxes for property leased from a government agency that is otherwise subject to a tax levy under §6-102(e).

Bill 29-20 would apply to any property leased from WMATA at a Metro Station in the County for a qualifying development where at least 50% of the project consists of the construction of one or more high-rise residential apartment buildings.

Public Hearing

Finance Director Michael Coveyou, representing the Executive, opposed the Bill for several reasons (©4-6). Mr. Coveyou pointed out that the Bill would forgo 15 years of property tax to subsidize market-rate development without adding more affordable housing units than already required under law. Mr. Coveyou also noted the lack of evidence that this subsidy is necessary for the development to go forward and that the Bill is not limited to high-rise housing developments. Victoria Leonard, speaking for the Baltimore-Washington Laborer's District Council LiUNA (©7-8), and Tom Clark, speaking for the IBEW Local 26 (Electrical Workers) (©9), both supported the Bill but requested amendments to require contractors working on the development pay prevailing wages and generally require "high-end development" protecting workers. Planning Board Chair Casey Anderson supported the Bill to help finance the cost of high-rise development near Metro Stations. Jacob Sesker, speaking for Five Squares Development, LLC (©10-16), supported the Bill to help finance his client's proposed development at the Grosvenor Metro Station. Lee Gochman (©17), Al O'Konski (©18), Shruti Bhatnagar, speaking for the Sierra Club Montgomery (©19), Tina Slater (©20), Jane Lyons, speaking for the Coalition for Smarter Growth (©21) supported the Bill. Nina Albert, speaking for WMATA (©22-23), also supported the Bill to promote both housing and commercial development at the 9 Metro Stations in the County with developable land.

[2] WMATA is a regional transportation agency that is an instrumentality of Maryland, Virginia, and the District of Columbia. See Md. Transportation Code Ann. §10-204.

We also received written testimony from Amy Ginsburg, Friends of White Flint (©24), George Washington University Professor Emeritus, Christopher Leinberger (©25), Diane Hibino and Kathy McGuire, League of Women Voters of Montgomery County (©26-27), Matt Hard, President of LCOR, Inc. (©28-29), Andrew Altman, co-founder of Five Squares Development and Ron Kaplan, (©30-31), and Sylke Knuppel, Maryland Building Industry Association (©32-33), supporting the Bill to promote more housing at Metro Stations.

September 16 Worksession

Planning Board Chair Casey Anderson, Planning Director Gwen Wright, Acting CAO Richard Madaleno, Finance Director Mike Coveyou, DHCA Director Aseem Nigal, Nina Albert, WMATA, Legislative Analyst Gene Smith, and Senior Legislative Attorney Robert Drummer participated in the discussion.

The Committee discussed the purpose of the Bill and approved the following amendments:

1. permit the developer to assign the rights to the project;
2. added a labor provision requiring the developer to agree to avoid hiring contractors and subcontractors with past wage and hour violations;
3. permit the Finance Director to begin the PILOT in year 2;
4. exclude special area taxes from the exemption; and
5. require a qualifying project to include at least 50% rental housing.

The Committee did not complete its review of the Bill.

September 23 Worksession

Acting CAO Richard Madaleno, Finance Director Mike Coveyou, DHCA Director Aseem Nigal, Nina Albert, WMATA, Legislative Analyst Gene Smith, and Senior Legislative Attorney Robert Drummer participated in the discussion.

The Committee approved a technical amendment suggested by Council staff to implement the Committee's decision to permit the Finance Director to start the PILOT in either year 1 or year 2. The Committee also discussed Mr. Jawando's proposed amendments to the Bill. Mr. Jawando proposed an amendment that would require a qualifying development to include 25% of the required MPDUs at 50% of area median income. The Committee rejected the amendment 4-1. Mr. Jawando also proposed an amendment to provide the Finance Director to offer a PILOT of between 80% and 100% for between 10 and 15 years depending on the value of the public benefit of the project. The motion did not receive a second and failed. The Committee recommended approval of the Bill as amended 4-1 (Jawando opposed).

Issues

1. Should the PILOT be limited to high-rise housing projects that are primarily housing?

The Bill, as introduced, would require a PILOT for a "project to construct one or more high-rise buildings located on land leased from WMATA at a metro station." Despite being styled as the "Housing at Metrorail Stations Act," a commercial high-rise development at a Metrorail Station would also qualify for the 100% PILOT. Except for the testimony from WMATA, each of the speakers supporting the Bill spoke about the need to encourage more housing at transit oriented sites. Nina Albert, speaking for WMATA, testified that WMATA has 9 Metrorail Stations in the County with developable land and suggested that some of the development at these sites could be commercial high-rise buildings. A WMATA Presentation showing possible development on Metro-owned property is at ©49-72. The Executive also questioned the application of the Bill to both residential and commercial developments at Metrorail Stations.

The Bill makes the PILOT automatic and not subject to DHCA review. It is our understanding the proposed Five Squares Development contains mostly high-rise rental apartments, but the Bill would apply to all 9 Metrorail sites. Even assuming Five Squares does not significantly change its development plan for Grosvenor (something that cannot be guaranteed), potential development at the other 8 Metrorail sites may not provide more housing. If the Council decides to limit the Bill to high-rise housing, the proposed development at Grosvenor would remain eligible for the PILOT. The Council could amend the Bill later to include commercial development if a developer proposes a commercial development at a different Metrorail site that fits within the Council's vision.

2. Should the Bill require a qualifying development to include rental housing?

The proposed high-rise residential development at Grosvenor would be required to provide at least 15% moderately priced dwelling units or MPDUs. Additional MPDUs at a Metrorail Station is desirable. However, if the developer builds a high-rise condominium, the condominium fee for the MPDUs may make the units unaffordable to the intended purchasers. Section 25A-5A permits DHCA to accept an alternative payment to the Housing Initiative Fund under these circumstances. Therefore, a high-rise condominium building at Grosvenor may not result in any additional MPDUs. If the Committee wants to ensure the creation of MPDUs at these Metrorail sites, the Bill could be amended to limit a qualifying development to a project where a certain percentage of the project consists of one or more high-rise rental residential buildings.

Committee recommendation: amend the Bill to apply to a project where at least 50% of the project consists of the construction of one or more high-rise residential apartment buildings.

The Committee made the following amendment to lines 7-15 of the Bill:

> *High-rise residential apartment building* means a multi-family building with an occupied floor that is more than 8 stories above ground level and is used primarily for dwelling units for rent to the public.
>
> *Metro station* means a mass transit train station owned and operated by the Washington Metropolitan Area Transit Authority.

Qualifying development means a project [[to construct]] where at least 50% of the project consists of the construction of one or more high-rise residential apartment buildings located on land leased from WMATA at a metro station.

Councilmember Jawando recommended requiring a qualifying project to include 80% residential high-rise buildings but agreed to the 50% minimum at Committee. See the Jawando memorandum at ©73-74.

3. Should the Bill provide the Finance Director with the authority to negotiate the amount of the PILOT?

Section 52-24 currently authorizes the Director of Finance to negotiate a PILOT for a qualifying housing development where authorized under State law under applicable guidelines after consulting with the Director of the Department of Housing and Community Affairs. This provides DHCA with the opportunity to evaluate a proposed housing development on a case by case basis and negotiate a PILOT that provides an acceptable public benefit.[3] Bill 29-20 pivots from this policy and makes a PILOT automatic for a qualifying development and mandates that the PILOT be a 15-year waiver of all property tax. There is no opportunity for DHCA to evaluate the public benefit of a requested PILOT and mandates one size fits all. We understand that an automatic PILOT provides a developer with certainty that can be used to more accurately estimate the return on investment and obtain financing for the project. However, this certainty for the developer may result in providing a PILOT that exceeds the public benefit of the project or is greater than is necessary to encourage the project to go forward. The Bill does not include any requirement for additional dedicated affordable units beyond the amount required of any project.[4] Councilmember Jawando made a motion at Committee that 25% of the affordable units must be controlled at 50% of Area Median Income (AMI). MPDU units must be priced as affordable for persons earning at 70% of AMI. See the Jawando memorandum at ©73-74. This could be done by:

Amend lines 12-15 of the Bill as follows:

Qualifying development means a project to construct one or more high-rise buildings located on land leased from WMATA at a metro station. A qualifying development must include at least 25% of the moderately

[3] Under current guidelines, DHCA would not recommend a PILOT for residential property where the dedicated affordable units only include the required MPDU units.

[4] Jacob Sesker, representing Five Squares, described the impact of additional MPDUs to the proposed development at Grosvenor at ©10-16.

priced dwelling units required by Chapter 25A affordable to households at 50% of the area median income.

Councilmember Jawando moved this amendment at Committee, but the Committee did not approve it (4-1).

Five Squares retained Sarah Woodworth of W-ZHA, LLC to analyze the proposed project at Grosvenor and provide an opinion on the need for a 15-year tax deferral to make this project financially feasible. Ms. Woodworth reviewed the assumptions on the cost of debt, construction costs, current market rate rents, and operating costs and concluded that the project was not financially feasible without a 15-year tax deferral. See ©34-41. Ms. Woodworth's analysis is based on this project being built at this time. Even if Ms. Woodworth's analysis is correct (Council staff is not able to either verify or challenge this analysis), the Bill would apply to 8 other metro stations and provide the same 15-year 100% property tax deferral without any analysis as to need.

Council staff estimated the tax abatement for the Five Squares project to be worth between $1.2 million and $1.35 million per year for a total abatement of $18.0 to $20.3 million. Council staff estimated property taxes for the proposed project on Parcel 2 using the cost replacement method and by comparing similar projects in the North Bethesda area. The FY21 tax rate for the White Flint area of $0.9912 per $100 of assessed value was used. While the actual tax rate would fluctuate during the 15-year period under the current Charter language, the tax rate was held constant for the analysis. The OMB fiscal impact statement estimated the annual tax that would be foregone by the PILOT at Grosvenor to be $5.8 million to $7.1 million. See ©80-84. Council staff estimated taxes on the only parcel that has an approved subdivision plan. OMB looked at the tax based on total build-out of the project.

Capital Risk and the Gap

The developer and its consultant indicate that there is a financial gap that prevents the project from moving forward. The developer is requesting an abatement of property taxes for 15 years to help close the gap, because without the abatement, the developer claims the project may never move forward or may move forward at a reduced scale. There are a few points that should be clarified as the Council considers this request.

1) **Closing a financial gap is about meeting a rate of return for the developer and its investors**.
   - Development projects depend on multiple sources of funding, including private investment by the developer, and sometimes, other entities. A financial incentive, either directly through cash or indirectly through an abatement, allows the developer to achieve the desired rate of return to make the project feasible. What is unknown and usually unsaid is what the rate of return is for a project that receives financial incentives from the County. The difference between a gap closing financial incentive that achieves a 7% return (meager) versus 15% return (excellent) should be a point of discussion when the County considers providing a financial incentive either directly or indirectly.

- A developer can close a financial gap any number of ways, including: 1) more favorable loan terms; 2) increased private investment; 3) reduced construction costs via adjustments to design; 4) lower taxes or fees; and/or 5) lower development fee. A tax abatement is one way, and likely part of the solution, for a developer to reduce cost and meet the desired rate of return.

2) **Closing a financial gap does not mean the project is more likely to happen "sooner."**
   - Businesses and individuals risk capital based on the expected risk/reward within a certain timeframe. A request by the developer for a property tax abatement shifts some of the risk from the business to the County.
   - Reducing risk may accelerate a project's timeline; however, this reduction is a small portion of the developer's calculus to proceed. A bigger concern for the developer is the overall market – will there be enough demand for these units at the price range that makes the project viable. The cash flow from the project's units far exceeds the reduced expenditures from a tax abatement.
   - The COVID-19 crisis has shifted the residential market. It is too early to determine the direction and impact of this shift.
   - Bill 29-20 would provide a tax abatement in perpetuity. The developer of a proposed "shovel ready" project may decide that it is better to wait for the market to mature before proceeding.

If the Council wants to provide some flexibility to match the public benefit of the project with the value of the loss of tax revenue on future projects, the Bill could be amended to delegate authority to the Finance Director to offer a PILOT for a range of benefit between 80-100% deferral for between 10 and 15 years. Councilmember Jawando moved this amendment at Committee, but did not receive a second:

Amend lines 20-29 as follows:

(b) When authorized by state law, the Director must offer a payment in lieu of taxes for a qualifying development after consulting with the Director of the Department of Housing and Community Affairs on the value of the public benefit of the project.

(c) The payment in lieu of taxes must exempt between 80 and 100% of the real property tax that would otherwise be levied for a period of between 10 and 15 years beginning in the year a use and occupancy permit is issued for the qualifying development, regardless of subleases executed by the lessee.

The Joint Committee did not approve this amendment.

4. Should the Council postpone a decision on this Bill until after the November election?

On November 3, the County voters will have the opportunity to decide between two competing proposed amendments to the Charter §305 limit on real property tax revenue. Charter §305 currently prohibits the Council from levying an ad valorem tax on real property that would produce total revenue (not including property tax revenue from certain enumerated sources such as new construction) that exceeds the total revenue produced by the tax on real property in the preceding fiscal year plus a percentage of the previous year's real property tax revenues that equals any increase in the Consumer Price Index. Section 305 currently permits the County Council to exceed the limit on real property tax revenue only upon the affirmative vote of all current Councilmembers. An amendment to this provision on the ballot by petition would eliminate the Council's ability to ever exceed this limit on real property tax revenue.

A Council sponsored amendment would replace the current Charter §305 limit on real property tax revenue with a prohibition on increasing the real property tax rate over the tax rate for the preceding year unless all current Councilmembers vote to approve the increase.

The result of the November 3 election on these ballot questions would have a significant effect on the cost of the PILOT under Bill 29-20. Under the current limit on real property tax revenue or the petitioned amendment, the County would never receive the boost in revenue from a qualifying development because the property tax in year one would be waived. When the PILOT expires in year 16, the property owner would begin paying property taxes, but the total collected by the County would never increase. The benefit would go to all other taxpayers because the Council would have to reduce the tax rate to accommodate the new taxes collected from the qualifying development.

If the voters reject the petitioned amendment and approve the Council sponsored Charter amendment, the PILOT's long-term cost to the County would be much less. When the PILOT expires in year 16, the County would begin receiving the increased benefit from the taxes paid by the owners of the qualifying development. Therefore, postponing a decision on Bill 29-20 until after the November 3 election would provide the Council with significant new information to base its decision on.

For example, under the current Charter §305 limit, changing the PILOT to a waiver of the real property tax on years 2 through 16 instead of 1 through 15 would permit the County to benefit from the tax received in year 1 by bumping up the limit on total real property tax revenue received. This change to the PILOT would be unnecessary and possibly counter-productive if the Council sponsored amendment is approved by the voters on November 3.

If the Council believes it is necessary to act on Bill 29-20 before the election, the Bill could be amended to authorize the Director of Finance to start the PILOT in year 2 to permit the County to gain some benefit from the tax received in year 1 if the voters reject the Council sponsored amendment to Charter §305. Councilmember Jawando recommended an amendment to begin the PILOT in year 2. See the Jawando memorandum at ©73-74. The Committee approved the following amendment:

Amend lines 22-29 as follows:

(c) The payment in lieu of taxes must exempt 100% of the real property tax that would otherwise be levied for a period of 15 years. **[[beginning]]** The Director may begin the payment in lieu of taxes in the year a use and occupancy permit is issued for the qualifying development or in the second year property tax for the qualifying development is levied, regardless of subleases or assignments executed by the lessee. The payment in lieu of taxes must not include an exemption for any tax levied under an applicable special taxing area law.[5]

The Committee approved this amendment and decided not to delay action on the Bill until after the November 3 election.

5. Should the PILOT exempt an applicable development district tax?

The Council has established a development district tax in certain areas of the County to help fund capital improvement projects. The Charter §305 limit on ad valorem tax on real property described above exempts the revenue received from a development district tax to help fund capital improvement projects. For example, the Five Squares Project proposed for the Grosvenor Metrorail Station would be subject to the development district tax for the White Flint Special Taxing District. Bill 29-20 should be amended to clarify whether the PILOT must exempt any applicable development district tax for the first 15 years along with the standard ad valorem real property tax. The inclusion of a development district tax in the PILOT would increase its cost to the County and reduce the funds available for needed capital improvement projects in the District. Lead Sponsor Councilmember Riemer supports excluding any special taxing district tax from the PILOT.

Committee recommendation (5-0): amend the Bill to exclude any applicable special taxing district tax from the PILOT as follows:

Amend lines 22-29 as follows:

(c) The payment in lieu of taxes must exempt 100% of the real property tax that would otherwise be levied for a period of 15 years. **[[beginning]]**

[5] This language is slightly different than the language discussed at the September 16 Committee meeting. It was modified based on comments from Finance Director Coveyou after the meeting in order to accomplish its purpose. The Committee approved this technical change at the September 23 meeting.

The Director may begin the payment in lieu of taxes in the year a use and occupancy permit is issued for the qualifying development or in the second year property tax for the qualifying development is levied, regardless of subleases or assignments executed by the lessee. The payment in lieu of taxes must not include an exemption for any tax levied under an applicable special taxing area law.

6. What is the fiscal and economic impact of the Bill?

OMB submitted the fiscal impact statement the day before the first worksession. See ©80-84. Council staff's description of the fiscal impact is described above. OMB estimated a significantly higher fiscal impact by looking at the final buildout at Grosvenor instead of just the parcel with an approved subdivision plan. OLO concluded that if the Bill resulted in the construction of additional high-rise developments in the County, there would likely be a positive effect on the County's economy through increased jobs and an increase in the stock of affordable housing units in the County. However, OLO cautioned that the new development might also harm some private organizations nearby through higher rents and housing prices. See ©42-48.

7. Should the Bill require the developer to certify that all contractors and subcontractors on the project comply with specific requirements as a condition of receiving the PILOT?

Victoria Leonard, representing the Baltimore-Washington Laborers' District Council, an affiliate of LiUNA, requested amendments at the public hearing to control the contractors and subcontractors hired by the developer for the project. See ©7. LiUNA requested that the Bill require all contractors and subcontractors to pay prevailing wages and be licensed, bonded, insured, and abide by wage and hour laws. Requiring the payment of prevailing wages is likely to increase the cost of the construction.[6] There are State and County laws already requiring all contractors to be licensed and abide by the wage and hour laws. Insurance and bonding are generally required to protect the owner or developer directly. Although a payment bond protects workers, unpaid workers and subcontractors may seek reimbursement for their work under the State mechanics lien laws.

To date, the County has not required a recipient of other types of County tax deferrals or exemptions to follow these requirements. As discussed above, Five Squares claims that the full 15-year tax deferral is necessary for the project to go forward as planned. Adding additional requirements that may eliminate the entire PILOT for a qualifying development may frustrate the intent of the Bill if developers or their investors decide these additional requirements are too onerous. Enforcement of these labor conditions under the PILOT would require the designation of a County agency to inspect and enforce the conditions and provide a due process hearing for a

[6] Jacob Sesker, representing Five Squares, estimated the cost of adding a prevailing wage requirement at ©89-90.

developer who loses a PILOT for a violation of these conditions. The Council may want to consider the value to the County of adding these requirements to the Bill against the potential frustration of the intent of the Bill.

The Joint Committee rejected an amendment to require the use of prevailing wages (4-1, Jawando opposed), but approved the following amendment:

Amend lines 30-44 as follows:

(d) Any payment accepted by the Director must conform to guidelines included in a regulation adopted by the Executive under method (1) to implement this Section. The regulation must require the developer of the qualifying project, as a condition of receiving a payment in lieu of taxes under subsection (c), to agree in writing that, to the best of its knowledge, information, and belief, none of the contractors or subcontractors hired to perform work on the qualifying development site had three (3) or more final, non-appealable penalties assessed against it in the amount of $5,000.00 or more in the 3 years prior to being hired for the project for violations of applicable wage and hour laws, including the County's prevailing wage law and any applicable Maryland wage and hour laws.

(e) A developer of a qualifying project who violates the guidelines included in the regulation adopted under subsection (d) has committed a Class A violation.

(f) This Act must be known as the "Housing at Metrorail Stations Act."

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Bill No. 29-20
Concerning: Taxation – Payments in Lieu of Taxes – WMATA property - Established
Revised: September 17, 2020 Draft No. 6
Introduced: July 7, 2020
Expires: January 7, 2022
Enacted:
Executive:
Effective:
Sunset Date: None
Ch. _____, Laws of Mont. Co. _________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmembers Riemer and Friedson
Co-Sponsors: Councilmembers Glass, Navarro, Council President Katz, Councilmember Albornoz, Council Vice President Hucker and Councilmember Rice

AN ACT to:

(1) authorize the Director of Finance to negotiate a payment in lieu of taxes for certain property leased from WMATA;
(2) establish the amount of the payment in lieu of taxes; and
(3) generally amend the law governing payments in lieu of taxes.

By adding
Montgomery County Code
Chapter 52, Taxation
Section 52-24A

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. Section 52-24A is added as follows:

52-24A. Payments in lieu of taxes for certain property leased from WMATA.

(a) *Definitions.* In this Section, the following words have the following meanings:

Director means the Director of the Department of Finance or the Director's designee.

High-rise residential apartment building means a multi-family building with an occupied floor that is more than 8 stories above ground level and is used primarily for dwelling units for rent to the public.

Metro station means a mass transit train station owned and operated by the Washington Metropolitan Area Transit Authority.

Qualifying development means a project **[[**to construct**]]** where at least 50% of the project consists of the construction of one or more high-rise residential apartment buildings located on land leased from WMATA at a metro station.

Washington Metropolitan Area Transit Authority or WMATA means the regional transit instrumentality of the State of Maryland, Commonwealth of Virginia, and the District of Columbia created by Compact and described in Md. Transportation Code Ann. §10-204, as amended.

(b) When authorized by state law, the Director must offer a payment in lieu of taxes for a qualifying development.

(c) The payment in lieu of taxes must exempt 100% of the real property tax that would otherwise be levied for a period of 15 years. **[[**beginning**]]** The Director may begin the payment in lieu of taxes in the year a use and occupancy permit is issued for the qualifying development or in the second year property tax for the qualifying development is levied, regardless of subleases or assignments executed by the lessee. The payment in lieu of taxes must not include an exemption for any tax levied under an applicable special taxing area law.

(d) Any payment accepted by the Director must conform to guidelines included in a regulation adopted by the Executive under method (1) to implement this Section. The regulation must require the developer of the qualifying project, as a condition of receiving a payment in lieu of taxes under subsection (c), to agree in writing that, to the best of its knowledge, information, and belief, none of the contractors or subcontractors hired to perform work on the qualifying development site had three (3) or more final, non-appealable penalties assessed against it in the amount of $5,000.00 or more in the 3 years prior to being hired for the project for violations of applicable wage and hour laws, including the County's prevailing wage law and any applicable Maryland wage and hour laws.

(e) A developer of a qualifying project who violates the guidelines included in the regulation adopted under subsection (d) has committed a Class A violation.

(f) This Act must be known as the "Housing at Metrorail Stations Act."

LEGISLATIVE REQUEST REPORT

Bill 29-20
Taxation – Payments in Lieu of Taxes – WMATA property - Established

DESCRIPTION:	Bill 29-20 would require the Director of Finance to offer a payment in lieu of taxes for a high-rise building constructed by a private developer on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro Station. The Bill would require the payment in lieu of taxes that would exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development.
PROBLEM:	The market does not currently support the construction of a high-rise building at a Metro station.
GOALS AND OBJECTIVES:	The goal is to encourage the construction of high-rise buildings at Metro stations in the County.
COORDINATION:	DHCA, Finance, County Attorney
FISCAL IMPACT:	To be provided
ECONOMIC IMPACT:	To be provided
EVALUATION:	To be provided
EXPERIENCE ELSEWHERE:	Unknown
SOURCE OF INFORMATION:	Robert H. Drummer, Senior Legislative Attorney
APPLICATION WITHIN MUNICIPALITIES:	N/A
PENALTIES:	N/A

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TESTIMONY ON BEHALF OF COUNTY EXECUTIVE MARC ELRICH ON BILL 29-20 - TAXATION - PAYMENTS IN LIEU OF TAXES - WMATA PROPERTY - ESTABLISHED

As the recent Housing Preservation study points out, affordable housing units near transit are at greatest risk of being lost. Addressing the affordable housing issues in the county is a complex, multilayered problem, one that involves thoughtful choices that use our public funds as wisely as possible. While there are no easy answers, a main priority of the County Executive has been to find ways to provide more affordable housing across a broader range of affordability for County residents. Efforts to date include the following:

- Recommending the investment of nearly $85 million in FY21 for affordable housing programs that renovate distressed housing, acquire and preserve affordable housing units, and create housing units for special needs residents;

- Supporting down payment assistance programs to first-time homebuyers; and

- Collaborating with Health and Human Services (HHS) and the Housing Opportunities Commission (HOC) to provide rental assistance programs to the residents who need it the most, including providing significant funding for rental assistance to households affected by the COVID-19 pandemic

- The pending agreements on affordable housing requirements for two properties in the Viers Mill Master plan that will yield a wide-range of affordable units.

From our reading of Bill 29-20, it isn't clear what the goal is nor how the goal can be achieved in a way that provides sufficient financial resources for infrastructure needs. The County Executive is concerned that this bill would forgo 15 years of property taxes to subsidize market-rate development. There is no requirement for either large numbers of affordable units, or a broader range of affordable units. For the subsidy being provided we're not getting anything that wouldn't be provided anyway in the course of development. Given the projected number of market units needed, there is no lack of zoning in the Metro Station areas in order to accommodate the units, and it makes no difference whether the units are on the Metro, or across from the Metro – except that now units on the Metro will be exempt from property taxes.

There is no evidence that this subsidy is required. In fact, if you look around the region our competitors have their highest taxes on the Metro sites and the taxes are substantially greater than in Montgomery County. In fact, if property taxes were the key to development, we would have won the development battle a long time ago because we are lower than most surrounding jurisdictions.

The housing goals are not about the gross number of units but have very specific income-based targets. About ¾ of the 40,000 units need to be below 70-80% of AMI. Only ¼ are at market. Market housing is being built rapidly in Bethesda and is likely spread to other densely zoned areas as Bethesda builds out. The prices in Bethesda are extraordinary and one should ask why we would be subsidizing the construction of apartments that rent at prices far out of reach for most tenants and where the sales price per unit is north of a million dollars. Couple that with the Park and Planning recommendation to reduce impact fees in Metro areas, this will only deepen the obstacles to building the tax base. While residents will pay income taxes, the loss of property taxes is significant. For the commercial sector, which pays no local business tax, the only tax we receive to help provide infrastructure is the property tax. If we want to incentive businesses, we should continue what we do now (and which we have continued to do) and that's provide a targeted incentive to businesses that want to locate here.

This feels like déjà vu all over again. First, we did a major up-zoning premised on the proposition that if we provided more density development would come and taller denser buildings would offset higher land costs. Having done that, we have very little job growth to show for it, so now the argument is to do away with taxes in some places, reduce them in others, and that will be the magic bullet. But as pointed out earlier, our property tax rates are not the problem.

There is no evidence that owners will lower their rents as a result of this. There is no evidence that this explains why people aren't building on Metro sites. Nowhere is there any evaluation of demand and why it should be met here, rather than across the street. And there is no requirement to provide additional affordable housing at deeper levels of affordability.

Do the sponsors want to provide more housing, and specifically more affordable housing, through a new payment in lieu of taxes program? If so, we would like to better understand how the sponsors see this working through the structure of Bill 29-20. First, it's not obvious why incentives (in this case a mandatory County property tax PILoT) would be necessary to spur development at WMATA Metro properties which are arguably among the most coveted properties in the County. It's not clear why any incentives at all would be necessary to get development going at these properties, and especially at properties like the Grosvenor Strathmore Metro Station. Therefore, it's not clear exactly what policy this legislation is designed to carry out—is it development per se, or is it more housing, or specifically more affordable housing? We get 15% affordable housing at our Metro station zones, so there's no magic in building here.

If the goal is to promote more housing, affordable or not, I would note that the bill does not specifically mention housing and it does not seem to require that housing be a component of the development that is provided incentives, because under this bill every private development on a Metro property receives those incentives. We presume that this is the intent of the sponsors, given that the bill does not make the provision of any form of housing a requirement to receive the incentive. Possibly the presumption is that current zoning at most, if not all, Metro properties includes a housing component, but that will not necessarily always be the case. It would be clearer if the legislation required that a development include a significant affordable housing component. You might consider restricting the PILoTs to only the housing sections of the development. You may also wish to consider requiring specific percentages of affordable housing—these can be different for different developments.

Because not all developments on Metro property will be similar, it would make sense to treat them individually—you may not wish to provide a PILoT in all circumstances, or you may wish to provide reduced PILoTs (from the mandated 100% PILoTs) for some developments—possibly based on the size of the development vis a vis the amount of Metro property available at the site, or based on other factors. The way this bill is currently structured it is an entitlement (although it's not exactly clear what the entitlement should be).

Regarding the structure of the PILoTs, it is unclear if the sponsors' intent is to forgo property taxes for 15 years but have the developer/owner of the new development make a payment, or if the intent is to have the property taxes foregone with no alternative type of payment. If the intent is to have the developer/owners make a payment, we would like to understand what the sponsors would like that payment to cover (50% of the foregone property taxes; some other percentage?). As written, the exemption of 100% of the property tax and no mention of the in lieu of payment would indicate that there is payment to the county at all, for any purpose.

Hopefully this has given you policy choices to consider in anticipation of the upcoming committee work session you will have when you return in September.

Testimony of Victoria Leonard

on

Bill 29-20 Taxation – Payments in Lieu of Taxes – WMAT property— Established
Before the Montgomery County Council
July 28, 2020

Thank you Council President Katz for the opportunity to testify on Bill 29-20. My name is Victoria Leonard. I am with the Baltimore-Washington Laborers' District Council, an affiliate of LiUNA. We represent more than 7,500 members across DC, Maryland, and Virginia. The majority of our members are construction laborers who work on building and infrastructure projects.

This bill provides a subsidy for high-rise construction on WMATA properties. LiUNA suggests strengthening the bill to protect the County's interest by including conditions that will support high-road development. A high-road development project is one in which workers are paid family -supporting wages, and contractors are licensed, bonded, insured, and abide by wage and hour laws.

Toward that goal, LiUNA suggests the following be added to the bill, which we shared with lead bill sponsor Councilmember Riemer, last week:

Number one: That all contractors and subcontractors working on the project comply with prevailing wage requirements like they must on other public works projects; have no violations of wage and hour laws in the preceding three years; are licensed, and that the project developer has copies of the licenses on file; and have general liability insurance and surety bonds; and that the project developer has copies of the certificates on file.

Number two: That the project developer provide any records requested by the County to enforce these requirements, and

Number three: That failure to comply with these requirements will result in the termination of the PILOT.

LiUNA believes that these conditions should also be applied to future projects receiving county taxpayer subsidies to ensure taxpayer dollars support high-road development.

A copy of our suggested additions to the bill are attached for the record.

Proposed Amendments to Bill 29-20

Taxation – Payments in Lieu of Taxes – WMATA property – Established

Amend Section 52-24A, by adding at the end the following new subsection:

(f) Conditions.

(1) A developer of a qualifying development shall, as a condition of receiving an exemption under subsection (c), provide written assurances to the Director that:

(A) Contractors and subcontractors engaged in the performance of construction, alteration, or repair work on the property shall comply with the prevailing wage requirements under Section 11B-33C, in the same manner that contractors and subcontractors on County financed construction contracts are required to comply with such standards;

(B) No administrative merits determination, finding of violation, arbitral award or decision, payment of a fine, back pay damages or any other type of penalty in the amount of $5,000.00 or more, or civil judgment has been rendered against it, or any of its contractors or subcontractors, in the preceding 3 years for violations of wage and hour laws, including the County's prevailing wage law and Maryland wage and hour laws, and registration and licensing requirements under Chapters 17 and 34 of the County Code;

(C) Contractors and subcontractors have obtained all such required licenses (electrical, plumbing, etc.) necessary to perform construction, alteration, or repair work on the property, and that the developer has obtained copies of such licenses; and

(D) Contractors and subcontractors engaged in the performance of construction, alteration, or repair work on the property, have each purchased general liability insurance and surety bonds; and that the developer has obtained copies of such certificates.

Any false statement, representation or certification in any document required under paragraph (1) shall be punishable by a fine of $5,000 and shall be grounds for revocation of the exemption under subsection (c).

(2) The Director, Executive, or designee shall have authority to enter, without delay, the qualifying development for the purpose of ensuring compliance with the requirements under paragraph (1). Further, the developer shall, upon request, make available those records listed under (1)(C) and (D), or any other records and information as the Director, Executive, or designee, deems necessary for the proper enforcement of this subsection.

(3) Failure to comply with any of the requirements in this subsection shall result in the immediate revocation of the exemption under subsection (c).

Testimony of Tom Clark

on

Bill 29-20 Taxation – Payments in Lieu of Taxes – WMAT property— Established

Before the Montgomery County Council

July 28, 2020

Thank you Council President Katz for the opportunity to testify on Bill 29-20. My name is Tom Clark. I represent the 10,000 members of IBEW Local 26. Roughly 800 of our members are county residents.

The IBEW believes that this bill can be strengthened by including conditions that will support high-road development and eliminate the potential for illegalities like wage theft.

Wage theft happens a lot in construction. One of the worst culprits is Power Design, an electrical contractor. The Power Design business model is simple: low bid everyone, steal wages from its employees, and ignore licensing requirements.

Power Design has engaged in wage theft right here in Montgomery County. In 2015, Power Design was sued for wage and hour violations at the Naval Exchange Project in Bethesda. Power Design settled the case in 2016.

And Power Design has used unlicensed electricians right here in Montgomery County. At Ripley East in 2019, Power Design subbed out the work to a company with NO business license, NO master electrician's license, and NO record of them even existing. And next door in Washington, D.C., in 2020 Attorney General Karl Racine ordered Power Design to pay $2.75 million as part of a wage theft and worker misclassification case.

When taxpayer dollars are used to support economic development projects, it is good public policy to ensure high road development occurs, that bad actors like Power Design cannot win work, and that developers are held accountable.

On behalf of the IBEW, I ask that this bill include conditions to ensure these things happen. We have provided our suggestions to Councilmember Riemer, the lead sponsor of this bill, and look forward to working with him and the rest of the council.

Harpswell Strategies
Economic Consulting & Public Affairs

Council President Katz and all Councilmembers:

I am pleased to submit this written testimony in support of Bill 29-20, Payments in Lieu of Taxes – WMATA. My client, Fivesquares Development, partnered with the landowner, Washington Metropolitan Area Transit Authority (WMATA), to develop this 14.6-acre, metro-adjacent site at the Grosvenor-Strathmore station.

Metro-adjacent development opportunities are rare, and a substantial amount of time and money are required to move such projects from idea to implementation. In the case of this opportunity at Grosvenor-Strathmore Metro, millions have already been spent on planning and entitlements, design is already underway on the new park, and construction on a new WMATA garage is nearing completion.

Unfortunately, under current market conditions this mixed-use project faces a substantial feasibility gap. This gap arises because the high cost of vertical construction is not supported by market rents attainable in the area. However, an additional challenge is the substantial up-front cost of providing the infrastructure that a new transit-oriented community will need, and the public benefits that current and future residents of Montgomery County will expect. These public benefits, and the community's vision for the site, will not come to fruition in the absence of this incentive.

Bill 29-20 addresses these challenges by reducing property taxes for a small number of high-rise projects on WMATA-owned land. Projects affected by this legislation are truly "on top of Metro." The public-private projects that will be feasible because of this legislation will result in transformative developments in Montgomery County's most vitally important locations, and will help the County achieve its housing, land use, transportation, and climate change goals.

Of course, your deliberations regarding Bill 29-20 occur while you are also considering weighty issues that affect all residents of Montgomery County, and many issues big and small that affect the poorest and most disadvantaged of your constituents. As such, you are rightly concerned about the economic and fiscal impacts of your decision.

These WMATA-owned properties are currently generating no property tax revenue. My analysis concluded that the Strathmore Square project will generate positive annual fiscal returns for Montgomery County. Furthermore, the impact tax revenue and developer/owner funded infrastructure will contribute substantially to both the local community and to the County's funding for capacity-adding capital projects. Other findings by members of our team also address your concerns, including:

- The economic impact analysis estimates that the first phase of development at Strathmore Square will generate nearly 500 construction jobs per year during the 2-year construction period, and more than 100 jobs per year in other affected industries.
- The development feasibility analysis performed by my colleague, Sarah Woodworth (of W-ZHA), confirms that this project is not feasible without the tax benefits conferred by Bill 29-20.

I look forward to working with all members of the Montgomery County Council as you endeavor to facilitate metro-adjacent development in Montgomery County.

Regards,

Jacob Sesker, Principal
Harpswell Strategies
202-590-1478

Attachments:

Legislative Summary

Fiscal Impact Summary

Economic Impact Summary

THE PROPOSED LEGISLATION

- The purpose of the proposed legislation is to promote transit-oriented development (TOD) at Metro stations and is limited to high-rise development projects on land owned by WMATA

- Under State law, the County is authorized to promote TOD by providing tax benefits to certain joint development projects in which a governmental entity is the property owner

- This legislation would accomplish that by continuing the current property tax-exempt status of high-rise development on land owned by WMATA for a period of 15 years

- The practical effect of the legislation is to support the financial feasibility of high-rise development at Metro stations by extending the current tax-exempt status of WMATA properties

- The legislation is urgently needed to overcome the significant financial feasibility barriers to high-rise construction outside of downtown Bethesda

    - Put simply, high-rise development at Metro stations is the right public policy but it is not currently feasible without either (a) Council action or (b) downtown Bethesda rents

- The legislation would result in significant increases to the supply of both market rate housing and MPDUs at transit-adjacent locations

- Other advantages of this legislation include advancing the County's master plans and land use policies, increasing transit ridership, advancing the County's efforts to address climate change, and increasing employment in the construction industry in Montgomery County

- "But for" this proposed legislation, the County will not realize the substantial benefits of dense development at Metro stations

    - In the past two years, development agreements at two Metro stations in the County have been terminated due to the financial feasibility gap outside of the Bethesda CBD

- As an example of the immediate impact of the proposed legislation, it would facilitate implementation of the adopted Minor Master Plan Amendment for the Grosvenor-Strathmore Metro site (known as "Strathmore Square"), leveraging over $40 million of current infrastructure investment by WMATA and Fivesquares Development, and ultimately resulting in development of 2,000 dwelling units, including 350+ MPDU

- The attached analysis illustrates that, in the case of Strathmore Square, the proposed legislation's fiscal impact is positive: the cost of serving the additional residents will likely be less than the additional income tax and other revenue generated by the new residents

FISCAL IMPACT SUMMARY: STRATHMORE SQUARE – PARCEL 2

The Strathmore Square project is a "shovel ready" high-rise development at the Grosvenor-Strathmore Metro Station.

- The Minor Master Plan was recently approved and adopted
- The project has both an approved Sketch Plan and approved Preliminary Plan
- WMATA and Fivesquares Development, LLC executed a Joint Development Agreement (JDA)
- The joint development partners are investing more than $40 million on site improvements and infrastructure
- Extension of the existing WMATA garage is currently under construction

Current Status:

- WMATA owns the land and existing garage, which together are assessed at $34M but generate $0 in property tax revenue
- Property currently has 0 residents and 0 business establishments generating $0 County revenue
- Redevelopment would ultimately lead to 2,000+ households paying income & other taxes
- The first phase of development includes 504 dwelling units (including 76 MPDU) and 18,000 square feet of commercial uses on Parcel 2
- Redevelopment of the site is not financially feasible under current conditions due to the high cost of public benefits and infrastructure, high cost of high-rise construction, etc.
- The catalytic first phase of development can become financially feasible with property tax relief

Solution

- *Continue the current tax-exempt status of the property for 15 years, thereby allowing the joint development to establish a critical mass of residents, economic activity, and to deliver critical infrastructure and public benefits*

Fiscal Impact Bottom Line

- **Parcel 2 development likely generates a net fiscal benefit even assuming no property tax**
  - Annual Revenue Impact of Parcel 2 only = +$1.41M (General Fund)
  - Annual Expenditure Impact of Parcel 2 only = -$1.16M (General Fund and Special Funds)
  - Annual Net Fiscal Benefit = +$250,000 (assumes $0 property tax revenue)
- Parcel 2 is only one of seven parcels and roughly 1/5th of the development program
- The revenue impact would be sufficient to cover both the General Fund expenditures and any necessary transfers to Special Funds for marginal costs of fire, recreation, and mass transit
- Other considerations include:
  - Impact taxes, which are paid up-front, are estimated at $4.26M for Parcel 2 ($19.3M to $20.4M for the entire project)
  - More than $40M invested early on infrastructure and site improvements
  - The civic green is already under design and will be delivered in the first phase, in contrast to the other planned civic green in North Bethesda (in White Flint)
  - 76 MPDU in the first phase, 350+ at build out

Analytical Approach

- Used the average cost of services approach for all General Fund, County Tax-Supported Special Funds (Fire, Mass Transit, Recreation), local contributions for education and CIP current revenue
    - This approach is often used when the objective is to get a good sense of the total amount of impact, rather than to project the impact on specific departmental budgets
- Excluded overhead / fixed costs like General Government, Utilities, and most NDAs
- Divided all variable cost budgets into two categories: those that serve residents and those that serve residents and the business sector
- Derived per capita and per job multipliers for all variable expenditures
- Derived income tax revenue from rents and from the Comptroller's Statistics of Income reports
- Divided all other revenues into two categories: revenue that is almost entirely from residents, and revenue that is from both residents and the business sector
- Derived per capita and per job revenue multipliers
- Assumed that the impact tax revenue covers the capital budget impacts
- In order to estimate the fiscal impact of each master plan, OMB interviews County Government departments regarding potential fiscal impacts – in this instance only 2 departments / agencies reported any potential impact from full build out of the plan: MCPS and Transportation

	Parcel 2	Total: Parcels 1 thru 6
Residential Sq Ft	403,000	1,900,000 to 2,100,000
Commercial Sq Ft	19,000	160,000 to 320,000
Market Rate Units	428	1,800 to 2,000
MPDU	76 (15%)	356 to 370

Parcel 2	Households (Units – 5% Vacancy)	Income Tax Returns (HH + 5.25%)	Population (1.00/eff; 1.33/1BR; 2.05/2BR; 2.90/3BR)	MCPS Enrollment (Units x 0.084)	College Enrollment (HH x 0.047)	Retail Employees
504 units	479	504	641	42	22	27

General Fund MCG Expenditure	$559 / resident	$282 / job	-$356,000
Special Fund MCG Expenditure	$267 / resident	$225 / job	-$177,000
CIP Current Revenue	$11 / resident	$11 / job	-$7,000
MCPS Contribution	$10,510 / student		-$441,000
College Contribution	$7,981 / FTE student		-$176,000
		Total Expenditure	***-$1,157,000***
Income Tax Revenue			+$1,110,000
Other GF Revenue	$470 / resident	$175 / job	+$301,000
Property Tax Revenue			$0
		Total Revenue	***+$1,411,000***
		Net Fiscal Benefit	+$254,000

ECONOMIC IMPACT SUMMARY: STRATHMORE SQUARE – PARCEL 2

The unemployment rate in Montgomery County increased from 2.8% in March to 8.9% in May. Amidst this unprecedented economic backdrop, Strathmore Square is a shovel ready project that can help support local businesses and provide employment for workers in construction and other industries.

- The first phase of Strathmore Square ("Parcel 2") will generate 1,180 job years during the 2-year construction project, or 590 jobs per year in the D.C. Metropolitan Region.
- Earnings for workers in affected industries across the D.C. Metropolitan Region will increase by $67.8 million ($59.8 million of which will go to workers in the construction industry).

Summary of Findings

Economic Impact of Parcel 2: Washington, D.C. Metropolitan Statistical Area

- Each $1.00 invested in the project generates an additional $0.26 of economic activity in the region, resulting in $36.5 million of "indirect" impact during the 2-year construction project.
- The three industries experiencing the largest indirect impact: (1) Retail Trade; (2) Professional, Scientific, and Technical Services; and (3) Durable Goods Manufacturing.
- Earnings by workers in the Construction Industry will be $56.9 million during the 2-year project. The impact on workers' earnings in other affected industries is $10.9 million.
- Total jobs (or job-years) during the project are 1,181, or 590 per year. This number includes 478 jobs per year in construction and 112 jobs per year in other industries.

Economic Impact of Parcel 2: State of Maryland

- Each $1.00 invested in the project generates an additional $0.39 of economic activity in the State of Maryland, resulting in $55.2 million of "indirect" impact during the 2-year construction project.
- The three industries experiencing the most indirect impact: (1) Retail Trade; (2) Durable Goods Manufacturing; and (3) Professional, Scientific, and Technical Services.
- Earnings by workers in the Construction Industry will be $59.8 million during the 2-year project. The impact on workers' earnings in other affected industries is $15.2 million.
- Total jobs (or job-years) during the project are 1,244, or 622 per year. This number includes 471 jobs per year in construction and 151 jobs per year in other industries.

Sources & Methods

Analyzed using the U.S. Bureau of Economic Analysis' RIMS-II (Regional Input-output Modeling System) data and standard/best practices in the field of regional economics.

Quantify the "final demand change."

- The event that will generate the impact is investment of $140.4 million over two years.

- The project budget for development of Parcel 2 is $166.3 million, but the following were excluded from the analysis: land acquisition costs; interest and financing costs; and state/local taxes and fees. The remainder is the "final demand change."

Identify the "final demand industry."

- Residential Structures (2334BO). This detailed industry is a better choice than construction, which is an "aggregate industry." Construction also includes things like pipelines, highways, and other projects which have economic requirements that are quite different from vertical mixed-use construction.

Identify the "final demand geography."

- Washington, D.C. Metropolitan Statistical Area. The metro area is the preferred geography as it is an economic geography (based on commuting volumes and patterns) rather than a political geography.
- State of Maryland. Larger areas produce more accurate results and are subject to less "leakage." Therefore, Maryland is a better second geography than Montgomery County would be.

Select multiplier type.

- "Type I" multipliers are used in this analysis. "Type I" multipliers include "direct" and "indirect" impact, but do not include "induced" impacts. An example of an induced impact would be increased household spending by the households of workers in affected industries.
- As a matter of policy, the Council does not consider "induced" impacts when evaluating economic development projects.
- In a complex regional economy, the "Type I" multipliers are most appropriate for construction projects which do not require specialized workers. "Type II" multipliers would only be recommended in the case of unusual projects (e.g. oil pipelines, nuclear power plants) for which there may be no Maryland/D.C. workforce.

Lee Gochman
4800 Auburn Ave., Apt. 213
Bethesda, MD 20814

The Honorable Sidney Katz
President
Montgomery County Council
100 Maryland Ave.
Rockville, MD 20850

Dear President Katz,

I am writing regarding Council Bill 20-29, Taxation - Payment in Lieu of Taxes – WMATA Property. I strongly support this legislation and I want to thank all eight of the Councilmembers who signed on as sponsors.

This tax abatement program can be a vital factor in increasing Montgomery County's housing supply. We all know that the County's population is growing faster than we can build housing. I recently heard that about 9,000 people locate in the County each year, yet we are only adding about 2,000 housing units annually. Incremental increases are indeed helpful, but we need creative approaches to deliver more substantial results. CB 20-29 takes that approach.

Construction costs continue to rise due to a number of factors. Building over a Metro station is even more costly, as builders work to accommodate WMATA's structural and infrastructure requirements. At the same time, Metro stations are the optimum sites for high-rise multifamily buildings. This bill provides a significant incentive to develop buildings that are eight stories or higher. And it keeps the developer's costs down, which can translate into lower rental costs for tenants.

I've heard people say that the County will lose much needed revenue if CB 29-20 passes but that is not the case. WMATA doesn't pay property tax to the County. You certainly can't lose what you never had.

In fact, the County will actually see a net gain in revenue from this proposal, due to increased collections from such sources such as additional income tax, impact fees and recordation taxes.

As a member of the millennial generation, I have a special interest in this bill. I teach a weekly course on ways to make a first time home purchase more affordable with the help of a variety of programs. Most of the attendees are millennials. While my course is focused on home ownership, the need for affordable housing is applicable to rental housing as well. We need to give young people the tools they need to succeed, including affording a decent place to live. The greater the supply of housing, the more reasonable the costs will be. And the 15% MPDU requirement means that each high-rise building will substantially increase the number of available affordable apartments.

Council Bill 29-20 is a win for everyone. I therefore ask that you vote to pass the legislation.

Thank you for considering my position.

Sincerely,

Lee Gochman

Lee Gochman

July 24, 2020

Montgomery County Council
Montgomery County, MD
county.council@montgomerycountymd.gov

Re: Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property

Dear President Katz and Members of the County Council:

Thank you for the opportunity to participate in the hearing process for Bill 29-20. This letter is written in support of Bill 29-20.

We live in Montgomery County, at 10500 Rockville Pike, across from Grosvenor-Strathmore Station, and experience the advantages of well-planned density daily. The condominium we own is in a high-rise tower. We use the Metro with our neighbors, we appreciate amenities we have nearby, and we look forward to further well-planned development, more neighbors, and more amenity choices. We are always in favor of encouraging development and density along Metro corridors – and believe our neighbors are too. We would like to see it all happen faster.

Well-planned Metro station hi-density projects on-line sooner, will bring more new neighbors sooner and more new amenities sooner. We recognize that density along the Metro has first-cost disadvantages, especially compared to remote locations. Therefore, we appreciate this bill's financial incentives designed to mitigate some of those disadvantages and make projects more viable. It is money well-spent.

Furthermore, we can see a case is being made that proposed near-term incentives will be offset to some degree as new Metro station vicinity projects are occupied, and more residents generate more activity and more tax receipts.

In addition, it is well known that the housing supply problem is a challenge to Montgomery County. If passed, this bill would significantly increase the County's supply of affordable housing – and the more units built, the greater the affordable housing supply. This bill and the transit-oriented development it encourages are a part of the housing supply solution.

In conclusion, please count us as supporters of Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property.

Thank you for your consideration.

Very Truly Yours,

Al & Roseanne O'Konski
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Rockville, MD 20852
Al.OKonski@aecom.com 301 897 3169

SIERRA CLUB
MONTGOMERY COUNTY, MD

July 27, 2020

Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Reg: Bill 29-20 -- to ***expand housing at Metro stations*** through an extension of property tax abatement.

Position – Support

Dear President Katz and Councilmembers,

Sierra Club's number one priority is to address ***climate change*** – quickly and aggressively!

Montgomery County has transformed over the past several decades from a sleepy bedroom suburb into a vibrant urbanizing community – with well over a million residents. Our location in one of the nation's most thriving regions gives our county the opportunity and responsibility to make a substantial contribution to addressing climate change.

By designing and implementing smart policies and programs in the realms of ***transportation, housing, and land use***, our county can reduce our greenhouse gas (GHG) emissions (which contribute to climate change).

Council member Riemer and colleagues have proposed Bill 29-20 -- to ***expand housing at Metro stations*** through an extension of property tax abatement for high-rise development in such locations. ***Sierra Club enthusiastically supports this bill.*** It will be an important instrument for the county in addressing climate change.

Bill 29-20 will contribute to three key Sierra Club housing objectives (all aimed at addressing climate change) --

- Encourage more total housing in the county;
- Encourage most (at least 80%) new housing units to be located within walking distance of transit stations;
- Encourage more new housing that is affordable, especially within walking distance of transit stations.

Thank you, Council member Riemer and your several co-sponsors, for introducing this legislation!

Sincerely,

Shruti Bhatnagar
Chair, Sierra Club Montgomery County, MD
shruti.bhatnagar@mdsierra.org | 240.498.3459

Dave Sears, Land Use Chair
Sierra Club Montgomery County, MD
davidwsears@aol.com

Don & Tina Slater
402 Mansfield Road
Silver Spring MD 20910-5515
July 23, 2020

Dear County Councilmembers,

I am writing in support of Bill 29-20 “More Housing at Metrorail Stations Act”. This bill would encourage developers to build high-rise buildings (all rental units) on property owned by WMATA.

What about the tax consequences?
Currently WMATA does not pay property taxes on the land it owns at Metro stations. This land generates no tax money. Giving developers a property tax break for the first 15 years will cause no net loss. Meanwhile, residents and businesses occupying the new buildings would pay income taxes.

Why do we need to incentivize development?
We need to encourage more housing in the county. Most of the new housing units should be located near transit. WMATA estimates it has capacity for 8600 residential units on its properties. If 15% of these units are MPDUs (1200 to 1300 units), we are furthering the goal of creating more mixed-income neighborhoods near transit.

Why build housing on top of Metro stations?
This helps address climate change. People living near Metro are more likely to commute by transit instead of driving. Note that the transportation sector generates the largest share of greenhouse gas emissions.

Passage of this bill will be a win-win on so many fronts. Building these high-rises will bring more customers for retail, restaurants, and other businesses near Metro, thereby boosting the local economy. Driving less helps address climate change. Transit-friendly affordable housing promotes equity. And after 15 years, the county would begin collecting property taxes.

Sincerely,

Tina Slater

Tina Slater

Coalition for Smarter Growth
DC • MD • VA

July 27, 2020

The Honorable Sidney Katz
Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: Property Taxes

Dear Council President Katz and Councilmembers:

Thank you for the opportunity to provide comments on the proposals to alter the rules for property tax increases. Please accept these comments on behalf of the Coalition for Smarter Growth, the leading organization in the DC region advocating for walkable, inclusive, transit-oriented communities.

We support a fix to the artificial constraints imposed by the current property tax cap, and want to ensure that the Council and County Executive have the authority to budget in a way that meets the community's needs, particularly for social services, affordable housing, and public transportation. The county requires improved flexibility to meet unexpected challenges, such as the COVID-19 pandemic and all of the increased need it has created.

At the same time as needs rise, Montgomery County has not been able to benefit from growth in the tax base, growth which is supported by a history of successful public investments in infrastructure, schools, and transportation. Continuous public investment and services are vital in order to maintain a high quality of life, spur further economic development, and battle external threats, including public health and climate crises.

Therefore, we support proposals to remove the property tax cap and to require a supermajority of at least two-thirds of the council to raise the general property tax rate, not a unanimous vote as is now the case. We also support setting equal limits on rate increases for owner-occupied residential properties and for residential rental properties, since landlords pass property tax increases onto tenants in the form of higher rents. Homeowners and renters should be treated equally – renters should not face a higher pass-through cost of tax increases than homeowners.

Thank you for your consideration.

Sincerely,

Jane Lyons
Maryland Advocacy Manager
Coalition for Smarter Growth

CC: Montgomery County Councilmembers
County Executive Marc Elrich

BILL 29-20 – TAXATION - PAYMENTS IN LIEU OF TAXES - WMATA PROPERTY

Testimony offered by Nina Albert

Vice President, Real Estate and Parking

For the Washington Metropolitan Area Transit Authority

July 28, 2020

The Washington Metropolitan Area Transit Authority ("WMATA" or "Metro") owns property at many Metro stations throughout Montgomery County and seeks to develop them into mixed-use transit-oriented developments (or "TOD"). TOD encourages transit use; it also promotes sustainability and a more affordable cost of living. Metro partners with private real estate developers to deliver TOD and finance, construct and lease the buildings to residents and employers.

Montgomery County has long wanted TOD, demonstrated most recently by approvals for plans at Bethesda, Grosvenor-Strathmore and Forest Glen Metro stations, not to mention the County's own offices located at Rockville and Wheaton Metro stations. But until introduction of this bill, the cost of implementing TOD had yet to be solved.

Passage of this bill will accelerate TOD in Montgomery County for several reasons. First, the cost of high-rise (or steel) construction exceeds what current market rents can support. This legislation will create property tax savings for the developer to redirect into the cost of steel construction. Also, development on Metro property is typically more expensive because transit infrastructure needs to be built, or station access maintained, as part of the project. Again, this legislation offers a solution to the higher-than-normal costs of building on Metro property. Finally, one of the stated objectives of the legislation is to create more housing, including more affordable housing. High-rise development in and of itself achieves more housing and, to the extent that there is remaining PILOT funding after the costs of infrastructure and/or high-rise development are covered, funds could be used to support deeper levels of affordable housing in the project.

In summary, WMATA has nine Metro stations with developable land in Montgomery County that could deliver a total of 8,600 new residential units and approximately 2.5 million square feet of new commercial space. These developments are estimated to yield approximately 4 million new transit trips a year. This bill can accelerate transit-oriented development, which will generate new riders for Metro and new property, income and sales tax revenue for the County in the long term.

Thank you, Nina

Friends of
White Flint

July 20, 2020

Dear Councilmember Katz:

Friends of White Flint, a nonprofit organization composed of residents, property owners, and businesses, writes today to urge you to pass Bill 29-20. This legislation will encourage development at both the White Flint and Grosvenor-Strathmore metro station, something we enthusiastically support. This legislation should increase the available stock of housing and spur economic development, both of which are essential to ensure Montgomery County and the Pike District prosper.

We support exempting 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development with the important caveat that the property owner must still pay into the special White Flint taxing district. The special taxing district funds essential infrastructure and is integral to fulfilling the promise of the 2010 White Flint Sector Plan.

With the hope that Bill 29-20 will create incentives to redevelop property at the White Flint and Grosvenor-Strathmore metro station, Friends of White Flint advocates for the passage of this important legislation.

Please don't hesitate to contact Friends of White Flint if you have any questions or would like additional information.

Thank you,

Amy Ginsburg
Executive Director
Amy.Ginsburg@WhiteFlint.org

THE GEORGE WASHINGTON UNIVERSITY
WASHINGTON, DC

Center for Real Estate and Urban Analysis
Christopher B. Leinberger
Professor Emeritus of Real Estate & Urban Analysis

Bill 29-20, Taxation - Payments in Lieu of Taxes - WMATA property - Established

I am Chris Leinberger, a professor at the Center for Real Estate and Urban Analysis at George Washington University School of Business. I have been researching, consulting, developing and writing about walkable urban places, such as the proposed Governor Metro Station redevelopment, for over 30 years.

There is great pent up market demand for mixed-use walkable urban places, especially transit served places, as Montgomery County has experienced over the past two decades. That WMATA proposed this redevelopment is just one demonstration of the need for this form of development, which is environmentally beneficial, increases the county's tax base and will increase the recovery for the general economy and WMATTA from the current recession caused by the coronavirus.

This development will turn the area around the Governor Metro Station, which today is a rather sterile place referred to as "drivable density", into a vital mixed-use walkable urban place. This development will create a "there-there" by adding retail, experiences and managed parks. The development will also engage in place-making and place management, very similar to what Montgomery County does so well with your four urban districts, such as downtown Bethesda and Silver Spring.

I would suggest that the need for the PILOT program is to fund this place making and place management, similar to the tax revenues the County provides to your four urban districts. These essential place making and management services will be provided by this redevelopment project, not relying upon the County.

2131 G Street, NW ● Washington, DC 20052 ● (202) 994-0920 ● Fax: (202) 994-5966

LEAGUE OF WOMEN VOTERS® OF MONTGOMERY COUNTY

29-20

Testimony
More Housing at Metrorail Stations Act
July 28, 2020

The League of Women Voters of Montgomery County urges the County Council to join us in supporting the More Housing at Metrorail Stations Act Bill 29-20. We support Montgomery County policies and programs to maintain and increase the much-needed supply of affordable and low-income housing, which this bill addresses.

We ask for full support of the County Council for Bill 29-20, which would create much needed housing for low-income households on land close to transportation and in many cases jobs.

As Councilmember Riemer's press release pointed out, there are currently no high-rise developments underway on any Metro station property in Montgomery County, and several projects have recently been abandoned—e.g., at White Flint and Twinbrook.

- Bill 29-20 would extend Metro's existing property tax abatement for a period of 15 years for new high-rise developments which could produce at least 8,600 much needed units of housing.
- The high-rise buildings also would include between 1,200 to 1,300 units for the County's Moderately Priced Dwelling Unit (MPDU) affordable housing set-aside programs.
- This Bill seeks to change the economics of high-rise Metro station development and deliver the housing proximate to Metro that the County needs to fight climate change, promote housing affordability, and spur economic growth.

Bill 29-20 would provide more low-income and affordable housing -- as well as a new policy that would prevent net loss of affordable housing. It would aid low-income renters and make Metrorail Stations vibrant hubs. The July 2020 MoCo Housing Needs Assessment projects a need of over 63,000 new homes between 2020 and 2040 for working and non-working households (seniors/persons with disabilities), 26.6% of which represent households with annual incomes under $50,000. More than half of these needed new homes will be multi-family rentals in the next 20 years.

Today 14% of county renters live in overcrowded homes. 40% of our police cannot afford to live in the county.

One of every two new households is low-income (earning under $50,000 a year), indicating that the county has an increasing share of low-income households. By 2040 the forecast is that 20% of the county population will be 65 or older. Every submarket in Montgomery County faces a supply gap for households earning up to 60 percent of the Area Median Income (AMI). Submarkets with relatively affordable stock have also faced the most significant pricing pressure, leading to the loss of affordably priced units. In 2018, 50% AMI was about $60,000 for a family of four. The current median income is $100,000-$110,000.

Bill 29-20 would require the Director of Finance to offer a payment in lieu of taxes for a high-rise building constructed by a private developer on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro Station. The Bill would require the payment in lieu of taxes that would exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development.

WMATA does not currently pay property tax because it is an instrumentality of the State of Maryland.

Property tax can be levied against a lessee of government property used for a private purpose under Maryland Tax-Property Code Ann. §6-102(e). WMATA has agreed to a long-term lease with a developer of some of its property at the Grosvenor-Strathmore Metro Station. Maryland Tax Property Code Ann. §7-501 authorizes the Council to enact a law providing for a payment in lieu of taxes for property leased from a government agency that is otherwise subject to a tax levy under §6-102(e).

Bill 29-20 would apply to any property leased from WMATA at a Metro Station in the County for a qualifying development of a residential or commercial high-rise building.

Diane Hibino and Kathy McGuire, Co-Presidents
Sally Roman, Housing Committee Chair

LCOR INCORPORATED

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(301) 897-0002 | FAX (301) 897-3713 | WWW.LCOR.COM

Testimony of Matt Hard, Vice President LCOR

Bill No. 29-20

Taxation – Payments in Lieu of Taxes – WMATA Property

July 28, 2020

Good afternoon. For the record, my name is Matt Hard, Vice President of LCOR. On behalf of LCOR, I am writing to express our strong support for Bill No 29-20.

LCOR specializes in ground-up, transit-oriented developments in core locations throughout the mid-Atlantic and northeast. We pride ourselves on designing and delivering high-quality assets that deliver lasting value to our partners and the built environment, and have been operating in the DC-metro market for over 35 years.

Since 2008, we have delivered or commenced construction on 4 projects per a Joint Development Agreement with WMATA on land proximate to the White Flint Metro Station. These projects collectively comprise 950 residential units, 350,000 square feet of office, 40,000 square feet of retail, and a grand total of 1.3M square feet, collectively representing investment activity measured in the hundreds of millions of dollars. Our most recent phase, the 294 unit Arrowwood Apartment project, is scheduled to deliver in November of this year.

We are in the process of planning our 4th and final residential phase at White Flint, which has been challenging for a number a reasons that are shared by our development competitors and colleagues in Montgomery County. Since breaking ground on our last high-rise project in 2012, the DC metro area and the nation at large has experienced outsized construction cost escalation, in our experience averaging up to 6% annually. This is a well-documented and acknowledged trend that is a function of both increased demand for construction, and meaningful labor constraints on the supply-side. Only those submarkets that can offset increased cost with increased rental demand and growth are able to underwrite the costliest of multifamily projects: high-rise construction. In the meantime, many projects outside of downtown Bethesda cannot and have not launched despite having full jurisdictional approvals, site plans, and designs in place.

It is for this reason that our most recent residential phase at White Flint was constructed as a mid-rise wood-frame structure. For a number of reasons, market rental rates in this submarket have been flat since 2014, and it is exceedingly challenging to make an economic case for large, expensive high-density projects without instruments such as that being discussed today. Even since breaking ground in 2018, costs have continued to rise, making underwriting in today's environment even more challenging when rental growth remains stagnant, and since the outbreak of Covid-19, growth is negative.

The PILOT legislation, as proposed, would be a critical and necessary short-term and temporary incentive in order to partially subsidize the cost of constructing a project that yields higher density and more housing. This PILOT especially resonates with those developers such as LCOR who have a long-term investment horizon and believe in the long-term economic fundamentals of not just this submarket, but Montgomery County as a whole.

On behalf of LCOR, I thank you for your leadership in introducing Bill No. 29-20. With the adoption of this Bill, we will have a path forward in delivering more and much needed housing to the County.

TESTIMONY OF FIVESQUARES DEVELOPMENT IN SUPPORT OF COUNCIL BILL 29-20: TAXATION-PAYMENT IN LIEU OF TAXES-WMATA PROPERTY

July 23, 2020

President Katz, Vice President Hucker and members of the County Council, I am Andrew Altman, a co-founder of Fivesquares Development with Ron Kaplan, and we are the developers of the Grosvenor-Strathmore Metro site, what we call Strathmore Square, a development with the potential for over 2,100 units of housing. Ron Kaplan is well known to the County Council as a long-time Montgomery County resident and real estate developer who led the development of signature projects in the county including Symphony Park, Clarksburg Premium Outlets, and Bethesda Row when he was the Chief Investment Officer of Federal Realty.

It is with tremendous enthusiasm that Fivesquares Development is testifying in support of Council Bill 29-20, Taxation--Payments in Lieu of Taxes--WMATA properties, and ask for your support of this landmark bill. We applaud the Council's progressive and far-reaching commitment to transit-oriented development. And we want to especially thank councilmembers Hans Riemer and Andrew Friedson for their leadership in putting together and introducing the bill.

In my prior positions before co-founding Fivesquares Development, I was the Director of Planning for Washington DC under Mayor Anthony Williams and was the Deputy Mayor for Economic Development and Planning for the city of Philadelphia under Mayor Michael Nutter, and I can share with you that this type of legislation is exactly what we did to great success in stimulating the development of housing, economic expansion and affordable housing units. It will be an important stimulus to the county's economic recovery from the pandemic.

The legislation is essential to optimizing transit-oriented development and will transform land use patterns for generations. The lack of new high-rise construction at Metro sites in Montgomery County speaks loudly to how critical this legislation is to meeting County sustainable growth goals on these vitally important sites.

Simply put, but for this legislation, Montgomery County's goals to promote high density growth at transit-accessible locations and, specifically, to implement the Grosvenor-Strathmore Minor Master Plan Amendment that the Montgomery County Council and Montgomery County Planning Board unanimously approved in 2017, would not be feasible due to the prohibitive economics of building high-rise projects. There is a significant gap in building high rise projects due to the gap between costs and revenue and the unique infrastructure requirements of Metro sites.

In the absence of this legislation, instead of the potential at the WMATA property at the Grosvenor-Strathmore Metro station for over 2,100 units, including over 350 Moderately Priced Dwelling Units (MPDUs), the only feasible development would be lower density, stick-built housing that would dramatically underutilize the site, resulting in less than half the number of total housing units and MPDUs.

1377 R St NW, Washington, DC 20009

Crucially, this legislation can be achieved at no fiscal impact to the County. We commissioned the well-respected former Montgomery County Senior Legislative Analyst Jacob Sesker, of Harpswell Strategies, to undertake a fiscal impact analysis of the first phase of development at Strathmore Square. He concluded that there is a net positive fiscal impact to the County, even without the property taxes, from the income and other taxes that future residents will pay. And the County will collect substantial impact fees. Moreover, given that the Grosvenor-Strathmore Metro property (and all WMATA properties) currently generates no tax revenue, and is the beneficiary of a significant infrastructure investment of over $40 million from WMATA and Fivesquares Development at no cost to the County, the benefits of this legislation will be overwhelmingly positive.

With this legislation, all the prerequisites will be in place to begin pre-development of the first phase of Strathmore Square in 2021 of high-rise residential buildings. The legislation is not a hypothetical benefit that Fivesquares Development will use in the future; we are prepared to access the PILOT benefit as soon as the legislation is adopted. We have been tirelessly working over the past five years to advance the development of Strathmore Square consistent with the Minor Master Plan Amendment, including:

- obtained all site approvals from the County Council and Montgomery County Planning Board (M-NCPPC), including the Minor Master Plan Amendment, Sketch Plan, and Preliminary Plan;
- completed a Joint Development Agreement with WMATA, approved by the Federal Transit Authority in 2018;
- are under construction on an extension to the existing WMATA parking garage, which will be completed in 2020-21, in substantial fulfillment of the WMATA requirement to replace the current surface parking lot to allow for residential development

The immense potential of this legislation will accelerate and allow for the transformation of a commuter surface parking lot at the Grosvenor-Strathmore Metro station into a transit-oriented, pedestrian friendly community with significant public benefits, including: 15% MPDUs, a 1.25 acre open space, a new main, shared street that connects with the local community, new bike lanes, walkways and cultural amenities through a partnership with the Strathmore Music Center.

In conclusion, we respectfully request that the Council support Bill 29-20. We believe this legislation is groundbreaking for a suburban jurisdiction and will be a model for transit-oriented development nationwide.

Thank you for the opportunity to testify.

Sincerely,

Ron Kaplan, Principal and Co-Founder, Fivesquares Development

Andy Altman, Principal and Co-Founder, Fivesquares Development

MARYLAND BUILDING INDUSTRY ASSOCIATION
11825 West Market Place | Fulton, MD 20759 | 301-776-6242

Sidney A. Katz
President, Montgomery County Council
100 Maryland Avenue
Rockville, MD 20850

Re: Bill 29-20, Taxation - Payment in Lieu of Taxes - WMATA Property - Established

Dear President Katz and Councilmembers,

The Maryland Building Industry Association is submitting testimony in support of Bill 29-20, Bill 29-20, Taxation - Payment in Lieu of Taxes - WMATA Property – Established, which would allow a payment in lieu of taxes for a residential or commercial high-rise building constructed by a private developer on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro Station. The Bill would require the payment in lieu of taxes that would exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year of use.

Home ownership is critical now more than ever, and if there is anything that the COVID-19 pandemic has shined a light on, it's the importance of having a place to call home. Montgomery County is a highly desired place to live, but two critical deterrents to home ownership in the County are the cost of living and the shortage of housing. More housing will also have a positive impact on housing affordability. As recent MNCPPC studies have shown, Multi-Family Housing is an important housing type for Montgomery County's changing demographics and building that housing at transit centers is a win-win for the County. This bill works to achieve housing affordability in the county, the roughly 8,600 units that would be built at the counties 13 metro stations because of the bill would include more than 1,300 MPDU's.

It makes sense also from green perspective, development around Metro stations would make communities more walkable. Transit-oriented development reduces carbon emissions and traffic, the effects of rider shortage due to COVID-19 will not last forever and when folks need to utilize public transportation like before, this bill will allow that happen in a much more convenient manor. The parking lots that the Bill 29-20 would turn into Highrise apartments might also be more environmentally sustainable and reduce pollution in the area. Furthermore, adding amenities near local neighborhoods would encourage communities to use metro instead of cars for short trips.

We would like to thank the sponsor putting housing at the forefront with this bill and look forward to working with the rest of the council on the continued focus on advancing housing matters in Montgomery County.

If you have any questions or concerns, please do not hesitate to contact at gbenton@marylandbuilders.org or (202)-815-4239.

Respectfully,

Sylke Knuppel, P.E.
Chair of Montgomery County Chapter, MBIA

cc: Montgomery County Council & Staff

.

MEMORANDUM

TO: Fivesquares Development, LLC

FROM: Sarah Woodworth, Managing Member

RE: Economic Due Diligence on Mixed-Use Apartment Building at Strathmore Square

DATE: August 3, 2020

INTRODUCTION

Study Purpose

W-ZHA, LLC was retained by Fivesquares (the Developer) to independently determine the need for a real estate tax deferral based on current costs of construction and market rents in order to make high-rise construction economically viable at Strathmore Square. More specifically, W-ZHA assessed the reasonableness of the Developer's economic assumptions regarding the Phase I building at Strathmore Square. In question is whether the Developer's request to continue the current tax status of the property after development is necessary in light of the Project's economics.

W-ZHA evaluated, revised, and tested the Developer's assumptions and developed an independent Project pro forma. W-ZHA also tested whether the Developer's investment returns with the tax deferral were within industry standards for a mixed-use, high-rise apartment building.

Process

The Developer provided W-ZHA with their assumptions regarding the Project's development cost, projected operations, and financing. W-ZHA evaluated these assumptions by analyzing third-party sources and W-ZHA's experience with development economics in the Washington Metropolitan Area. In its contract with the Developer, W-ZHA reserved the right to terminate the agreement if W-ZHA concluded that the Developer did not require a property tax deferral (as contemplated by Bill 29-20) in order to make the Project economically viable and financeable with third-party institutional capital. Based on our analysis, W-ZHA concludes that Fivesquares Development can only proceed in developing Strathmore Square (as contemplated and approved by the Montgomery County Council and the Montgomery County Planning Board) with the passage of Bill 29-20 and importantly, only to the extent no additional or unique costs or charges are imposed. Our assumptions include 15% MPDU's pursuant to County requirements.

W-ZHA Qualifications

Established in 2007, W-ZHA, LLC is the successor organization of ZHA, Inc., a firm established in 1975. W-ZHA provides real estate advisory services to private, public, and non-profit clients. W-ZHA's staff has conducted development-related assignments in over 30 states for hundreds of public and private clients. Sarah Woodworth is the Managing Member of W-ZHA.

W-ZHA assists public and private sector Clients in evaluating development proposals, particularly their financial/economic aspects. W-ZHA supports our Clients in negotiating joint development arrangements by objectively analyzing the economic, financial, and fiscal implications of various public/private financing arrangements.

Locally, W-ZHA staff supported (or are supporting) joint development negotiations on the public/private financing for Gallery Place and Mandarin Hotel in Washington, DC, Rockville's Town Square, the White Flint Sector Plan, North Potomac Yard in Alexandria, and the redevelopment of Landmark Mall in Alexandria, VA. W-ZHA is one of Maryland-National Capital Park & Planning Commission's on-call market and economic consultants.

PROJECT OVERVIEW

Program

Strathmore Square is located at the Grosvenor-Strathmore Metro Station. The first building, (the "Project") contains between 385 and 400 apartment units in a 17-story building with a penthouse. The Project also includes amenity space, 10,905 square feet of retail and 8,068 square feet of cultural retail. The apartments and retail are above a five-story underground garage. The capital budget includes the cost to develop these components of the Project.[1]

Table 1

Development Program
Mixed-Use Multi-Family Building
Strathmore Square

	Gross Sq Ft	Units
Apartments	403,654	385-400
Retail	10,905	
Cultural Retail	8,068	
Total	422,627	
Parking Spaces	303	

Source: Fivesquares Development; W-ZHA

The mixed-use apartment building totals 422,627 square feet. Approximately 85% of this space is leasable. There are 303 parking spaces in the parking garage.

[1] There are other significant infrastructure cost components that are borne by the Developer and their partners to bring Strathmore Square to fruition. These other components include a 1.25-acre public park, Metro parking development, and other infrastructure. The Developer anticipates these costs will be recouped as value is created and future phases of Strathmore Square are developed.

Development Cost

Table 2

Development Cost
Mixed-Use Multi-Family Building
Strathmore Square

	Budget		/GSF
Hard Cost (Inc. Parking and Tenant Improvements)	$124,325,400	*83%*	$294.17
Soft Costs	$19,323,800	*13%*	$45.72
Sub-Total	$143,649,200		$339.90
Financing	$6,077,200	*4%*	$14.38
Grand Total	$149,726,400	*100%*	$354.28

Source: Fivesquares Development; W-ZHA

The cost to develop the Project is approximately $150 million in today's dollars. For purposes of this analysis, the Project is projected to commence construction in January of 2021. The Developer (and W-ZHA in its analysis) have conservatively assumed development costs will remain constant during the time between January 2021 and when the actual construction begins.

The Project will be constructed on WMATA land. The Developer will lease the land from WMATA.

Operations

Rent

In today's dollars the Developer assumed a market-rate apartment rent of $2.82 per square foot per month. Depending on the unit count, this translates into $2,399 to $2,494 per month.

In today's dollars, the Developer has assumed a retail rent of $33.30 per square foot triple net. The "cultural" retail is leased at no charge to Strathmore Music Center.

Operating Expenses

Residential operating expenses amount to $6,000 per unit per year in today's dollars. Retail operating expenses will be passed on to the retail tenants. The land lease payment is another component of the Project's operating expenses.

Financial Assumptions

The Developer has assumed conventional financing at a 5% interest rate amortized over 30 years. The Developer's proforma assumes a 5% residual capitalization rate.

EVALUATION

Development Program

The apartment building's leasable area is 85% of its gross area. In W-ZHA's experience, building efficiency ranges from 83% to 85%. Therefore, the Developer's assumption is reasonable.

The development program indicates that the average residential unit has between 850 and 885 square feet of living area. The unit size is consistent with other projects W-ZHA has analyzed in the Washington Metropolitan Area.

Conclusion: Development program assumptions are reasonable.

Development Cost

Marshall & Swift CoreLogic is a cost estimating tool. Marshall & Swift estimates costs for a variety of land uses at different quality levels. W-ZHA referred to Marshall & Swift to evaluate the reasonableness of the Developer's Project costs.

W-ZHA assumed a 17-story, mixed-use apartment building located in the 20852-zip code area. No architect's fees were assumed as they are in the soft costs. No parking costs are included in the Marshall & Swift estimate.

As is noted later in this Technical Memorandum, the Developer's projected rents are at the high-end for the Project's market. To achieve these rents, the building will include materials and finish characteristics consistent with what Marshall & Swift characterizes as a luxury high-rise apartment building. W-ZHA obtained a building cost estimate for a "good" quality luxury apartment building.

To compare costs, the building cost excludes the parking garage, soft costs, financing costs, and amenities. W-ZHA added a $5,000 per unit allowance for appliances and Project amenities (like a pool) to the Marshall & Swift estimate to allow an apples-to-apples comparison.

Table 3

Building Cost
Mixed-Use Multi-Family Building
Strathmore Square

	Developer Budget	Marshall & Swift Luxury Apartment
Building Cost /1	$103,082,000	$116,781,000
Appliance & Amenity Allowance	Inc.	$2,000,000
Total	$103,082,247	$118,781,000

1. Includes sitework, hard cost, general contractor fees, interior finishes. mechanicals and HVAC. Does not include soft costs, appliances or project amenities.

Source: Fivesquares Development; Marshall & Swift CoreLogic; W-ZHA

The Developer's budget is low for a good quality, high-rise luxury apartment building. According to the Developer, multiple contractors have bid on the Project.

The Developer assumes that the parking cost will average $48,000 per space. The mixed-use building is developed on top of a five-story garage underground garage. W-ZHA is not expert in construction cost estimating. In our experience, however, the cost for underground parking is very sensitive to local conditions like water table, soil conditions, the presence of rock, topography, and the shape of the site. It is not unusual for underground parking structures to cost $50,000 to $60,000 per space.

The Developer's soft costs total 15.5% of hard costs. W-ZHA's experience with projects in the Washington Metropolitan Area indicate that soft costs range from 15% to 20%. W-ZHA typically assumes 20% soft costs in our analyses.

Conclusion: Given Marshall & Swift cost estimating data, the Developer's building cost is reasonable, if not low. Given W-ZHA's experience with parking costs, the Developer's parking cost assumptions are reasonable, if not low. The Developer's soft cost assumptions are reasonable.

Operations

Rent

As per the County's requirements, 15% of the Project's apartments are Moderately Priced Dwelling Units (MPDUs). The remaining units are market rate units.

In today's dollars the Developer has assumed a market-rate rent of $2.82 per square foot per month or approximately $2,400 to $2,495 per month. To determine the reasonableness of this assumption, W-ZHA researched asking rents at high-rise apartment projects in the vicinity of Strathmore Square (see the table on the following page).

ble High-Rise Apartment Projects and Current Asking Rental Rates f
North Bethesda

Meridian @ Grosvenor Station

Built 2009
Units 305
Height 15 Stories

	Size (Sq Ft)	Mo Rent	Rent /SF/Mo
Studio	578	$1,550	$2.68
Studio	578	$1,740	$3.01
1 Bedrm/1 Ba	751	$1,510	$2.01
1 Bedrm/1 Ba	751	$1,693	$2.25
1 Bedrm/1 Ba	793	$2,100	$2.65
1 Bedrm/1 Ba	793	$1,856	$2.34
1 Bedrm/1 Ba	793	$1,830	$2.31
1 Bedrm/1 Ba	809	$1,780	$2.20
2 Bedrm/2 Ba	1,184	$2,190	$1.85
2 Bedrm/2 Ba	1,209	$2,302	$1.90
2 Bedrm/2 Ba	1,209	$2,306	$1.91
2 Bedrm/2 Ba	1,209	$2,385	$1.97
2 Bedrm/2 Ba	1,209	$2,345	$1.94
2 Bedrm/2 Ba	1,209	$2,270	$1.88
2 Bedrm/2 Ba	1,209	$2,280	$1.89

The Pallas at Pike & Rose

Built 2015
Units 319
Height 20 Stories

	Size (Sq Ft)	Mo Rent	Rent /SF/Mo
1 Bedrm/1 Ba	770	$1,935	$2.51
1 Bedrm/1 Ba	734	$2,044	$2.78
1 Bedrm/1 Ba	764	$2,083	$2.73
1 Bedrm/1 Ba	749	$2,170	$2.90
1 Bedrm/1 Ba	736	$2,249	$3.06
1 Bedrm/1 Ba	1106	$3,933	$3.56
1 Bedrm/1 Ba	743	$1,904	$2.71
1 Bedrm/1 Ba	702	$1,914	$2.45
1 Bedrm/1 Ba	780	$1,964	$2.45
1 Bedrm/1 Ba	802	$1,984	$2.51
1 Bedrm/1 Ba	792	$1,989	$2.34
1 Bedrm/1 Ba	849	$2,034	$2.33
1 Bedrm/1 Ba	874	$2,054	$2.65
1 Bedrm/1 Ba	774	$2,084	$2.32
1 Bedrm/1 Ba	898	$2,109	$2.34
1 Bedrm/1 Ba	900	$2,114	$2.37
1 Bedrm/1 Ba	892	$2,124	$2.39
1 Bedrm/1 Ba	889	$2,154	$2.34
1 Bedrm/1 Ba	922	$2,154	$2.37
1 Bedrm/1 Ba	907	$2,169	$2.30
1 Bedrm/1 Ba	942	$2,174	$2.88
1 Bedrm/1 Ba	756	$2,189	$1.75
1 Bedrm/1 Ba	1249	$2,253	$1.80
1 Bedrm/1 Ba	982	$2,264	$2.31
1 Bedrm/1 Ba	1298	$2,298	$1.77
1 Bedrm/1 Ba	1010	$2,364	$2.34
1 Bedrm/1 Ba	1154	$2,378	$2.06
1 Bedrm/1 Ba	1313	$2,418	$1.84
1 Bedrm/1 Ba	1530	$2,433	$1.59
1 Bedrm/1 Ba	1151	$2,453	$2.13
1 Bedrm/1 Ba	1482	$2,483	$1.68
1 Bedrm/1 Ba	1629	$2,528	$1.55
1 Bedrm/1 Ba	1114	$2,534	$2.27
1 Bedrm/1 Ba	878	$3,058	$3.48
2 Bedrm/2 Ba	1120	$2,453	$2.19
2 Bedrm/2 Ba	1158	$2,550	$2.20
2 Bedrm/2 Ba	1206	$2,739	$2.27
2 Bedrm/2 Ba	1289	$2,935	$2.28
2 Bedrm/2 Ba	1214	$3,180	$2.62
2 Bedrm/2 Ba	1281	$3,839	$3.00
2 Bedrm/2 Ba	1055	$2,170	$2.37
2 Bedrm/2 Ba	989	$2,230	$2.36
2 Bedrm/2 Ba	1077	$2,280	$2.35
2 Bedrm/2 Ba	1144	$2,305	$2.33
2 Bedrm/2 Ba	1074	$2,315	$2.30
2 Bedrm/2 Ba	1151	$2,330	$2.29
2 Bedrm/2 Ba	1219	$2,380	$2.28
2 Bedrm/2 Ba	1164	$2,425	$2.28
2 Bedrm/2 Ba	1348	$2,897	$2.27
2 Bedrm/2 Ba	1214	$2,962	$2.27
2 Bedrm/2 Ba	1503	$3,052	$2.27
2 Bedrm/2 Ba	1214	$3,589	$2.26
2 Bedrm/2 Ba	1359	$3,684	$2.26
2 Bedrm/2 Ba	1596	$4,119	$2.25
2 Bedrm/2 Ba	1593	$4,387	$2.25
2 Bedrm/2 Ba	1854	$4,542	$2.25
2 Bedrm/2 Ba	1947	$4,687	$2.25
3 Bedrm/2 Ba	*1491*	*$3,814*	*$2.24*
3 Bedrm/2 Ba	*1573*	*$4,317*	*$2.22*
3 Bedrm/2 Ba	*1983*	*$4,697*	*$2.24*
3 Bedrm/2 Ba	*2007*	*$4,722*	*$2.25*
3 Bedrm/2 Ba	*1779*	*$4,727*	*$2.25*
3 Bedrm/2 Ba	*1699*	*$4,827*	*$2.26*
3 Bedrm/2 Ba	*1908*	*$5,137*	*$2.26*

Italicized units are not available for lease as of 7/23/2020, but rents are published.

Source: Meridian at Grosvenor Station website; Apartments.com; W-ZHA

The Meridian is an older, high-rise apartment project near the Grosvenor-Strathmore Metro station. W-ZHA referred to the Meridian's website for rental rates. The rents for units available in September, October and November were collected. The rental rates published for a 12-month lease at the Meridian were well below the Developer's projected rents. The highest 1-bedroom rent for a unit available during the queried months is $2.65 per square foot.

The Pallas at Pike and Rose is a newer high-rise apartment building. Rental rates by unit type are not available on the Pallas' website. W-ZHA obtained asking rents from Apartments.com. Assuming 70% of the Pallas' units are 1-bedroom, 20% 2-bedroom and 10% 3-bedroom, the average rent per square foot is $2.76. This is below the Developer's assumed rent of $2.82 per square foot.

There are other mid-rise apartment buildings in the vicinity of Strathmore Square. The Developer's rent is well above asking rents at these mid-rise projects.

In today's dollars, the Developer has assumed a retail rent of $33.30 per square foot triple net. The Developer has assumed that the "cultural" retail will lease for free. There are very few comparable retail spaces listed for-rent on Loopnet.com, a commercial real estate database. Therefore, W-ZHA cannot determine whether the retail rent assumption is reasonable.

Conclusion: The Developer's assumed market-rate apartment rental rates are above what existing high-rise projects are achieving in rent. Therefore, the Developer has not low-balled market-rate apartment rents.

<u>Operating Expenses</u>

The residential operating expense of $6,000 per unit (net of property taxes) is a reasonable assumption given W-ZHA's experience.

Financial Assumptions

The 5% interest rate on a conventional commercial mortgage is high in today's market. Where interest rates will be in 2022 is unknown, so 5% is a conservative assumption. W-ZHA has run a scenario where the permanent financing interest rate assumption is changed to 4.5%. A lower interest rate increases supportable debt thereby reducing required equity. This, in turn, improves investment return.

The residual capitalization rate of 5% is reasonable. According to the "PwC Real Estate Investor Survey: 2nd Quarter 2020", the national average is 5.19%. Because of its relatively strong economy, Montgomery County's residual capitalization rate tends to be below national averages.

Investor Return

W-ZHA developed a pro forma to evaluate the Developer's return. W-ZHA applied its own assumptions regarding annual inflation and supportable debt. The analysis assumes that the property is granted a property tax deferral.

W-ZHA assumed that the Developer's base rent of $2.82 would escalate at a rate of 1.24% per year through to stabilized occupancy. According to the "PwC Real Estate Investor's Survey: 2nd Quarter 2020" the average market rent change over the last quarter was 0.59%. Low rental rate growth is likely the result of COVID 19. In the prior quarter, the rental rate change was 2.4%. W-ZHA assumed that after stabilized occupancy, rents would escalate at 2.4% per annum.

W-ZHA escalated operating expenses at 2.6% per year, which is the average in the PwC Real Estate Investor's Survey.

To determine supportable debt, W-ZHA applied a 1.25 debt coverage ratio to the Project's stabilized net operating income. As a base case, W-ZHA applied the Developer's 5% interest rate assumption.

W-ZHA assumed the Developer would sell or refinance the Project one year following the first year of stabilized occupancy. The Project is assumed to achieve stabilized occupancy in Year 2. Therefore, the analysis assumes it is sold or refinanced in Year 3.

Applying these assumptions, the Developer achieves a yield (net operating income divided by total development cost) of 5.5%, which is at the low-end of the scale for a high-rise apartment. W-ZHA would expect that the yield threshold would be 5.5% to 6% for high-rise construction because of cost and market risk.

The internal rate of return on equity is low at 13.3%. W-ZHA would expect that a Developer would require an internal rate of return on equity in the 14% to 16% range to get financing. Reducing the interest rate on the permanent loan to 4.5% reduces up-front equity and results in a 15.4% internal rate of return on equity, which is reasonable. Any increase in cost or reduction in rental income will challenge the Project's economic feasibility.

CONCLUSION

Based on regional experience and third-party sources, W-ZHA considers the Developer's assumptions regarding development costs reasonable, if not low. The Developer's rent assumptions are reasonable, if not slightly aggressive given existing market conditions. With the benefit of Bill 29-20 which would continue the current tax status of the property, W-ZHA's analysis indicates that the Project would be feasible.

The Project is just at the margin of acceptable returns with the tax deferral. Increases in material, labor, and entitlement costs or stable (rather than increasing) residential rents would make the Project perform below the economic returns required to obtain equity and debt financing. In such a case, the Project could not proceed. Given our analysis, the Project cannot support additional affordable housing units above 15% MPDUs nor any other requirements that would increase costs.

W-ZHA's analysis concludes that the Project would not be feasible without the passage of Bill 29-20.

Bill 29-20 — Taxation – Payments in Lieu of Taxes – WMATA property – Established

SUMMARY

If enacting Bill 29-20 results in the construction of additional high-rise developments at Metro stations in the County, then the Office of Legislative Oversight (OLO) would expect the bill to have an overall positive impact on the Montgomery County economy.

BACKGROUND

The goal of Bill 29-20 is to encourage the development of residential and commercial high-rise buildings at Metro stations in the County by eliminating property taxes for these properties for 15 years.[1] If enacted into law, Bill 29-20 would require the Director of the Department of Finance to present "a payment in lieu of taxes for a high-rise building constructed by a private developer on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro station."[2] According to Bill 29-20, the payment in lieu of taxes would "exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development, regardless of subleases executed by the lessee."[3]

METHODOLOGIES, ASSUMPTIONS and UNCERTAINTIES

Several uncertainties challenge OLO's ability to determine the economic impacts of enacting Bill 29-20. First, the COVID-19 pandemic is expected to continue adversely affecting business operations, supply chains and distribution systems. OLO is unable to predict the extent or nature of these impacts on future high-rise developments at Metro stations.

Second, OLO cannot predict the extent to which the proposed property tax abatement would alter the occurrence and timing of lease agreements between developers and WMATA. The tax abatement would only be responsible for the economic impacts related to a given development project if that project either would not have occurred or would have occurred later in time in the absence of the tax abatement. For instance, the property tax abatement may not trigger development if it does not offset enough costs to alter the developer's behavior. WMATA negotiates its lease terms directly with developers; if this property tax abatement were enacted, then WMATA would be aware of the developer's new tax offset and might increase its lease rate to partially or fully capture those tax savings, resulting in little or no net reduction in costs for the developer. In this case, the developer's decision to move forward may be unrelated to the property tax abatement.

[1] Montgomery County Council, Bill 29-20 Taxation – Payments in Lieu of Taxes – WMATA property – Established, Introduced on July 7, 2020, Montgomery County, Maryland, 3.
[2] Ibid, 3. For a description of payment in lieu of taxes, see Montgomerycountymd.gov, Property Tax Credit and Exemption Information, https://www.montgomerycountymd.gov/finance/taxes/tax_credit_exempt.html#p21.
[3] Ibid.

Third, OLO cannot predict the magnitude, and in some cases direction, of the downstream impacts that would ripple through the local economy from additional high-rise developments. For example, due to the household multiplier effect (see below), the number and income of new households would affect the total impact of the bill. But it is uncertain how many individuals would relocate to the County to live in a new development who would have otherwise chosen to live in another jurisdiction in the Washington D.C. metropolitan area. The impact of a new development on the existing rental and housing market around each Metro station is also uncertain. On the one hand, increasing the supply of rental units could cause landlords to lower rents to attract residents. On the other hand, a new development may increase the assessed values of surrounding rental properties and homes, thereby causing property taxes to rise. In that case, landlords could raise rents and sellers raise prices to recoup the costs. Importantly, the latter dynamic could decrease the supply of market-rate housing units affordable to low- or moderate-income households. Opposite dynamics could prevail at different Metro stations.

Finally, OLO cannot quantify the economic impact of alternative uses of tax revenue that would be collected in the absence of the property tax abatement. All tax breaks create opportunity costs: the revenues given up for one policy cannot be used to achieve other policy objectives. (See the fiscal impact statement estimating the net revenue losses of enacting Bill 29-20.) In sum, a more robust accounting of the economic impacts of Bill 29-20 would require (a) predicting how the tax abatement will influence the occurrence and timing of agreements negotiated between developers and WMATA, and (b) comparing the direct economic impacts of those future agreements against the downstream effects and economic potential of uncollected revenue that would have been spent by the County for other purposes.

While such in-depth accounting is beyond the scope of this analysis, OLO has assessed the economic impacts of enacting Bill 29-20 assuming that the property tax abatement results in additional high-rise developments at Metro stations and that the new developments cause additional households to relocate to the County. To assess the economic impacts of these potential events, OLO uses the Regional Input-Output Modeling System (RIMS II) "final-demand multipliers" for Montgomery County developed by the U.S. Bureau of Economic Analysis.[4] The RIMS II multipliers capture how "an initial change in economic activity results in other rounds of spending."[5] Spending diminishes over time due to "leakages" from the County economy, such as paying taxes, increasing savings, and purchasing goods and services produced outside the County.[6] To illustrate, a high-rise development would involve producing and purchasing asphalt, hammers, and other construction materials and equipment, and employing construction workers, some of whom reside in the County. Workers

[4] U.S. Bureau of Economic Analysis, *RIMS II: An Essential Tool for Regional Developers and Planners*, December 2013, https://apps.bea.gov/regional/rims/rimsii/rimsii_user_guide.pdf.
[5] Ibid, 1 – 1.
[6] Ibid, 1 – 2.

benefiting from these transactions would, in turn, increase their consumption of locally produced goods and services, for instance, ordering carryout at restaurants or paying for childcare. Likewise, individuals and households who relocate to the County to lease units in the new high-rise developments would consume more goods and services produced in the County.

Using the final-demand multipliers, OLO estimates the economic impacts in the County of the construction of additional high-rise developments at Metro stations and the influx of new residents. The impacts are expressed in terms of four economic measures:

- <u>Output (sales):</u> total market value of industry output
- <u>Earnings:</u> employee compensation plus net earnings of sole proprietors and partnerships
- <u>Employment:</u> number of full- and part-time employees
- <u>Value added (GDP):</u> total value of income generated from production[7]

Although the method produces single numbers for each measure, OLO cautions that these estimates are not precise forecasts. Rather, OLO uses the estimates to illustrate the general magnitude of the economic impacts of enacting Bill 29-20 and to inform discussion of the bill's potential effects on County businesses and residents in reference to the Council's priority indicators.[8]

OLO stresses *general magnitude* for several reasons. First, the RIMS II multipliers are based on 2012 U.S. benchmark Input-Output data and 2017 regional data which have not been adjusted to reflect structural changes to the local economy now underway due to the COVID-19 pandemic and economic recession. These structural changes could result in net increases in "leakages" by the time any high-rise development at a Metro station gets underway and new households move to the County. For instance, if local suppliers of construction materials were especially harmed by the economic crisis, then the developers could rely more heavily on suppliers outside the County, in which case the County economy would retain a smaller proportion of the spending triggered by high-rise development. Secondly, the RIMS II framework assumes that "industries must double their input," such as workers and building material, "to double their output."[9] This assumption is problematic in the context of construction because of the industry's reliance on part-time and seasonal workers, whose hours can be easily extended.

To assess the potential economic impacts of additional high-rise development at Metro Stations, OLO uses the Strathmore Square project as a case study. Currently, Strathmore Square (Preliminary Plan No. 120190180) is the only high-rise

[7] Ibid, 3 – 3 and 3 – 4.
[8] For the Council's priority indicators, see Montgomery County Council, Bill 10-19 Legislative Branch – Economic Impact Statements – Amendments, Enacted on July 30, 2019, Montgomery County, Maryland, 3.
[9] U.S. Bureau of Economic Analysis, *RIMS II,* 2 – 2.

development project on WMATA-owned land in the Montgomery County Development Pipeline.[10] Strathmore Square is approved for up to 1,905,219 square feet. It would include a total of 1,309 dwelling units, 196 of which would be affordable units. Montgomery Planning staff provided OLO with two estimated construction costs for high-rise developments: $235 and $250 per square foot. Using these rates, the projected total construction costs for Strathmore Square are $447,726,465 and $476,304,750.

In subsequent sections, OLO projects the output, earnings, employment, and value-added that this development will generate given the projected total construction costs. OLO made the following assumptions for this analysis:

- Maximum Residential Square Footage: RIMS II uses separate multipliers for the construction of residential and nonresidential structures. OLO calculated a weighted average multiplier based on the proportions of residential and nonresidential square footage. In this analysis, OLO has assumed that the developer will maximize the residential square footage for Strathmore Square. (Note that altering the proportions would have a minimal impact on the final calculations of output, earnings, etc.)
- No Bonus Density: Potentially, the developer may qualify for an additional 384,219 square feet of bonus density. For this case study, however, OLO has assumed that the bonus density will not occur at the Strathmore Square development.
- 15-Year Development Timeline: This assumption is based on the Adequate Public Facilities validity period the developer received for the Strathmore Square project.

To assess the potential economic impact of new household entry, OLO used the RIMS II household multiplier. The analysis below assumes that Strathmore Square would attract 1, 25, or 50 new households, each of which earns the median income of $106,287 (in 2018 dollars).[11]

VARIABLES

Variables that could affect the economic impacts of enacting Bill 29-20 are the following:

- Extent to which the proposed property tax abatement results in additional high-rise developments at Metro stations
- Total construction costs for high-rise development
- Sales to suppliers of construction inputs within the County
- Employment gains from high-rise development
- Sales to businesses surrounding high-rise developments
- Number of affordable housing units in residential developments

[10] Montgomery Planning, Pipeline of Approved Development, https://montgomeryplanning.org/tools/research/development-pipeline/.
[11] Census.gov, QuickFacts: Montgomery County, Maryland, https://www.census.gov/quickfacts/montgomerycountymaryland.

- Stock of market-rate affordable housing near developments
- Rental rates and house prices near developments

IMPACTS

Businesses, Non-Profits, Other Private Organizations

Workforce, operating costs, property values, capital investment, taxation policy, economic development, competitiveness, etc.

If enacted into law, Bill 29-20 would alter taxation policy with the goal of stimulating massive capital investments on WMATA-owned property at Metro stations in the County. In particular, the bill would reduce net operating costs for developers by granting them a 15-year property tax abatement. The intent of these cost reductions is to increase the profitability of high-rise buildings at Metro stations enough to attract developers who are currently unwilling to lease land from WMATA for high-rise development. By lowering property taxes, Bill 29-20 might improve the County's competitiveness in the eyes of developers, who may prefer the Washington D.C. and northern Virginia markets. (Note that the tax abatement might also improve the desirability of WMATA-owned locations at Metro stations relative to other locations within the County.)

As previously discussed, OLO cannot predict whether the proposed property tax abatement would play a causal role in the occurrence and timing of lease agreements between WMATA and developers. However, if the proposed tax abatement did result in additional high-rise developments, then OLO expects Bill 29-20 to generate positive impacts for private organizations in the County. Private organizations would also benefit from the influx of new households who would move to the County to live in the high-rise developments.

Figure 1. Projected Economic Impacts of Strathmore Square

Construction Costs	Output	Earnings	Employment per Project Year	Value-Added
$447,726,465 ($235 per sq ft)	$658,829,497	$149,656,301	182 per year (2,727 total)	$369,628,046
$476,304,750 ($250 per sq ft)	$700,882,444	$159,208,831	193 per year (2,901 total)	$393,221,326

This analysis uses the Strathmore Square project to illustrate the general magnitude of economic impacts of high-rise development at a Metro station. **Figure 1** presents the projected economic impacts for two scenarios. For example, the first scenario assumes that more than $447,000,000 is injected into the local economy in the form of high-rise construction over the course of 15 years. This injection would generate more than $658,000,000 in total output and $149,000,000 in earnings, as well as 182 jobs per year. The beneficiaries would include the owners and workforces of the development firm, suppliers of construction materials, and the businesses affected by increased worker earnings (e.g. restaurants surrounding the construction site).

While the Strathmore Square development would benefit many businesses, some businesses could be harmed. For instance, if the development raises the assessed property values and, therefore, property taxes of commercial and retail properties near the Grosvenor Metro station, landlords may increase rents to cover the higher costs. If businesses at these properties do not see large enough revenue increases to match or exceed these rent hikes, then the net impact of the development would be negative. Determining the likelihood and number of businesses that might experience net gains or losses, however, is beyond the scope of this analysis.

Furthermore, local private organizations would benefit from the development of high-rise buildings at Metro stations if they improve the County's competitiveness in terms of attracting individuals who would otherwise decide to live in other jurisdictions in the Washington D.C. metropolitan area. As illustrated in **Figure 2**, for every 25 new households in the County, the local economy would generate more than $4 million in output and 21 new jobs (assuming they earn the median household income).

Figure 2. Projected Economic Impacts of New Households

New Household Income	Output	Earnings	Employment	Value-Added
$106,287 (1 household)	$84,626	$16,974	0	$52,527
$2,657,175 (25 households)	$2,115,643	$424,351	10	$1,313,176
$5,314,350 (50 households)	$4,231,285	$848,702	21	$2,626,352

In sum, the Strathmore Square case study illustrates how high-rise development at Metro stations and the new households it can attract would generate significant positive benefits for private organizations in the County, particularly those involved the construction and supply of construction inputs. Enacting Bill 29-20 could be credited with these positive economic impacts if the reduction in property taxes results in development that would not otherwise have occurred. However, the development could create downstream impacts that harm some private organizations. Such potential impacts would likely depend on factors specific to the neighborhoods surrounding each Metro station, such as median income, rents and property values, zoning ordinances, proximity to schools, etc. A more in-depth accounting of these downstream impacts is beyond the scope of this analysis.

Residents

Enacting Bill 29-20 would generate positive impacts for County residents if the property tax abatement results in additional development that would not have otherwise occurred. The job gains from high-rise development would benefit residents employed by development firms and suppliers of construction materials. In

Workforce, property values, income, taxation policy, economic development, etc.	addition, high-rise development would increase the stock of affordable housing units in the County. For instance, Strathmore Square is expected to include 196 affordable units. The increase in affordable housing will benefit low- to moderate-income households in the County. As previously discussed, however, it is possible that additional high-rise developments could lead to higher rents and housing prices, which could decrease the supply of market-rate affordable housing units.

WORKS CITED

Census.gov. QuickFacts: Montgomery County, Maryland. https://www.census.gov/quickfacts/montgomerycountymaryland.

Montgomerycountymd.gov. Property Tax Credit and Exemption Information. https://www.montgomerycountymd.gov/finance/taxes/tax_credit_exempt.html#p21.

Montgomery County Council. Bill 29-20 Taxation – Payments in Lieu of Taxes – WMATA property – Established. Introduced on July 7, 2020. Montgomery County, Maryland.

Montgomery County Council. Bill 10-19 Legislative Branch – Economic Impact Statements – Amendments. Enacted on July 30, 2019. Montgomery County, Maryland.

Montgomery Planning. Pipeline of Approved Development. https://montgomeryplanning.org/tools/research/development-pipeline/.

U.S. Bureau of Economic Analysis. *RIMS II: An Essential Tool for Regional Developers and Planners.* December 2013. https://apps.bea.gov/regional/rims/rimsii/rimsii_user_guide.pdf.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent the OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

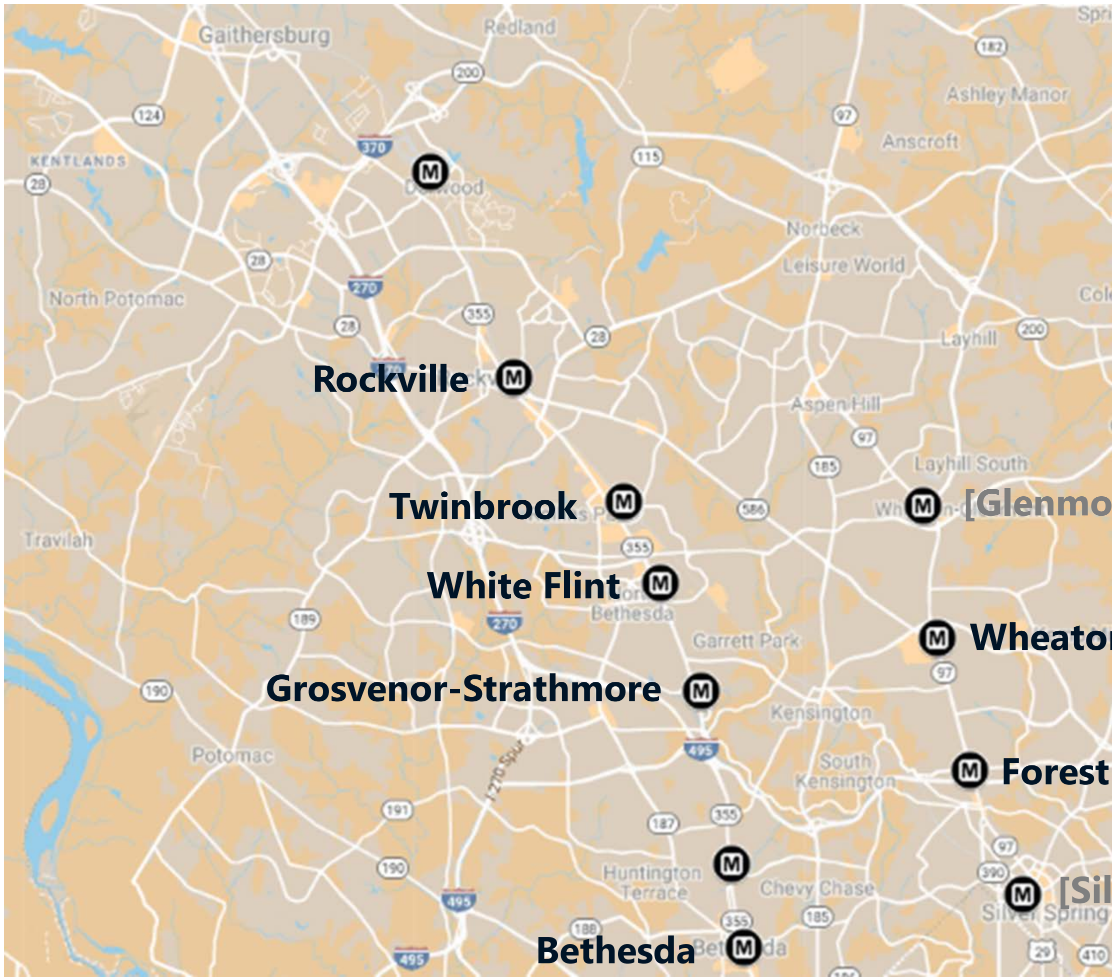
This economic impact statement was drafted by Stephen Roblin (OLO), in consultation with staff from Montgomery Planning and the Department of Housing and Community Affairs.

DEVELOPMENT ACCELERATION

ON METRO-OWNED PROPERTY

MARCH 2020

WMATA's Joint Development locations in Montgomery County have significant opportunities for housing and jobs creations.



WMATA joint development could deliver:

- **8,600 housing units,** more than 20% of the County's target for 41,000 new housing units by 2030
- **Up to 2 million square feet** of commercial and retail development

GOAL: Accelerate high-density development at Metro stations throughout the county.

Example project: 500-unit building @ $2.80 SF rents

Annual Property Taxes paid without PILOT	Annual Property Taxes paid with PILOT	15-Year Tax Benefits to Developer
$1.7M	$1	$21M

Innovative opportunity to use tax incentives to promote high-density development that **strengthens economic competitiveness, increases housing supply, supports Metro ridership, and provides environmental benefits.**

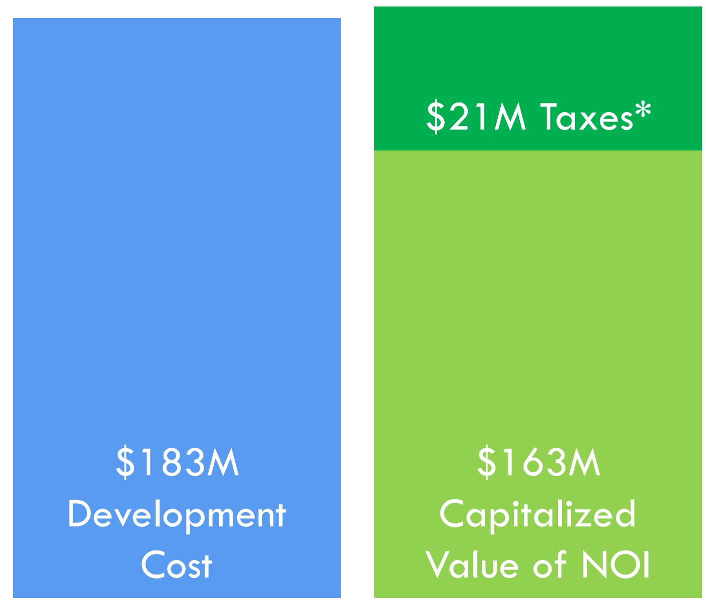
The PILOT covers the cost gap between medium- and high-density construction to maximize development on WMATA property.

- Buildings over 7 stories (High Density) must have a concrete or steel frame rather than wood frame
- **High density construction costs are $60 per SF greater,** creating a deficit in markets with moderate rents
- PILOTs can make a high-density project viable and **significantly increase housing production and total MPDUs** in high-opportunity locations
- High-density projects also **grow the county's tax base** over the long-term

187 TOTAL UNITS
28 MPDUs

Medium-Density Project
7 stories

500 TOTAL UNITS
75 MPDUs



High-Density Project
17 stories

Note: Development cost inclusive all costs associated with development such as construction costs, soft costs, financing, land costs, return requirements, etc.

** Net present value of 15-years of property taxes discounted at 4%*

The PILOT program would make high-density development viable at most stations in Montgomery County and should elevate interest and near-term action by the development community.

- There are two **key factors to viability:** (i) rents rates and (ii) public costs.
- The **PILOT is important to overcome** the private construction cost gap but **the public costs too.**
- Stations with rent rates below $2.50/SF may need additional assistance and might be good affordable housing project **targets for the Montgomery County Housing Initiative Trust Fund (HIF).**

Metro Station	Housing Unit Potential	Job Potential[1]	Rent Rate/SF	Est. 15-Year Property Taxes	Public Costs	PILOT Impact
Shady Grove	1,800[2]	2,875	$2.40	$62.4M	High	Not viable
Rockville	400	1,850	$2.80	$15.9M	High	Viable
Twinbrook	700[2]	--	$2.50	$25.2M	High	Not viable
White Flint	1,475	1,770	$2.70	$56.9M	Low	Viable
Grosvenor	2,220	--	$2.80	$88.4M	Medium	Viable
Bethesda	500	--	$3.70	$25.7M	Medium	Likely viable[4]
Forest Glen	300[2]	--	$2.30	$10.0M	High	Not viable
Wheaton	500	--	$2.65	$18.9M	High	Likely viable[4]
Silver Spring[3]	500	--	$2.90	$20.5M	Low	Viable
Glenmont[3]	200	--	$2.20	$6.4M	Low	Not viable
	8,595 Units	6,495 Jobs		$259.0M		

SITE PROFILES

SHADY GROVE

ROCKVILLE

TWINBROOK

WHITE FLINT

GROSVENOR-STRATHMORE

BETHESDA

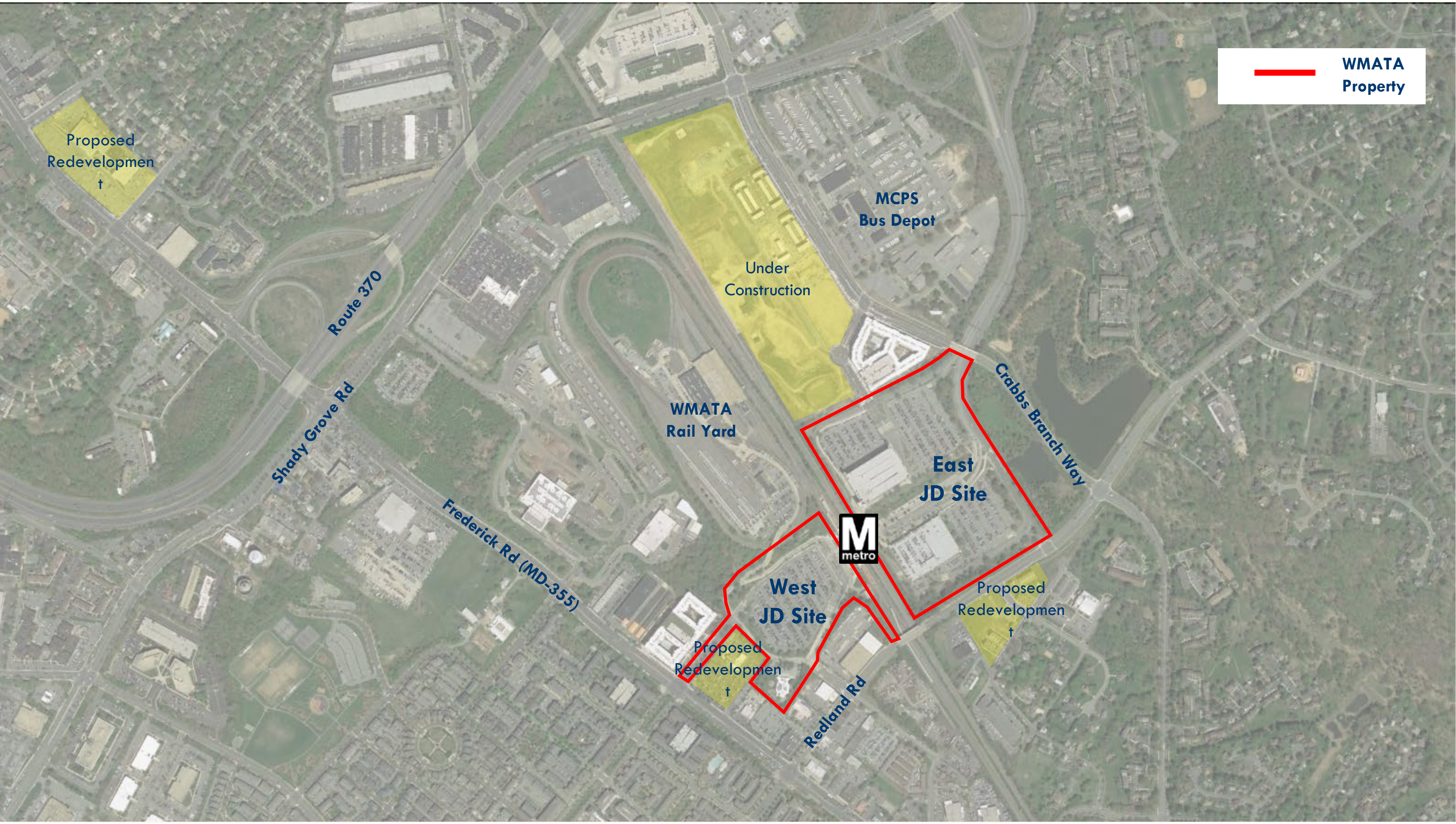
FOREST GLEN

WHEATON

[SILVER SPRING]

[GLENMONT]

SHADY GROVE



WMATA Property
Proposed Redevelopmen t
Route 370
Shady Grove Rd
Frederick Rd (MD-355)
Under Construction
MCPS Bus Depot
WMATA Rail Yard
Crabbs Branch Way
East JD Site
M metro
West JD Site
Proposed Redevelopmen t
Proposed Redevelopmen t
Redland Rd

SHADY GROVE – JOINT DEVELOPMENT CONCEPT

Transit Facilities Program

	Existing	Proposed
Bus Bays	11	9-11
P&R	5,745	5,745+
K&R	63	41

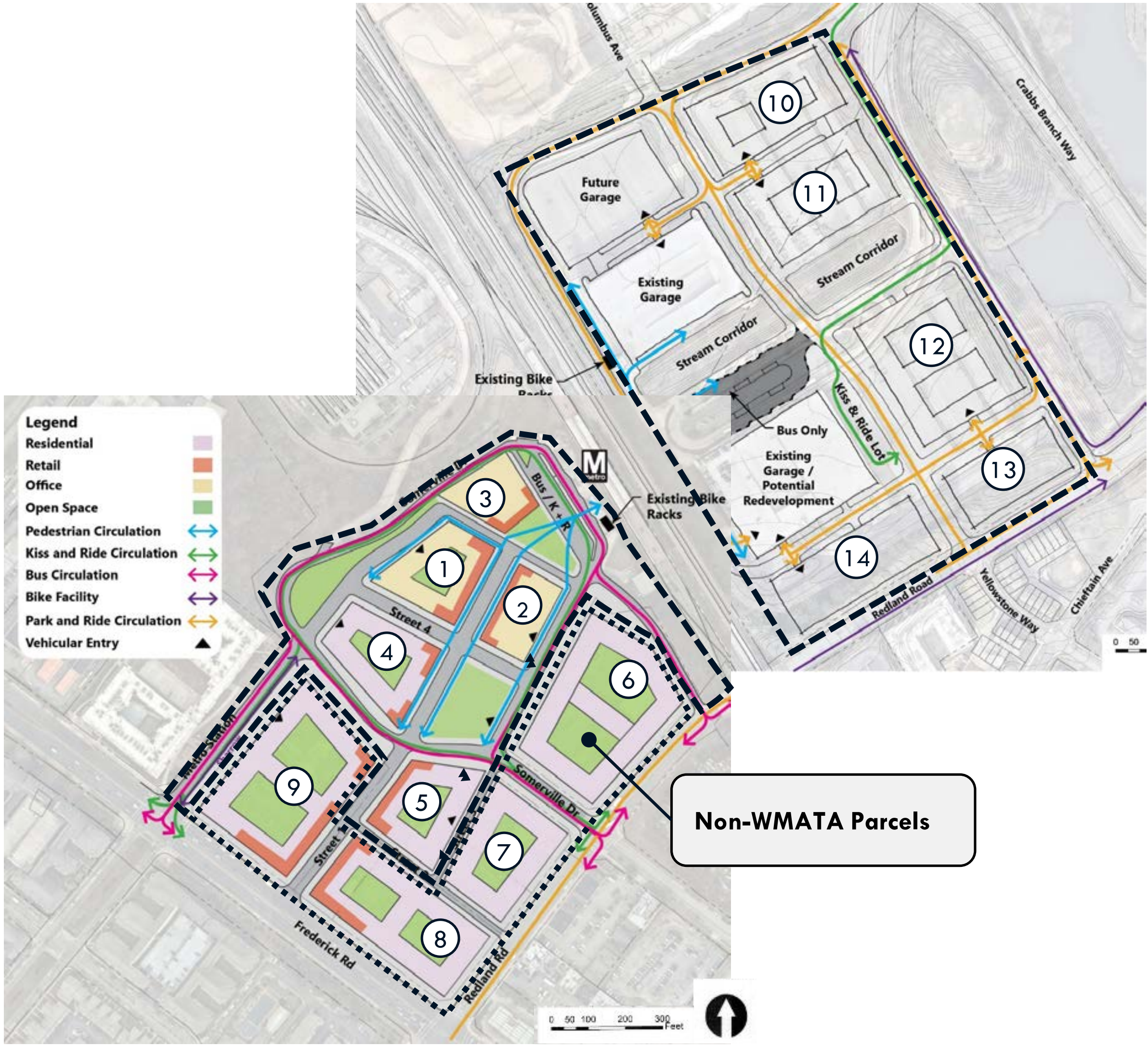
Development Program

	Total GFA	Resi. Units	Office	Retail
WMATA	2.4M	1,805	575K	45K
Non-WMATA	1.4M	1,359		40K

Metro Ridership / Revenue Benefits

WMATA Site: +1,517 daily riders (~$4.1m annually)

Non WMATA: +575 daily riders (~$1.4m annually)

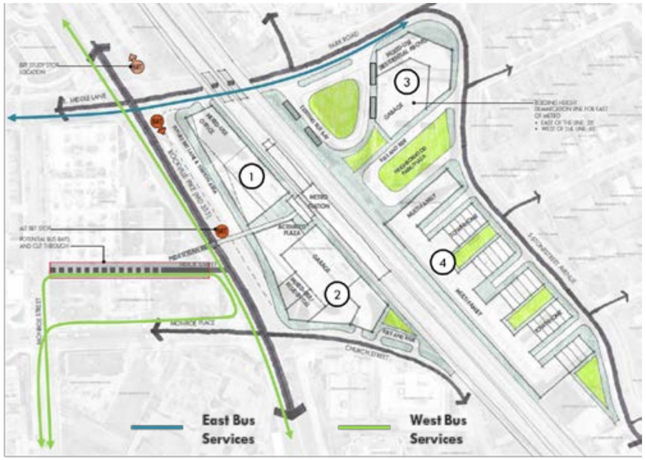


ROCKVILLE


WMATA Property
Auxiliary P&R
Under Construction
Park Road
K&R
Bus loop
Rockville Pike (MD-355)
255 Rockville Pike Potential Redevelopment
Under Construction
Monroe Street
K&R/Bus Facilities
East JD Site
S Stonestreet Ave
Ped Bridge
P&R
Truck Street
West JD Site
Monroe Place
Church Street
Under Construction

ROCKVILLE – JOINT DEVELOPMENT CONCEPTS

RELOCATED WEST FACILITY



Transit Facilities Program

Transit Facilities	Existing	Proposed
Bus Bays	10	10+
P&R	524	524+
K&R	46	15+

Development Program

Total GFA	Resi. Units	Office	Retail
826K	436	354K	37K

Metro Ridership / Revenue Benefits

+575 daily riders (~$1.2m annually)

EAST TRANSIT FACILITY

Transit Facilities Program

Transit Facilities	Existing	Proposed
Bus Bays	10	8
P&R	524	524+
K&R	46	15+

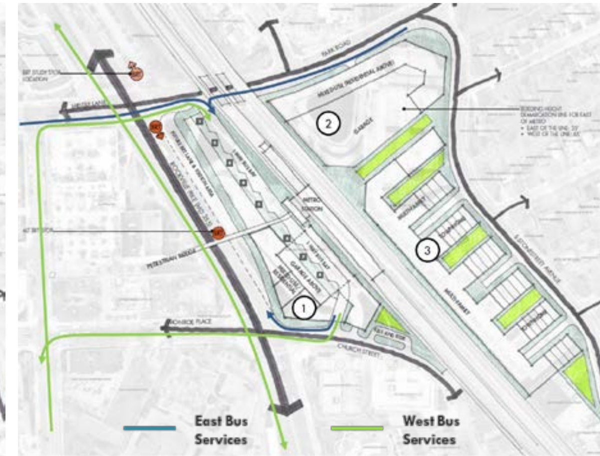
Development Program

Total GFA	Resi. Units	Office	Retail
770K	360	354K	37K

Metro Ridership / Revenue Benefits

+485 daily riders (~$1.1m annually)

WEST TRANSIT CENTER



Transit Facilities Program

	Existing	Proposed
Bus Bays	10	8
P&R	524	524+
K&R	46	8

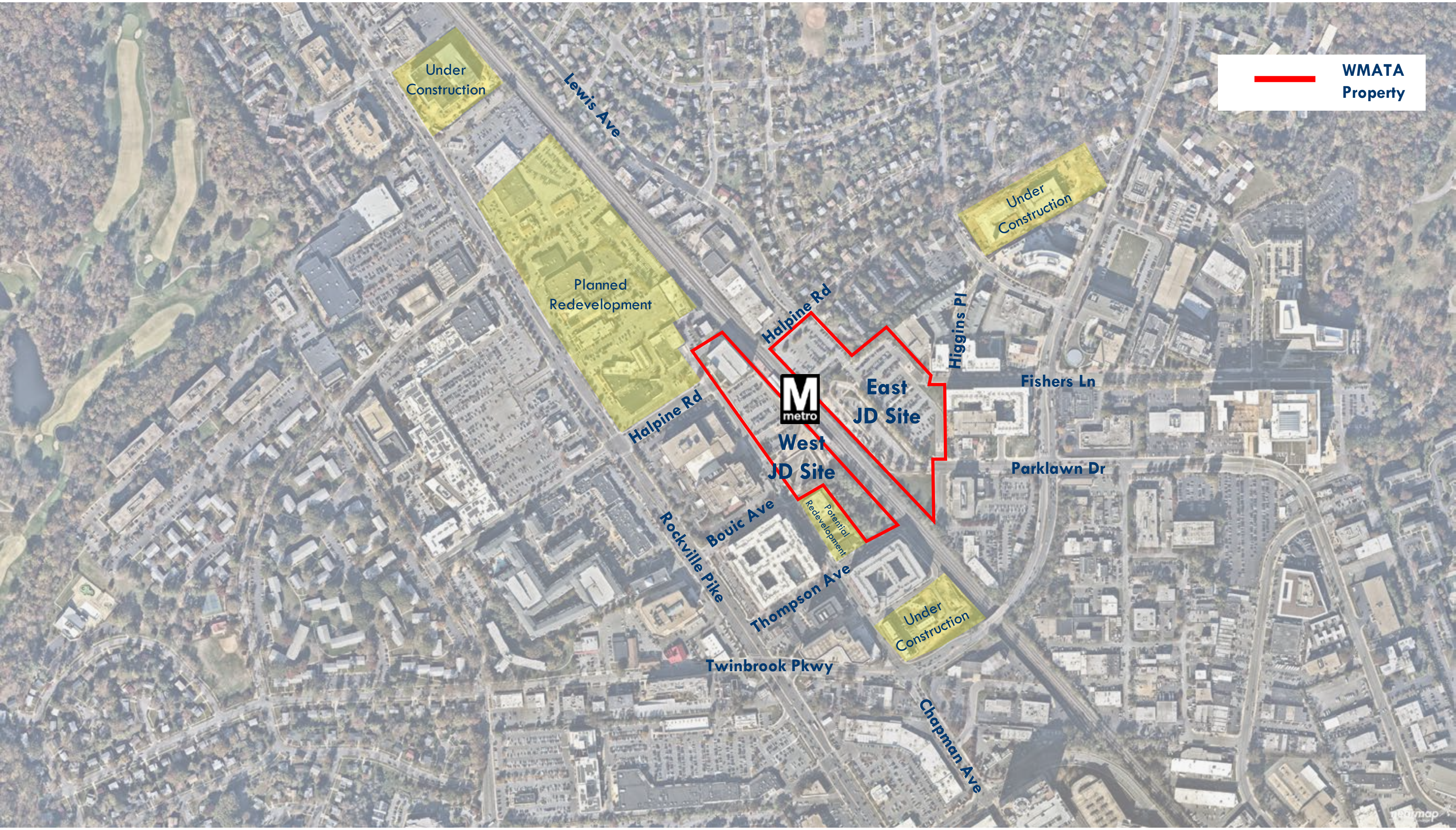
Development Program

Total GFA	Resi. Units	Office	Retail
717K	482	190K	14K

Metro Ridership / Revenue Benefits

+389 daily riders (~$890k annually)

TWINBROOK



WMATA Property
Under Construction
Lewis Ave
Planned Redevelopment
Under Construction
Halpine Rd
Higgins Pl
metro
East JD Site
Fishers Ln
Halpine Rd
West JD Site
Parklawn Dr
Rockville Pike
Bouic Ave
Potential Redevelopment
Thompson Ave
Under Construction
Twinbrook Pkwy
Chapman Ave

TWINBROOK – JOINT DEVELOPMENT CONCEPT

Transit Facilities Program

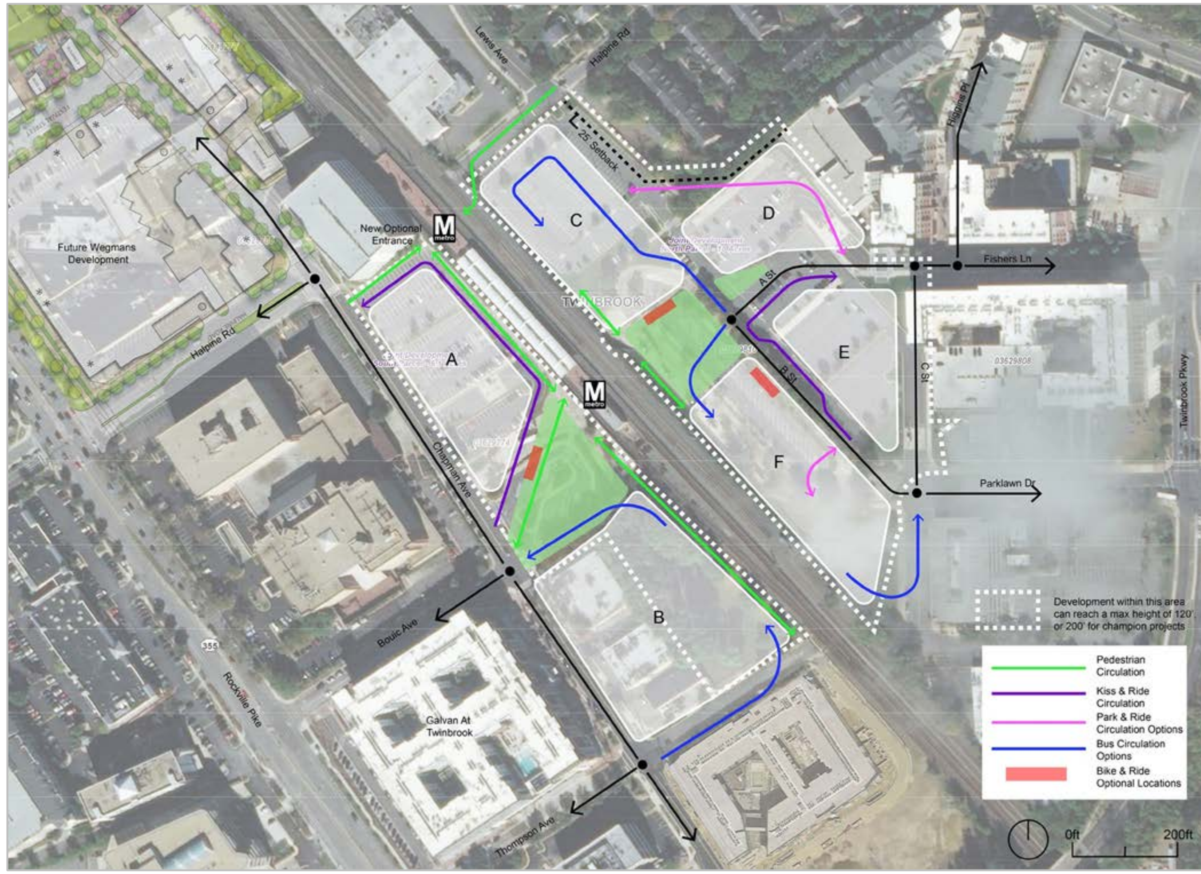
	Existing	Proposed
Bus Bays	14	12
P&R	977	500
K&R	39	20

Development Program

Gross SF	Resi. Units	Office	Retail
750K-1M	700-950	n/a	80K

Metro Ridership / Revenue Benefits

+582 daily riders (~$1.3m annually)



WHITE FLINT

WMATA Property
Old Georgetown Road
Pike & Rose
Potential Redevelopment
Future 2nd Entrance
JD Site
Rockville Pike (MD-155)
Citadel Ave
Grand Park Pipeline Redevelopment
Potential Redevelopment
Under Construction
Potential Development
3 White Flint North
WMATA P&R garage
K&R spaces
Potential Redevelopment
Marinelli Road
Ped Tunnel
Saul Centers Pipeline Redevelopment

WHITE FLINT – JOINT DEVELOPMENT CONCEPT 1

Urban Neighborhood

Transit Facilities Program

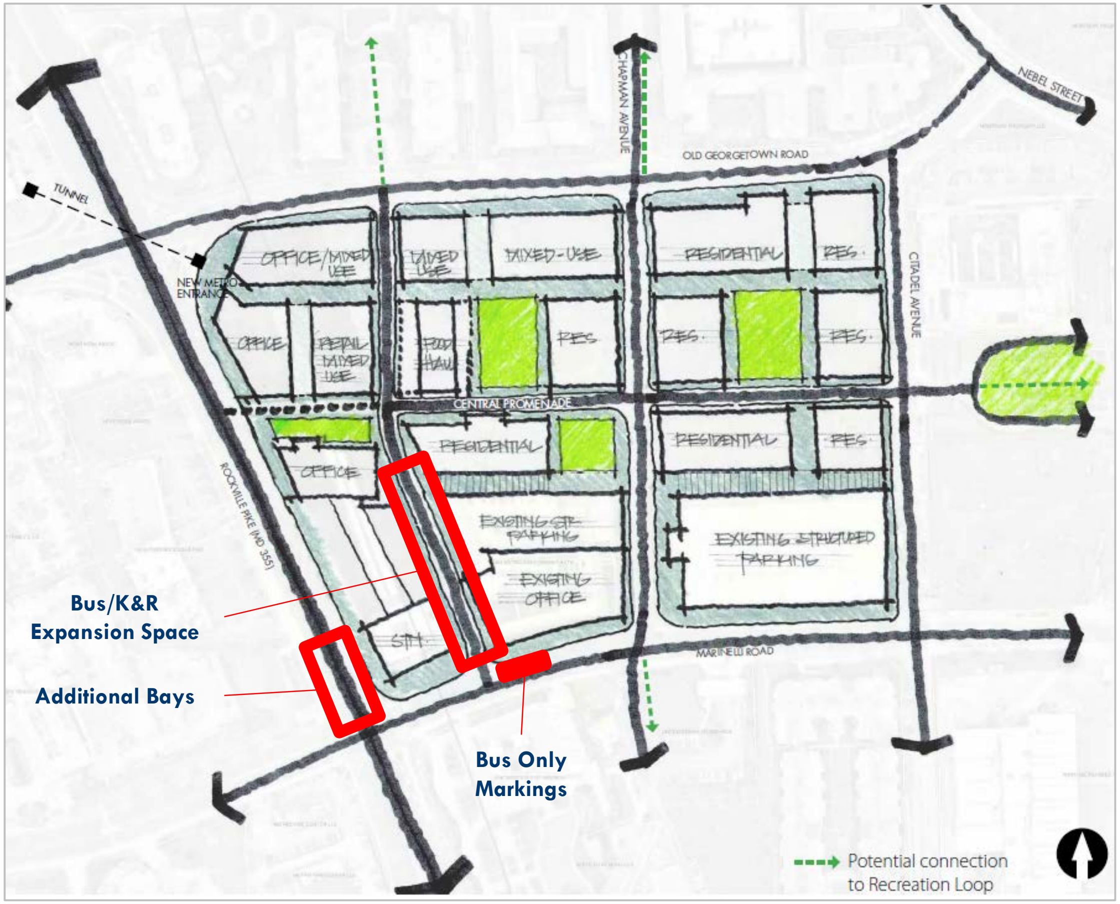
	Existing	Proposed
Bus Bays	4	6+
P&R	1,270	1,270
K&R	6	16+

Development Program

Total GFA	Resi. Units	Office	Retail
1,968K	1,477	492K	TBD

Metro Ridership / Revenue Benefits

+999 daily riders (~$2.1m annually)



WHITE FLINT – JOINT DEVELOPMENT CONCEPT 2

Corporate Campus

Transit Facilities Program

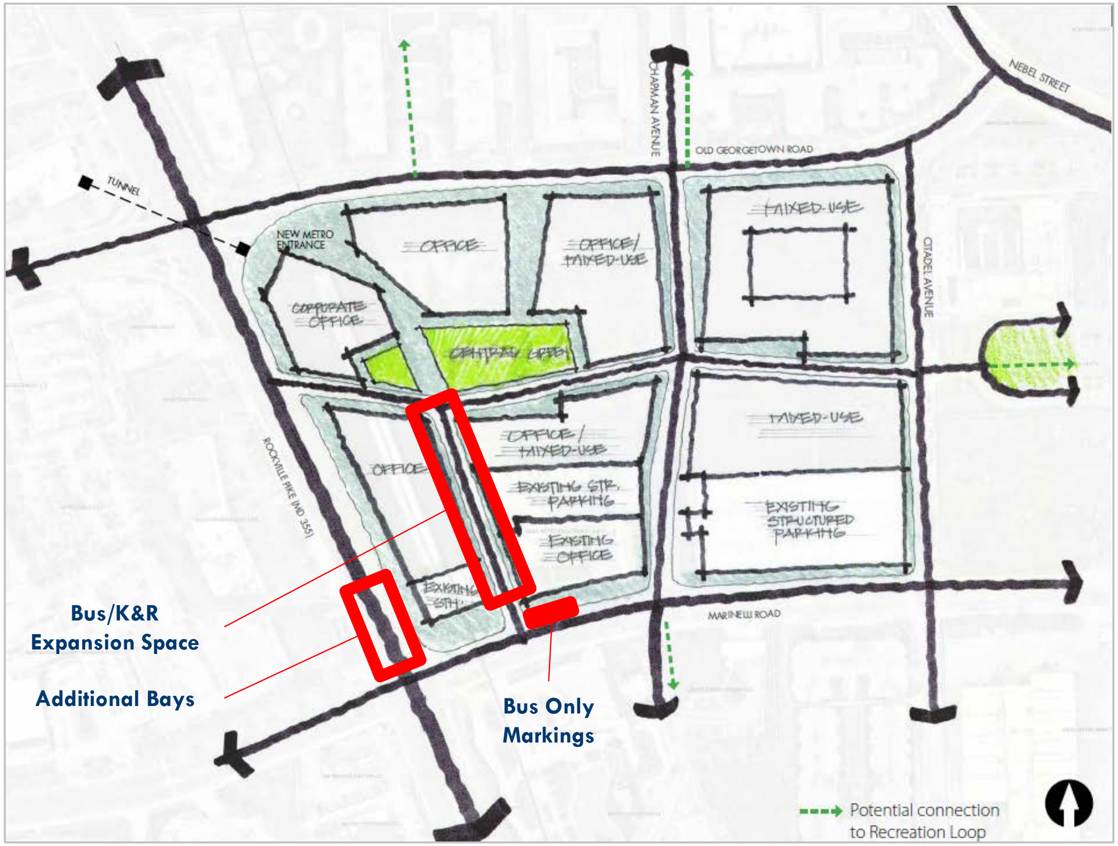
	Existing	Proposed
Bus Bays	4	4+
P&R	1,270	1,270
K&R	6	16+

Development Program

Total GFA	Resi. Units	Office	Retail
4,957K	1,239	930K	TBD

Metro Ridership / Revenue Benefits

+1,184 daily riders (~$2.5m annually)



WHITE FLINT – JOINT DEVELOPMENT CONCEPT 3

Entertainment/Innovation District

Transit Facilities Program

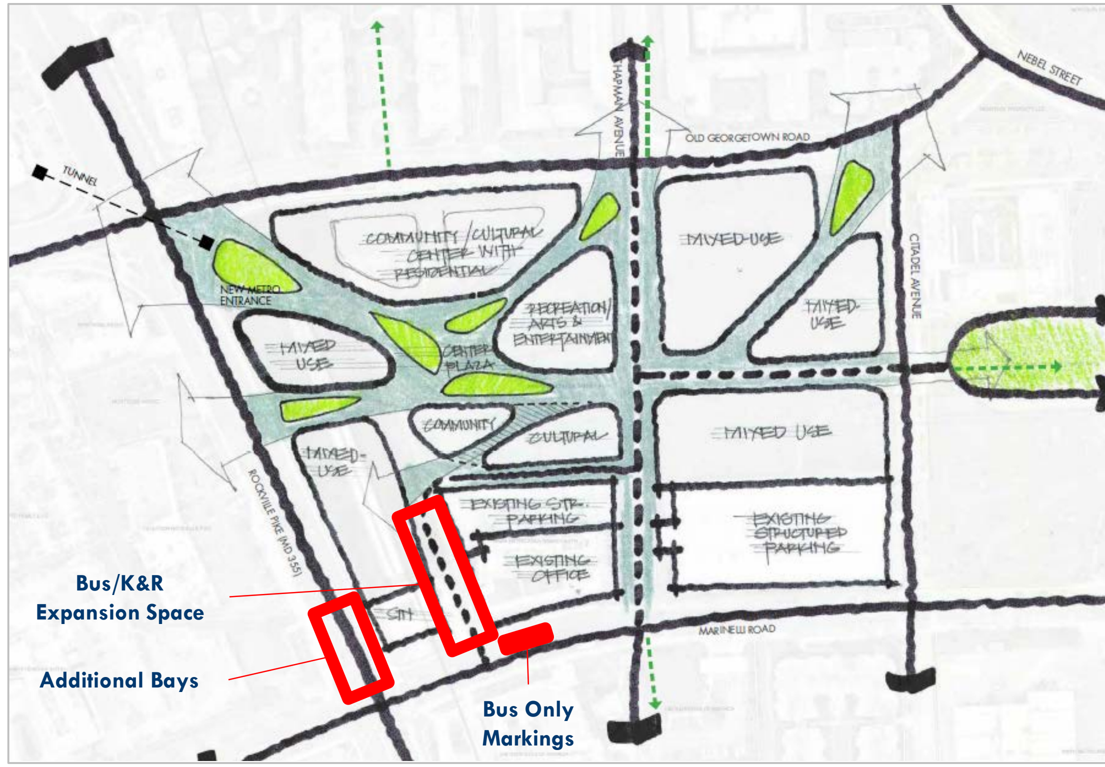
	Existing	Proposed
Bus Bays	4	4+
P&R	1,270	1,270
K&R	6	16+

Development Program

Total GFA	Resi. Units	Office	Retail
2,177K	1,088	1,088K	TBD

Metro Ridership / Revenue Benefits

+1,221 daily riders (~$2.6m annually)



GROSVENOR-STRATHMORE

GROSVENOR-STRATHMORE – JOINT DEVELOPMENT CONCEPT

Transit Facilities Program

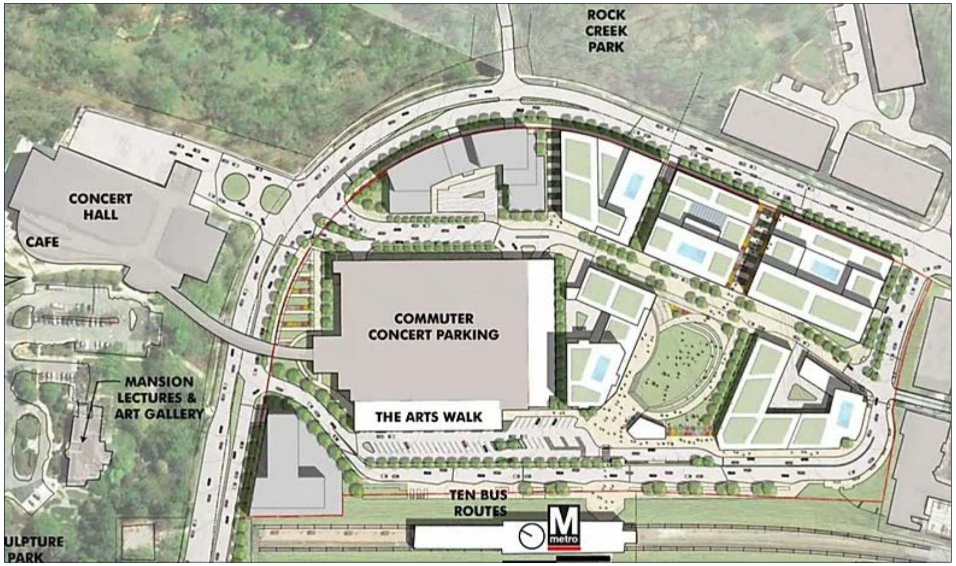
	Existing	Proposed
Bus Bays	9	9
P&R	1,894	1,694
K&R	75	20

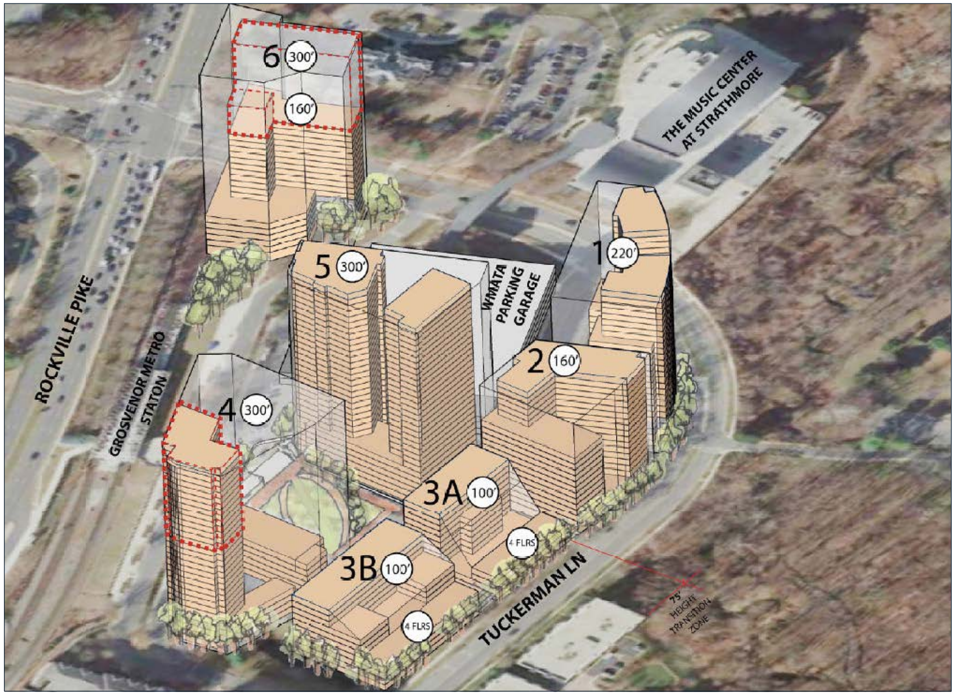
Development Program

Total GFA	Resi. Units	Office	Retail
2.3M	2,124	127.5K	30K

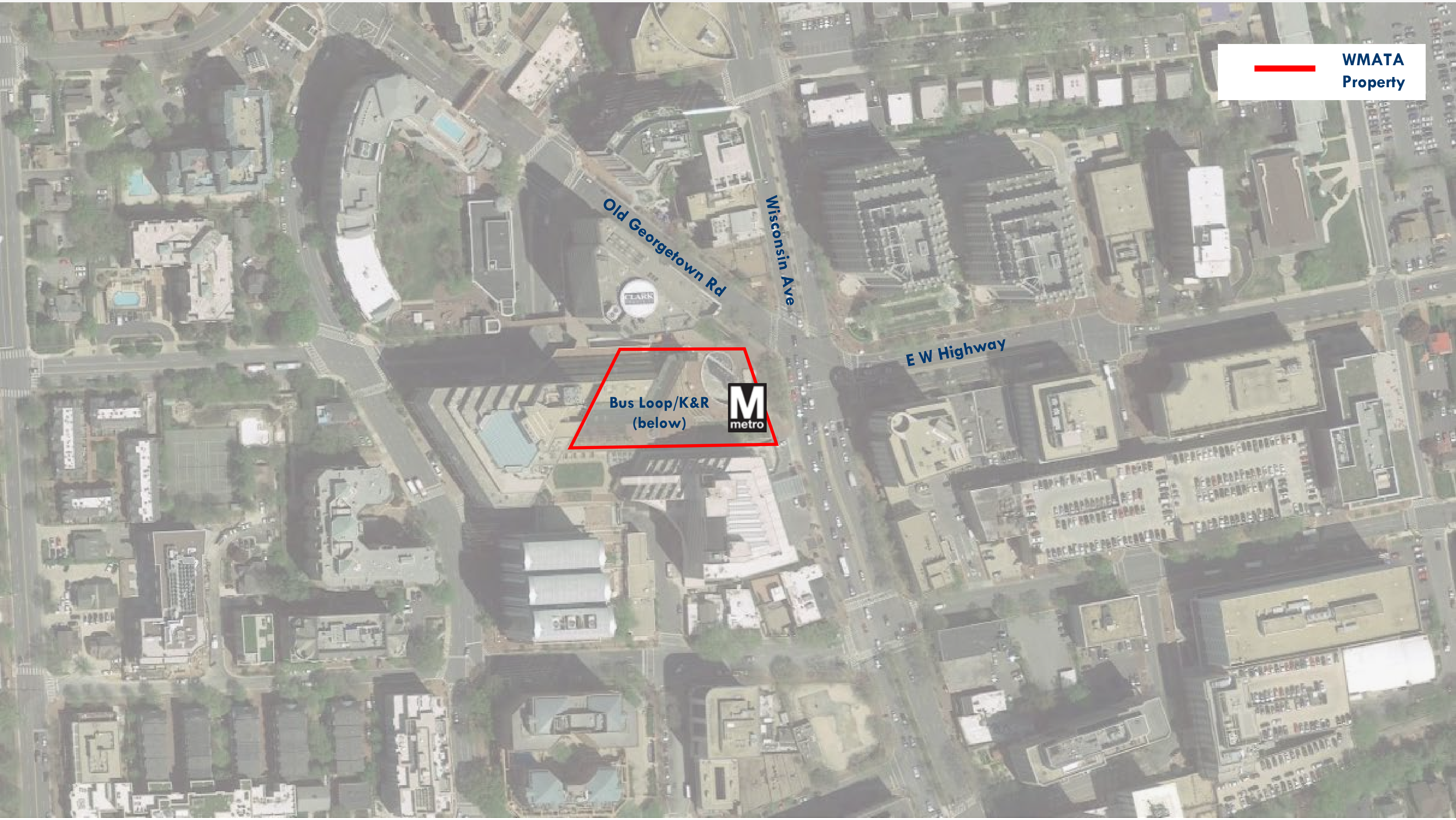
Metro Ridership / Revenue Benefits

+2,116 daily riders (~$4.7m annually)





BETHESDA


WMATA Property
Old Georgetown Rd
Wisconsin Ave
E W Highway
Bus Loop/K&R (below)
M metro

BETHESDA – JOINT DEVELOPMENT CONCEPT

Transit Facilities Program

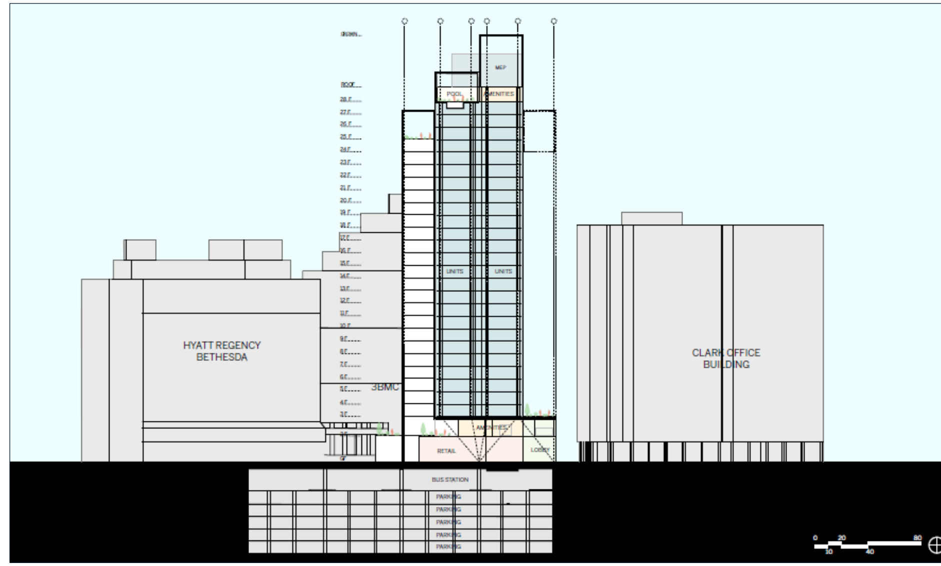
	Existing	Proposed
Bus Bays	7	7
P&R	n/a	n/a
K&R	16	12

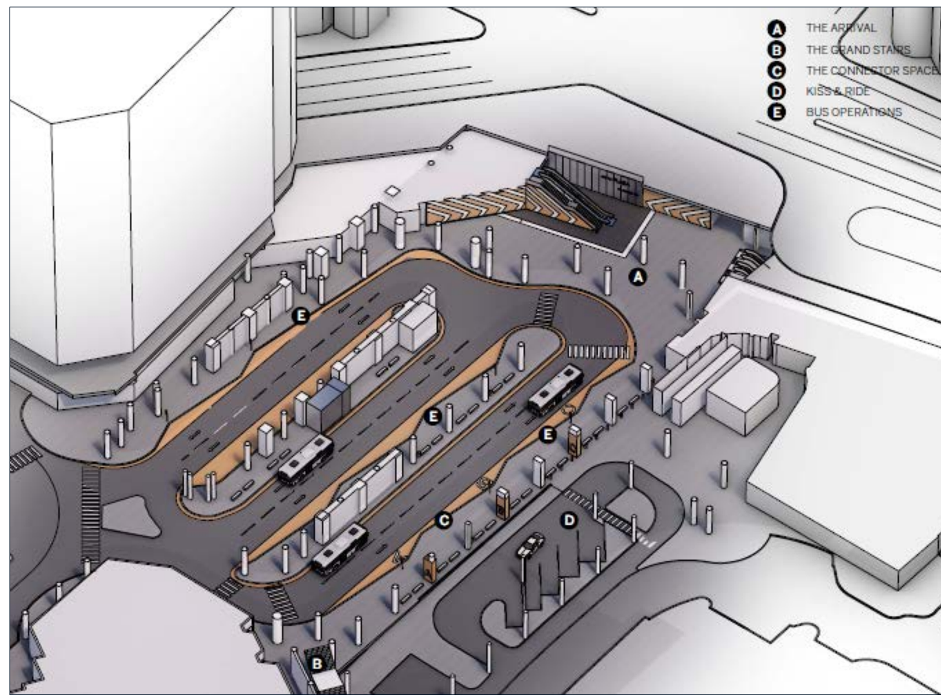
Development Program

Total GFA	Resi. Units	Office	Retail
600K	500	0	2K

Metro Ridership / Revenue Benefits

+396 daily riders (~$944k annually)





FOREST GLEN


WMATA Property
General Getty Neighborhood Park
Georgia Ave
American Finnmark
P&R
P&R
K&R/Bus Loop
Darcy Forest Dr
Forest Glen Rd
Redevelopment Potential
Redevelopment Potential
metro
Holy Cross Hospital
Forest Glen Neighborhood Park
Capital Beltway

FOREST GLEN – JOINT DEVELOPMENT CONCEPT

Transit Facilities Program

	Existing	Proposed
Bus Bays	5	4
P&R	370	370
K&R	32	10

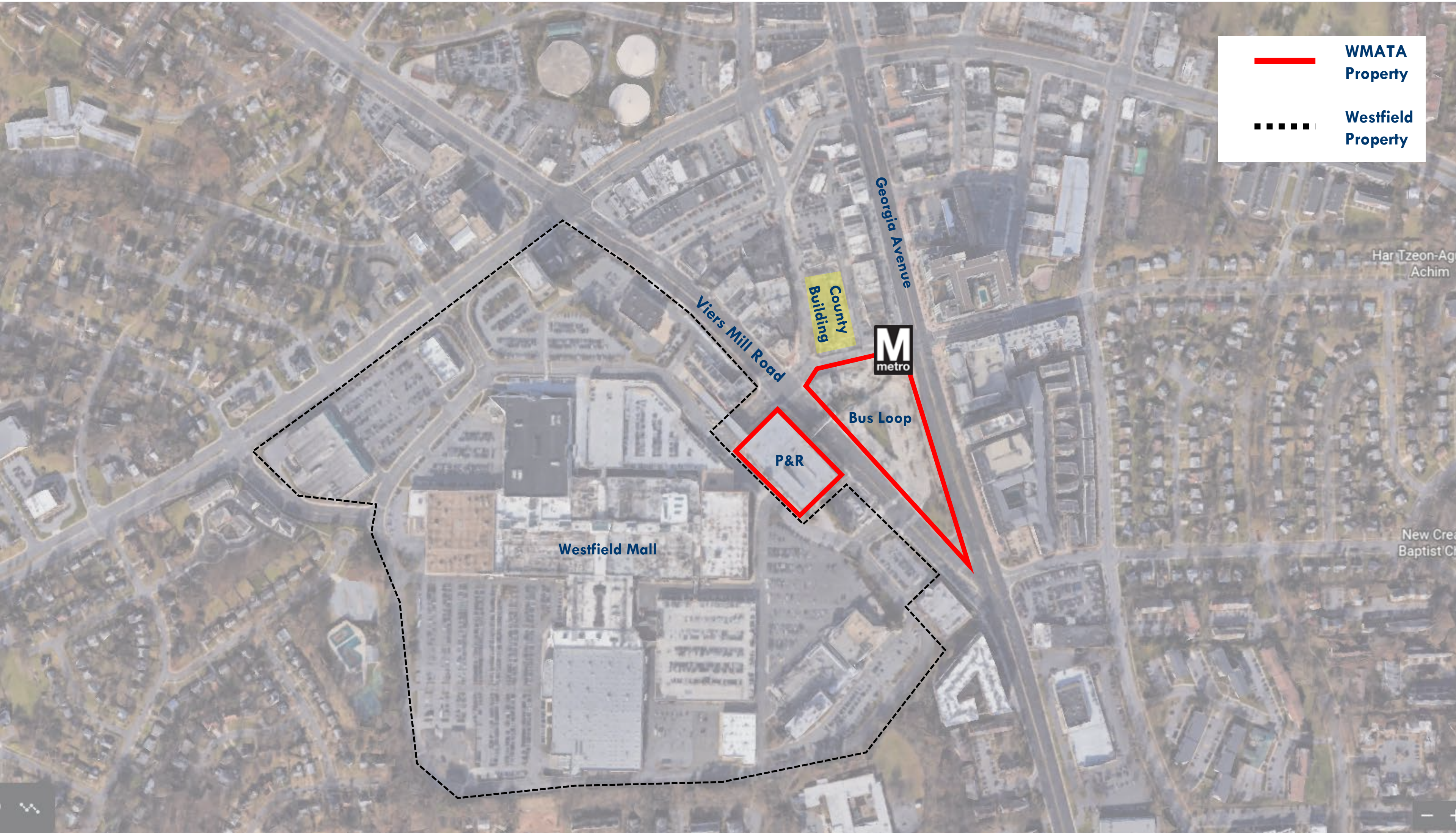
Development Program

Total GFA	Resi. Units	Office	Retail
340K	320	n/a	20K

Metro Ridership / Revenue Benefits

+197 daily riders (~$385k annually)

WHEATON


WMATA Property
Westfield Property
Georgia Avenue
Viers Mill Road
County Building
metro
Bus Loop
P&R
Westfield Mall
Har Tzeon-Ag Achim
New Crea Baptist Cl

WHEATON –
JOINT DEVELOPMENT CONCEPT

Transit Facilities Program

	Existing	Proposed
Bus Bays	14	12
P&R	977	500
K&R	39	20

Development Program[1]

Total GFA	Resi. Units	Office	Retail
850K-1M	300-500	550K	10K

Metro Ridership / Revenue Benefits

+571 daily riders (~$1.2m annually)

September 10, 2020

TO: Councilmembers, Chiefs of Staff

FROM: Councilmember Will Jawando

SUBJECT: Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA Property – Established

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Bill 29-20 offers the opportunity to create commercial development along with much needed transit-oriented housing throughout Montgomery County. The ability to build denser housing on WMATA properties is another way for Montgomery County to meet the regional targets set by the Metropolitan Washington Council of Government and creates an opportunity to increase affordable housing stock.

The current bill's language authorizes payment in lieu of taxes (PiLOT) for the development of high-rise buildings with an occupied floor that is more than 8 stories above ground level on certain WMATA properties. While the bill states that the act must be known as the "Housing at Metrorail Stations Act," housing requirements are not included in the language of the bill. Because of the unique opportunity Bill 29-20 presents to develop transit-oriented housing, definitive language is needed.

Two key discussion points emerged regarding Bill 29-20. First, it is unclear whether encouraging this type of development provides a reasonable return to the County for property tax loss and the expansion of the Charter limit cap on property tax revenue from new construction. Secondly, should the exemption be automatic, or should each proposed development be reviewed independently? With this in mind, I am offering the following amendments for consideration by my Council colleagues:

1. Do not offer the PiLOT in the first year and instead provide it in years 2-16.
2. Require 80% of the development to be rental housing for the first year as well as the period of the PiLOT.

3. Of the units designated as affordable (MPDUs), require 25% of those to be at 50% of AMI.
4. All MPDUs should be designated for the normal time of 99 years.

As we have seen our local economy turned upside down as a result of COVID-19, we must continue to find ways to increase housing stock and particularly, affordable housing stock in Montgomery County. I look forward to working with each of you as we look at ways to maximize the opportunities within Bill 29-20 for all our Montgomery County residents. Thank you in advance for your consideration of these amendments.

cc: Marlene Michaelson
Bob Drummer
Linda McMillan
Gene Smith

MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

HANS RIEMER
COUNCILMEMBER (AT LARGE)

CHAIR
PLANNING, HOUSING, AND
ECONOMIC DEVELOPMENT COMMITTEE

TRANSPORTATION, INFRASTRUCTURE,
ENERGY, AND ENVIRONMENT COMMITTEE

MEMORANDUM

TO: PHED and GO Committee Colleagues
RE: Amendments to Bill 29-20
DATE: September 15, 2020

Here in Montgomery County, we have to confront the reality that our economy is falling behind our peers in the Washington region. While our boom years in decades past and a strong federal presence have created a very strong foundation, over the last two decades our economy has begun to stagnate as we have failed to attract our share of the up and coming generation of workers. As the County's population ages and retires, without an influx of young workers and families, I fear a shrinking economic base will force ever harder choices as we struggle to maintain the quality of services that we value so dearly.

The good news is that there are abundant opportunities to break this cycle and kick start our economy again, if only we can get out of our own way. But if we're going to attract a new generation of workers, and hold on to the amazing graduates of Montgomery County Public Schools, these people need places to live and they need jobs.

That is why I joined with Councilmember Friedson to introduce Bill 29-20. This Bill has the potential to create thousands of new homes and millions of square feet of commercial development in the exact place where it has the most economic and environmental benefit - on top of Metrorail stations.

In an absurd Fiscal Impact Statement transmitted just before tomorrow's worksession, the Elrich Administration claims that we stand to lose millions of dollars based on the assumption that without this PILOT every Metro Station will be built out to maximum capacity immediately and will command the same rents and property values estimated for one project at Grosvenor Metro. Wishful thinking is not an economic development strategy.

The stark reality is that none of these properties will see significant high-rise development without significant County intervention. In fact, region-wide, Metro sites are notoriously underutilized because of the substantial infrastructure costs required to develop them. Even on private land, outside of downtown Bethesda and downtown Silver Spring, high-rise construction in the County has ground to a halt over the last decade, in part due to a rapid increase in construction costs across the country. By creating the economic conditions necessary to realize these developments, adopting this bill will have a positive fiscal impact from increased recordation, impact, and income taxes, even before factoring in the potential spill-over effects on surrounding sites.

As we consider amendments tomorrow, I hope you will keep in mind the overall goal of ensuring that, however worthy the individual priorities of each proposal, that the final incentive cannot be so burdened with new costs that it loses its value.

That said, I share four amendments which I plan to propose tomorrow:

First, in order to ensure certainty for developers as they seek financing for projects, I propose adding "or assignments" on line 22 of the Bill, so that section (c) reads:

> The payment in lieu of taxes must exempt 100% of the real property tax that would otherwise be levied for a period of 15 years beginning in the year a use and occupancy permit is issued for the qualifying development, regardless of subleases <u>or assignments</u> executed by the lessee.

Second, while I agree with the intent of the language proposed by Councilmembers Hucker and Jawando at the request of the Building Trades Unions, applying the County's prevailing wage standard to a private project would create a significant increase in construction costs that would almost erase the economic value of the PILOT. However, I have worked with our staff, union representatives, and construction industry experts to prepare an alternative amendment that would not apply the prevailing wage, but would help ensure that bad actors and "low road" contractors are not permitted to work on these projects:

> <u>(d) Any payment accepted by the Director must conform to guidelines included in a regulation adopted by the Executive under method (1) to implement this Section. The regulation must require the developer of the qualifying development, as a condition of receiving a payment in lieu of taxes under subsection (c), to agree in writing that, to the best of its knowledge, information and belief, none of the contractors or subcontractors hired to perform work on the qualifying development had two or more final, non-appealable penalties or fines in the amount $5,000.00 or more assessed against them in the 3 years prior to being hired for the project for violations of applicable wage and hour laws, including the County's prevailing wage law and any applicable Maryland wage and hour laws and have obtained all licenses, insurance policies, and surety bonds applicable to qualifying developments required by Maryland or Montgomery County laws.</u>

(e) A developer of a qualifying project who violates the guidelines included in the regulation adopted under subsection (d) has committed a Class A violation.

:

Third, while it does create a less advantageous incentive, I agree with Councilmember Jawando's proposal to begin the PILOT in the second year; but I recommend adopting Mr. Drummer's more flexible formulation on page 7 of the staff memorandum.

Finally, I propose adopting the amendment suggested by Mr. Drummer on page 8 of the staff memorandum to clarify that the PILOT does not apply to special taxing districts, such as the White Flint Special Taxing District.

September 15, 2020

TO: Councilmembers, Chiefs of Staff

FROM: Councilmember Will Jawando
Council Vice President Tom Hucker

SUBJECT: Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA Property – Established

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As stewards of public resources, we must ensure that taxpayer money is not only used in the best interest of taxpayers, but also in a way that supports workers. For that reason, Bill 29-20 must encourage and support high-road development projects and include protections against low-road development projects. A high-road development project is one in which workers are paid family supporting wages, and contractors are licensed, bonded, insured, and abide by wage and hour laws.

Low-road development is more likely to occur on private development projects because most private development projects award contracts to the lowest bidder. This encourages unscrupulous contractors to cut wages, cheat workers, and hire unlicensed subcontractors. Private development projects are not held to prevailing wage laws. In addition, certified payrolls which can be FOIAed to identify worker misclassification and other forms of wage theft, are not required on private development projects like they are on Federal, Maryland State, or Montgomery County prevailing wage projects.

When taxpayer dollars are used to support private development projects, the County must establish policies that support fair wages and protect the interest of taxpayers. With the intention of holding developers accountable and promoting high road development, we propose Bill 29-20 include the following:

- All contractors and subcontractors working on the project must: Comply with prevailing wage requirements in the same way they are required to do on other public works projects; have no violations of wage and hour laws in the preceding three years; be licensed, and that the project developer has copies of the licenses on file; have general liability insurance and surety bonds and the project developer has copies of these certificates on file.

- The project developer will provide any records requested by the County to enforce these requirements.

- Failure to comply with these requirements will result in the termination of the PILOT.

These changes will not only strengthen Bill 29-20, but they will send a strong message that Montgomery County supports and promotes equitable economic development. Finally, we agree that all Montgomery County residents deserve to be paid fair and equitable wages and submit these recommendations for your consideration.

cc: Marlene Michaelson
Bob Drummer
Linda McMillan
Gene Smith

OFFICE OF MANAGEMENT AND BUDGET

Marc Elrich
County Executive

Jennifer Bryant
Acting Director

M E M O R A N D U M

September 15, 2020

TO: Sidney Katz, President, County Council

FROM: Jennifer Bryant, Acting Director, Office of Management and Budget

SUBJECT: FIS for Council Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA Property - Established

Please find attached the Fiscal Impact Statement for the above-referenced legislation.

JB:cm

c: Richard S. Madaleno, Acting Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Officer
Caroline Sturgis, Assistant Chief Administrative Officer
Debbie Spielberg, Special Assistant to the County Executive
Dale Tibbitts, Special Assistant to the County Executive
Lisa Austin, Office of the County Executive
Barry Hudson, Director, Public Information Office
Mike Coveyou, Director, Department of Finance
David Platt, Department of Finance
Mary Beck, Office of Management and Budget
Estela Boronat de Gomes, Office of Management and Budget
Monika Coble, Office of Management and Budget
Chrissy Mireles, Office of Management and Budget
Chris Mullin, Office of Management and Budget

1. **Legislative Summary**

   Bill 29-20 would exempt newly constructed residential and/or commercial high-rise buildings located on property leased from the Washington Metropolitan Area Transit Authority (WMATA) at a Metro Station from all County property taxes for 15 years. In exchange for the property tax exemption, Bill 29-20 would require the Finance Director to propose a payment in lieu of taxes that would begin in the year a use or occupancy permit is issued for the qualifying development.

2. **An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.**

   WMATA does not currently pay property tax on property used for a public purpose because it is an instrumentality of the State of Maryland (See Maryland Transportation Article, Sec. 10-204). However, property tax is currently levied against a lessee of WMATA property used for a private purpose under Maryland Tax-Property Article, Sec. 6-102 (e). Thus, if this legislation is enacted, the County would forgo property tax revenue it would otherwise collect. Any estimate is dependent on the buildings constructed and when they are constructed. WMATA has estimated that 8,600 housing units could be developed on their property in Montgomery County. Should all those units be constructed in qualifying buildings, the County could forgo between approximately $23 million to $27 million annually using current tax rates and property values. Over 15 years, the loss in revenue could be between $340 million and $415 million. Our detailed analysis and explanation follow in the next question.

3. **Revenue and expenditure estimates covering at least the next 6 fiscal years.**

   In order to estimate how much property tax the County would forgo, the Office of Management and Budget (OMB) reviewed proposed developments near Metro Stations. OMB was only able to identify one such proposal. WMATA has agreed to a long-term lease with a developer for some of its property at the Grosvenor-Strathmore Metro Station (See attached *Strathmore Square*, Preliminary Plan No.120190180 from the Montgomery County Planning Department - Attachment A-A5).

Working with the Department of Finance, OMB estimated the property taxes for the entire multi-structure *Strathmore Square* development by reviewing nearby existing buildings. OMB used this estimate as the basis for a countywide estimate. The range of property tax revenue loss for the *Strathmore Square* project could be between $5.8 million and $7.1 million on an annual basis. Below are the assumptions used:

a. There are 2,218 units proposed for a maximum of 1,905,219 square feet of residential use for the total development. This equates to 859 square feet per unit (See Attachment A).

b. OMB identified similar residential units for sale and lease near the Grosvenor Metro Station (10400 Strathmore Park and 5230 Tuckerman Lane, the *Meridian* building) in order to calculate the future taxable assessment for the new development (See Attachment B and Attachment E).

c. OMB used the publicly accessible real property consolidated tax bills for the properties mentioned in item (b); each has a property tax rate of $0.9912. Applying this tax rate in the analysis, the total County annual property tax bill would be between $2,652 to $3,210 for a one-bedroom, one-bathroom, 859 square foot apartment unit.

d. If all the 2,218 dwelling units at the Strathmore Square project are of the same size and have the same residential tax rate, the approximate annual property tax revenue would be between $5.8 million to $7.1 million a year.

If this 100% payment in lieu of taxes lasts for 15 years, the approximate loss of property tax revenue would between $87 million and $106.5 million for the project under analysis.

As mentioned previously, WMATA estimates that joint development could deliver 8,600 additional housing units at Metro Stations in the County (See Attachment D1). Assuming that the units will be assessed at the same value as assumed in point (b) above (a one-bedroom, one-bathroom apartment unit, equaling 859 square feet), the total annual property tax exemption for all the new projects would be between approximately $22.8 million and $27.6 million and between approximately $342.2 million and $414.1 million over 15 years.

4. **An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

   Not applicable.

5. **An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

   Not applicable.

6. **Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

   The units built will generate property tax revenue for the County in the future, after the 15-year tax exemption period ends. Based on the *Strathmore Square* analysis, the annual property tax revenue (at current rates) would be between approximately $5.8 million and $7.1 million annually. If these assumptions are applied to the 8,600 units, the approximate annual property tax revenue is between $22.8 million and $27.6 million.

While the fiscal impact statement does not analyze the impact on future expenditures for County services such as police, fire, and public education from any of this development, there will most likely be an increase in demand for such services. However, without specific data at this time, it is not possible to predict with any precision both the increase in demand and the amount of additional expenditures needed to meet the demand.

7. **An estimate of the staff time needed to implement the bill.**

   Not applicable.

8. **An explanation of how the addition of new staff responsibilities would affect other duties.**

   Not applicable.

9. **An estimate of costs when an additional appropriation is needed.**

   Not applicable.

10. A description of any variable that could affect revenue and cost estimates.

The future revenue estimate depends on the number and type of units that will be built. OMB does not have the information needed to conduct a more accurate estimate. If we assume 8,600 potential units will have the characteristics of a one-bedroom, one-bathroom apartment, the forgone taxes after 15 years could be between approximately $342.2 million and $414.1 million.

11. Ranges of revenue or expenditures that are uncertain or difficult to project.

Below are the uncertainties in the property tax revenue projections:

a. The 15-year property tax exemption was estimated assuming apartment complexes of 7+ stories (high density). OMB does not have information about the number of stories that the planned apartment buildings will have.

b. OMB does not have information about the size of the individual dwelling units to be constructed.

c. OMB does not have clarity if the payment in lieu of taxes incentive will apply to buildings with ground lease on WMATA property or will include also those buildings built by developers who bought the land from WMATA.

d. Property assessment values and tax rates vary for the Metro stations included in the joint development proposal. For simplicity, OMB assumed that the assessment value of *Strathmore Square* will apply for all the other potential projects.

e. OMB does not have information on how many of the future WMATA projects will include commercial real estate as well.

12. If a bill is likely to have no fiscal impact, why that is the case.

There is no fiscal impact to the FY21 approved budget. However, there is a meaningful impact to property tax revenue over the medium and long term.

13. Other Fiscal Impacts

Not applicable.

Additional Comments:

Potential Precedent:
Bill 29-20 establishes a highly variable and costly precedent when considering the number of potential housing units and lost property taxes to the County for units that could ask for similar exemptions across the future Purple Line, or on privately-owned property adjacent to rail stations.
Because of the County's property tax revenue limit (the Charter Limit), wide-spread use of these PILOTs will have the unintended consequence of driving down property tax rates as untaxable property values would be added to the County's assessable base.

Input-Output highly variable:
Both the Harpswell Strategies and OLO economic impact analysis for the legislation utilize the impacts of construction using the U.S. Bureau of Economic Analysis' RIMS-II (Regional Input-Output Modeling System) data. While the input-output models are based on the national economic accounts documenting the relationships between industries (and commodities) in the economy and are useful for quantifying the impact of an event, or "final demand change," such as a construction project; these models are highly sensitive to even the slightest alterations in coefficient and elasticities. As noted in the economic impact statement for the bill, RIMS II multipliers are based on 2012 U.S. benchmark input-output data and 2017 regional data which have not been adjusted to reflect structural changes to the local economy now underway due to the COVID-19 pandemic and economic recession.

Considerable shifts in demand are anticipated to structurally shift development and residential markets as a result of the pandemic. Mild alterations to the variables used in the input-output models have the potential to drastically alter estimated revenue outcomes. Large-scale shifts in construction costs, deliveries, reliance on suppliers outside the County, and macroeconomic shifts in the dynamics determining where individuals want to live in proximity to public transit and cities have the potential to be highly problematic to these findings if not properly calibrated for a post-pandemic environment. As noted by OLO, it should be further emphasized in the consideration of the Harpswell Strategies analysis, that the direction, magnitude, and ultimate dollar values formulated hinge on assumptions that were formulated prior to the newly anticipated pre-COVID structural demand shifts.

MPDU at 25% no impact taxes:
There is the possibility for the project to ultimately elect to build 25% MPDUs whereby no impact taxes will be due given the prevailing exemptions for affordable housing. It is not uncommon for DPS to receive altered plan permit submissions that increase the number of MPDUs to fulfill the 25% requirement to waive the full amount of initially estimated impact taxes.

14. The following contributed to and concurred with this analysis:

Estela Boronat de Gomes, Office of Management and Budget
David Platt, Department of Finance
Hetman Dennis, Department of Finance
Chris Mullin, Office of Management and Budget

Jennifer R. Bryant

Jennifer Bryant, Acting Director
Office of Management and Budget

09/15/20
Date

Harpswell Strategies
Economic Consulting & Public Affairs

To: Members of the Joint Committees
Re.: Bill 29-20
September 22, 2020

Members of the PHED and GO Committees:

Two potential amendments that were considered during the last worksession are the prevailing wage amendment proposed by Councilmembers Jawando and Hucker, as well as Mr. Jawando's separate amendment related to deep affordability. These proposals would further increase the magnitude of the existing feasibility gap for this project, thereby undermining the very purpose of Bill 29-20.

As previously noted, current market rents in Grosvenor are not high enough to justify the cost of the kind of development that is specifically contemplated in the approved and adopted minor master plan amendment. In fact, with a limited number of exceptions – such as Alexandria, Arlington, and Bethesda – this is true for sub-markets across the Washington, D.C. region.

Large master-planned developments, like the Strathmore Square project, face additional hurdles in the form of significant, up-front site development and placemaking costs. Many of these costs are related to public priorities identified during the Planning Board and/or County Council review of the master plan and sketch plan, while others are conditions of development approval as part of a project's preliminary plan approval.

For example, in the case of this development at Grosvenor-Strathmore Metro Station, the Planning Board prioritized affordable housing and the County Council, in Bill 38-17, subsequently increased the affordable housing requirement for Grosvenor and nearby areas the from 12.5% to 15% of units. This requirement increased the feasibility gap for the Strathmore Square project, compounding the challenges of high-rise feasibility for this large-scale, master-planned development at Grosvenor-Strathmore Metro.

A review of Montgomery County high-rise buildings completed in the last 10 years underscores the point:

- 1/3rd of these were in Bethesda or Chevy Chase;
- 1/3rd were located in Enterprise Zones in Silver Spring and Wheaton; and,
- 1/3rd benefitted from Economic Development Fund incentives or preferential impact tax status (either geographically-based or industry/use-based exemptions).

Bethesda / Chevy Chase*	Silver Spring or Wheaton**	Impact Tax Exempt or Related to EDF Projects***
4747 Bethesda Ave	1155 Ripley St	1 Choice Hotels Cir
4500 East West Hwy	8250 Georgia Ave	44 Maryland Ave
8120 Wisconsin Ave	11215 Georgia Ave	11550 Old Georgetown Rd
4907 Rugby Rd	8621 Georgia Ave	11870 Grand Park Ave
7171 Woodmont Ave	1150 Ripley St	930 Rose Ave
4850 Rugby Ave	1200 East West Hwy	11418 Rockville Pike
4990 Fairmont Ave	180 High Park Ln	5401 McGrath Blvd
7770 Norfolk Ave	8711 Georgia Ave	909 Rose Ave
4800 Auburn Ave	11141 Georgia Ave	11810 Grand Park Ave
4918 Saint Elmo Ave	929 Bonifant St	11601 Landsdowne St
100 Commerce Ln	915 Silver Spring Ave	5601 Fishers Ln
7077 Woodmont Ave	8021 Georgia Ave	940 Rose Ave
8405 Chevy Chase Lake Ter	1320 Fenwick Ln	
8300 Wisconsin Ave		

* Some of these projects may have also benefitted from senior housing use exemption for impact taxes, green building tax credits, etc.

**Not yet verified whether all of these are within Enterprise Zone boundaries, but if so then all would have benefitted from reduced property taxes and impact tax exemptions. Just to illustrate the value of enterprise zone status, the combined value of the property tax benefits of EZ designation and impact tax exemption for projects inside an EZ is greater than the present value of the 15-year abatement.

***Two Rockville projects were connected to the Choice Hotels retention, and one Twinbrook area project connected to HHS retention. Others appear to all be inside the White Flint impact tax district ($0 impact tax rate).

In considering the two amendments offered by Mr. Jawando, the following observations are relevant:

- W-ZHA, a well-respected real estate economics firm, was retained for the purpose of performing due diligence analysis on the financial and economic assumptions. W-ZHA concluded that the financial and economic assumptions presented are reasonable. W-ZHA specifically noted that, if anything, the developer’s rent assumptions are high relative to nearby inventory.

- W-ZHA specifically concluded that the Grosvenor-Strathmore Metro Station can only be developed with the “passage of Bill 29-20 and, importantly, only to the extent no additional costs or charges are imposed,” such as increased MPDUs or labor costs.

- Bill 29-20 would apply to all eligible projects on WMATA-owned land in Montgomery County. Other Metro station joint development projects may face even larger hurdles in terms of achievable residential rents, station-specific site development costs, and other public benefits and placemaking costs.

- Each approved and adopted station-area master plan includes recommendations that address the public benefits that should be prioritized in administering zoning and subdivision laws. To require that all developments on WMATA-owned land provide deeper affordability would frustrate the efforts to achieve the public benefits that were identified and prioritized in the master plan process by the community, the Planning Board, and the Council in its review of the recommended plans.

- With respect to the prevailing wage specifically, nationally recognized general contractors with specific knowledge of the prevailing wage requirements in Montgomery County have indicated that the requirement is likely to add 15% to 20% to project construction costs.

- Mr. Drummer's excellent packet from September of 2008 on Bill 21-08 (Contracts and Procurement – Prevailing Wages – Construction) contained a wide range of estimates, including the following:

    - Testimony submitted by David Dise, Director of Genera Services, stated: "Information provided by an association representing non-union contractors indicated that we could experience cost increases in our construction projects of between 5% and 10% due to implementation of Maryland's prevailing wage rates…"

    - A Frederick County procurement that received alternative low bids for a high school construction project in 2007. Based on a side-by-side comparison of bids, the prevailing wage requirement increased the project cost by 6.61%.

    - Other data points cited in the packet reflect a range of potential impacts from 0% to more than 20%.

- The preliminary project budget for Phase 1 of my client's project (excluding the costs of land, entitlement, and taxes), is $140.4 million. Phase 1 ("Parcel 2") is 504 residential units, including 76 that are affordable under the County's moderately-priced dwelling unit program:

    - 6.61% of $140.4 million is $9.28 million.

    - 10% of $140.4 million is $14.04 million.

    - 15% of $140.4 million is $21.06 million.

    - 20% of $140.4 million is $28.08 million.

- The time value of money for my client is the developer's weighted average cost of capital, which is roughly 10% to 11%. Assuming a discount rate of 10.5%, Council staff's estimate of $1.25 million in property taxes per year ("year zero"), and that the abatement begins in year two, the present value to my client of the fifteen-year abatement is $7.73 million, which is less than the potential impact of a prevailing wage requirement.

- To the extent that there is interest in an apples-to-apples comparison to the County Executive's Fiscal Impact Analysis, which assumes simultaneous, total build-out of the Strathmore Square project and all other Metro stations, the following illustrations may be helpful:

    - The figures above apply to the 504 units planned for Parcel 2. The maximum number of residential units that can be put into the Strathmore Square project across all phases is approximately 2,350 units. Applied to the entire project this means that the prevailing wage requirement would add $43.4 million to $131.4 million to the cost of the project.

    - Similarly, applying those figures to the total 8,600 units that WMATA estimates could be built on all WMATA properties in Montgomery County would result in an additional burden on metro-station projects of $158.3 million to $479.1 million.

In summary, the additional costs that would result from these amendments will simply increase the existing and well-documented feasibility gap for this project and others like it, ensuring that Metro station sites will remain parking lots rather than productive places, concrete slabs rather than community centers. The opportunity cost of doing so - in terms of housing, economic development, transportation, and environmental goals not achieved – is substantial and fundamentally undermines the County's ability to achieve multiple, significant planning and policy objectives.

Regards,

Jacob Sesker, Principal
Harpswell Strategies
202-590-1478

Harpswell Strategies
Economic Consulting & Public Affairs

To: County Council
Re.: Bill 29-20
September 30, 2020

The purpose of Bill 29-20 is to promote smart growth at a limited number of strategic sites in Montgomery County – properties owned by WMATA that are planned and zoned for high-rise development. Bill 29-20 promotes smart growth in these locations by addressing a financial feasibility gap. That feasibility gap would be exacerbated by any additional costs imposed by the Council.

Bill 29-20 is critically important to the feasibility of projects at Metro stations across the County. In the case of Grosvenor-Strathmore, a well-respected real estate economics firm, W-ZHA, was retained for the purpose of performing due diligence analysis on the financial and economic assumptions.

- W-ZHA concluded that the financial and economic assumptions presented are reasonable.
- W-ZHA specifically noted that, if anything, the developer's rent assumptions are high relative to nearby inventory.
- W-ZHA specifically concluded that the Grosvenor-Strathmore Metro Station can only be developed with the "passage of Bill 29-20 and, importantly, only to the extent no additional costs or charges are imposed," such as increased MPDUs or labor costs.

The prevailing wage amendment, considered and rejected by the joint committees, would add significant costs to any project that could potentially benefit from passage of Bill 29-20. If Bill 29-20 is the bridge that is needed to get across the river, this amendment is the equivalent of a proposal to widen the river as a condition of agreeing to build the bridge.

Estimates of the effect of a prevailing wage requirement vary widely. However, nationally recognized general contractors with specific knowledge of the prevailing wage requirements in Montgomery County have told our team that the requirement **is likely to add 15% to 20% to project construction costs**. Other estimates include the following:

- Mr. Drummer's excellent packet from September of 2008 on Bill 21-08 referenced a 2007 Frederick County procurement that received alternative low bids (with and without the prevailing wage requirement). Based on a side-by-side comparison of bids, the prevailing wage requirement **increased the project cost by 6.61%**. Other testimony at the time included this: "Information provided by an association representing non-union contractors indicated that we could experience **cost increases in our construction projects of between 5% and 10%** due to implementation of Maryland's prevailing wage rates…"

- During the mid-1990s, Michigan repealed its prevailing wage law for 2 ½ years. One study of the impact of this repeal indicated that on average the potential **construction cost savings were in the range of 10% to 16%.**

In the case of my client's project, the present value of the 15-year abatement is $7.73M, and the construction budget for the project (excluding land costs, taxes, and entitlement costs) is $140.4M. If the prevailing wage requirement were to add 6.61% to overall project costs then the **present value cost of the requirement would be $9.28M**, or larger than the gap that this legislation is intended to close.

- If the cost of prevailing wage requirement is at least 5.5% of the cost of the project, then it would exceed the value of the abatement that is necessary for this project to proceed as planned.
- Amending Bill 29-20 to add a prevailing wage requirement would result in a feasibility gap that is larger than the feasibility gap facing this project without the 15-year abatement.

This amendment frustrates the purpose of this legislation and has the potential to undermine your collective efforts to achieve multiple, important public policy objectives. This amendment is a classic "poison pill," and is fundamentally in conflict with the Council's many recent efforts to develop a vibrant and diverse Montgomery County economy.

Regards,

Jacob Sesker, Principal
Harpswell Strategies
202-590-1478

Agenda Item 8C
October 6, 2020
Action
ADDENDUM

M E M O R A N D U M

October 5, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property - Established

PURPOSE: Action – Council vote required

We received the attached additional correspondence in support of the building trades amendments from several unions and additional correspondence from Harpswell Strategies representing Five Squares Development.

This packet contains:	Circle #
Letter in Support of Building Trades Amendments	1
Harpswell Strategies Council Memorandum dated 10-2-2020	4

F:\LAW\BILLS\2029 Taxation - PILOT - WMATA Property\Addendum To Action Memo 10-6-2020.Docx

September 14, 2020

The Honorable Sidney Katz
Council President
Montgomery County Council
100 Maryland Ave., 6th Floor
Rockville, MD 20850

RE: Including Taxpayer and Worker Protections in Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA Property – Established

Dear Council President Katz and Members of the County Council:

We write to urge the County Council to amend Bill 29-20 to include taxpayer and worker protections that will ensure high road development occurs on any WMATA private development project benefiting from a county PILOT. As introduced, the bill provides a blanket subsidy without such safeguards or requirements.

We want high road development in Montgomery County. High road development means workers are paid family-supporting wages, and receive affordable health care and a pension. High road development means reputable, licensed, bonded, and insured contractors and sub-contractors are awarded the work.

We are aware that low road development is more likely to occur on private development projects like those planned for WMATA's under-utilized properties. This happens because private development projects typically use low bid to award work, which encourages unscrupulous contractors to cut wages, cheat workers, and hired unlicensed subcontractors to win work. Prevailing wage laws, which set a floor for construction work by trade for building and heavy/highway projects and can be FOIAed to identify worker misclassification, also generally do not apply.

Furthermore, WMATA has no policies in place to ensure high road development occurs on the properties it leases or sells to private developers. Consequently, low road contractors have won work on WMATA development projects. The best example is Power Design, which worked on development projects at Dunn Loring, Ft. Totten East, Courthouse at Huntington Station, PG Plaza, and U Street/Ellington. In 2015, Power Design was sued for wage and hour violations at the Naval Exchange Project in Bethesda. Power Design settled the case in 2016. In 2019, Power Design used unlicensed electricians at Ripley East in Silver Spring 2019. And in 2020, DC Attorney General Karl Racine ordered Power Design to pay $2.75 million as part of a wage theft and worker misclassification case. We don't want companies like Power Design to be able to win work on WMATA projects supported by a county subsidy.

It is a public policy best practice to establish standards and accountability for developers receiving taxpayer subsidies, and to revoke those subsidies when violations occur. Good Jobs First, a national policy resource center that promotes corporate and government accountability in economic development and smart growth for working families, lists these among its common sense reforms.

We support the amendments to Bill 29-20 that LiUNA, the IBEW, the UA, and the Carpenters have submitted. They are attached for your information.

Sincerely,

CASA
Jews United for Justice
Montgomery County Education Association (MCEA)
Progressive Maryland

SEIU 32BJ
SEIU Local 500
SEIU Local 1199
UFCW MCGEO Local 1994
UNITE HERE Local 25

Proposed Amendments to Bill 29-20
Taxation – Payments in Lieu of Taxes – WMATA property – Established

Amend Section 52-24A, by adding at the end the following new subsection:

(f) Conditions.

(1) A developer of a qualifying development shall, as a condition of receiving an exemption under subsection (c), provide written assurances to the Director that:

(A) Contractors and subcontractors engaged in the performance of construction, alteration, or repair work on the property shall comply with the prevailing wage requirements under Section 11B-33C, in the same manner that contractors and subcontractors on County financed construction contracts are required to comply with such standards;

(B) No administrative merits determination, finding of violation, arbitral award or decision, payment of a fine, back pay damages or any other type of penalty in the amount of $5,000.00 or more, or civil judgment has been rendered against it, or any of its contractors or subcontractors, in the preceding 3 years for violations of wage and hour laws, including the County's prevailing wage law and Maryland wage and hour laws, and registration and licensing requirements under Chapters 17 and 34 of the County Code;

(C) Contractors and subcontractors have obtained all such required licenses (electrical, plumbing, etc.) necessary to perform construction, alteration, or repair work on the property, and that the developer has obtained copies of such licenses; and

(D) Contractors and subcontractors engaged in the performance of construction, alteration, or repair work on the property, have each purchased general liability insurance and surety bonds; and that the developer has obtained copies of such certificates.

Any false statement, representation or certification in any document required under paragraph (1) shall be punishable by a fine of $5,000 and shall be grounds for revocation of the exemption under subsection (c).

(2) The Director, Executive, or designee shall have authority to enter, without delay, the qualifying development for the purpose of ensuring compliance with the requirements under paragraph (1). Further, the developer shall, upon request, make available those records listed under (1)(C) and (D), or any other records and information as the Director, Executive, or designee, deems necessary for the proper enforcement of this subsection.

(3) Failure to comply with any of the requirements in this subsection shall result in the immediate revocation of the exemption under subsection (c).

Harpswell Strategies
Economic Consulting & Public Affairs

To: County Council
Re.: Bill 29-20
October 2, 2020

Councilmembers,

There is substantial evidence that smart growth policies generate fiscal benefits for local governments and economic development for local economies. There is also substantial evidence that Montgomery County is underachieving relative to its goals and its peers when it comes to development at its smartest growth locations – Metro stations.

The market is telling you unequivocally – high-rise development outside of Bethesda is not financially feasible in Montgomery County. The County's existing subsidy programs have effectively generated some high-rise development in certain locations (for example, in the Silver Spring Enterprise Zone and in the White Flint $0 Impact Tax District), but have failed to deliver dense, compact development at other Metro station locations.

Bill 29-20 has the potential to dramatically shift the locus of development to the County's most strategic parcels, and to change the trajectory of discussions across the region about Montgomery County's economic development challenges. In so doing, this important legislation would help advance numerous County policies and realize the approved and adopted master plan visions in multiple Montgomery County neighborhoods, and generate hundreds of construction jobs for area workers as well as indirect investment in other affected industries..

Unfortunately, the 'prevailing wage' amendment offered by Council Vice President Hucker and Councilmember Jawando completely undermines the purpose of the legislation. Consider the case of my client, FiveSquares Development: evidence regarding the cost of prevailing wage legislation suggests that such a requirement would EXCEED the current financial feasibility gap facing their Strathmore Square project, thereby completely negating the benefits of the legislation.

Furthermore, the amendment would disadvantage Metro station developments uniquely. The County does not require prevailing wages when disposing of its own property, when using PILOTs in the affordable housing context, when establishing property tax credit programs (including the recently approved Green Building Tax Credit), when establishing local benefits for developments in Enterprise Zones, when establishing impact tax exemptions, or when executing Economic Development Fund agreements that are structured as property tax rebates. Why do so only for projects that implement recently approved master plans at uniquely strategic locations? I urge you to reject this amendment and approve Bill 29-20 as recommended by the committees.

The case for Smart Growth

There is substantial evidence that Smart Growth generates economic and fiscal benefits.

- The costs of infrastructure and public services are reduced by compact, transit-oriented development. Labor force productivity and property values rise in proximity to compact development and transit.
- These benefits do not go into a special account, they simply accrue to the County's budget. Put differently, a portion of what the County has been able to provide in terms of infrastructure, services for a growing and increasingly diverse population, and compensation and benefits for the County's employees, have been the result of Smart Growth.
- The challenge of Smart Growth has always been how to address the up-front costs, whether public or private, and how to harness or capture the long-term benefits.

Bill 29-20 is potentially a game-changer for both Smart Growth in the region and for Montgomery County's economic development position relative to other area jurisdictions. See © A.

- In the absence of Bill 29-20, development is not happening on Metro station sites, and high-rise developments are only occurring in Bethesda or because of other preferential tax treatment or subsidy programs.
- "But for" the PILOT, projects on Metro stations will not happen, will happen later, or will happen at much lower heights and densities than planned.
- The opportunity costs are knowable – market rate housing demand that is not met, fewer affordable units constructed, development that is deflected to surrounding areas that are not served by transit, fewer acres of agricultural land protected through easement programs, more pass-through traffic resulting in congestion on County roads, increased greenhouse gas emissions, fewer new Class A office buildings that can potentially attract large employers to Montgomery County, less impact tax revenue to fund capital projects, etc.
- The prevailing wage amendment proposed by Council Vice President Hucker and Councilmember Jawando completely undermines the purpose of the bill, would disadvantage Metro station development relative to other recipients of preferential tax treatment, and ignores the real and well-understood challenge of financing the substantial up-front costs of Smart Growth.

The market is telling you unequivocally that there is a need for Bill 29-20

Fewer than 40 buildings that are 8+ stories have been completed in the past decade, and of those, roughly 2/3rds had preferential tax treatment and the remainder are in Bethesda.

Bethesda / Chevy Chase*	Silver Spring or Wheaton**	Impact Tax Exempt or Related to EDF Projects***
4747 Bethesda Ave	1155 Ripley St	1 Choice Hotels Cir
4500 East West Hwy	8250 Georgia Ave	44 Maryland Ave
8120 Wisconsin Ave	11215 Georgia Ave	11550 Old Georgetown Rd
4907 Rugby Rd	8621 Georgia Ave	11870 Grand Park Ave
7171 Woodmont Ave	1150 Ripley St	930 Rose Ave
4850 Rugby Ave	1200 East West Hwy	11418 Rockville Pike
4990 Fairmont Ave	180 High Park Ln	5401 McGrath Blvd
7770 Norfolk Ave	8711 Georgia Ave	909 Rose Ave
4800 Auburn Ave	11141 Georgia Ave	11810 Grand Park Ave
4918 Saint Elmo Ave	929 Bonifant St	11601 Landsdowne St
100 Commerce Ln	915 Silver Spring Ave	5601 Fishers Ln
7077 Woodmont Ave	8021 Georgia Ave	940 Rose Ave
8405 Chevy Chase Lake Ter	1320 Fenwick Ln	
8300 Wisconsin Ave		

* Some of these projects may have also benefitted from senior housing use exemption for impact taxes, green building tax credits, etc.

**Not yet verified whether all of these are within Enterprise Zone boundaries, but if so then all would have benefitted from reduced property taxes and impact tax exemptions. Just to illustrate the value of enterprise zone status, the combined value of the property tax benefits of EZ designation and impact tax exemption for projects inside an EZ is greater than the present value of the 15-year abatement.

***Two Rockville projects were connected to the Choice Hotels retention, and one Twinbrook area project connected to HHS retention. Others appear to all be inside the White Flint impact tax district ($0 impact tax rate).

- High-rise development simply is not happening outside of Bethesda in the absence of existing subsidy programs.
- The market is leaving Metro station sites empty and undeveloped, and even on other sites the development is only occurring through a combination of impact tax exemptions, property tax credit programs, and economic development fund agreements.
- Prevailing wages are not required by the State or the County on projects in Enterprise Zones, where the present value of all subsidies is greater than would be the case for the 15-year abatement contemplated in Bill 29-20.
- Prevailing wages are not required of recipients of property tax credits or beneficiaries of reduced/eliminated impact taxes. The amendment offered by Msrs. Hucker and Jawando would disadvantage development on Metro station sites relative to other beneficiaries of preferential tax treatment.
- While prevailing wages are required when economic development funds are used for construction, they are not required when the EDF grant is used to reduce property taxes.

High-rise Construction is not feasible outside of Bethesda

Market rents are not high enough to justify high rise construction costs.

- Generally, the sub-markets within the region where high-rise is construction is feasible are Alexandria, Arlington, and Bethesda.
- Strathmore Square is a case study. Development feasibility report (see report by W-ZHA at © B) indicates that the developer assumptions are reasonable.
    - Building efficiency: Developer assumes 85%; W-ZHA indicates standard range is 83% to 85%. Developer's assumptions are at the high end of the range when it comes to the portion of the gross floor area that is assumed to be rentable.
    - Parking: Developer assumes that parking cost will average $48,000 per space; W-ZHA indicates that typical range is $50,000 to $60,000 per space for underground parking. Developer's assumptions are, if anything, low relative to the market.
    - Soft costs: Developer's soft costs are 15.5% of hard costs; W-ZHA states that typically soft costs are 15% to 20% of hard costs. Developer's assumptions are within the range of typical market assumptions (towards the lower end).
    - *"…the Developer's building cost is reasonable, if not low. The Developer's soft cost assumptions are reasonable."*
    - Rent: The developer assumes $2.82 per square foot for market rate residential rents; W-ZHA noted that rent at the Pallas at Pike and Rose is $2.76 per square foot.
    - *"The Developer's assumed market-rate apartment rental rate are above what existing high-rise projects are achieving in rent. Therefore, the Developer has not low-balled market rate apartment rents."*
    - Yield: *"…applying these assumptions, the Developer achieves a yield of 5.5%, which is at the low end of the scale for a high-rise apartment. W-ZHA would expect that the yield threshold would be 5.5% to 6% for high-rise construction because of cost and market risk."*
    - Internal rate of return: *"The internal rate of return on equity is low at 13.3%. W-ZHA would expect that a developer would require an internal rate of return on equity in the 14% to 16% range to get financing. Reducing the interest rate on the permanent loan to 4.5% reduces up-front equity and results in a 15.4% internal rate of return on equity, which is reasonable."*
    - W-ZHA conclusion: *"The Project is just at the margin of acceptable returns with the tax deferral. Increases in material, labor, and entitlement costs or stable (rather than increasing) residential rents would make the Project perform below the economic returns required to obtain equity and debt financing. In such a case, the Project could not proceed….W-ZHA's analysis concludes that the Project would not be feasible without the passage of Bill 29-20."*
    - W-ZHA conclusion that the development of Parcel 2 is not feasible is based solely on the economics of that building, and did not take into account the large up-front expenditures for infrastructure and placemaking related to developing a large site on a Metro Station.

Infrastructure, site development costs, and public benefits

Additional challenges to project feasibility are the substantial costs of large, master-planned developments and the site-specific costs of developing at a metro station.

- These costs generally fall into two categories: placemaking and infrastructure / site development costs.
- Strathmore Square is a helpful case study. W-ZHA's development feasibility report was simply based on the feasibility of building a high-rise building, not on the additional feasibility challenges associated with extraordinary placemaking and infrastructure costs.
- Placemaking is necessary when you are building on a large site that is disconnected from other amenities. If you are building in an existing downtown then retail, recreation, and public facilities are nearby. On the other hand, if you are building a new downtown or neighborhood center, those placemaking elements need to be provided by the project.
    - Often those placemaking amenities are significantly greater in terms of scale and cost than would be necessary or justifiable to serve the project itself, and are responding to the latent demand in the existing community (i.e. the very demand that resulted in public support for the master planned development).
- WMATA and/or developer-funded infrastructure includes: the WMATA garage expansion ($22.3 M) that is currently under construction; the 1.2-acre civic green/park ($6.5 M) that is in the design phase; an additional $5.4 M of site infrastructure on Parcel 2 (Phase 1); and more than $17 M in additional site infrastructure in subsequent phases.
- The 2017 Fiscal Impact Statement (transmitted to the Council by OMB in 2017) identifies all planned County capital projects in the plan area and in doing so references developer contributions/projects that identified in the master plan. Based on the FIS, the total developer cost share of those projects (e.g. bike lanes) is $26.7 M.

This project includes substantial public benefits that were already the result of negotiation and lengthy public debate.

- The establishment of the CR zones and a list of public benefits to be included in projects in exchange for density.
- A master plan process in which the planners, community, Planning Board, and Council all have an opportunity to identify and prioritize public benefits.
- Sketch plan and preliminary plan are already approved. The public benefits that are extracted during the zoning and subdivision processes have already been the subject of substantial public debate.
- Bill 38-17 already increased the inclusionary zoning requirement for this project from 12.5% of units to 15% of units.
- Other public benefits in this instance include:
    - Agricultural land preservation (building lot terminations). The County's agricultural land preservation goals will not be achieved in the absence of down-county development.
    - Public art and rehearsal spaces for Strathmore Music Center (a County asset) are part of the project.

There is broad community support for Smart Growth and related policy goals, and the experts on these issues are telling you unequivocally that Bill 29-20 is necessary

Bill 29-20 has a wide cross-section of support from groups in the community.

- Supporters include not only the community near Grosvenor Metro, who are looking forward to redevelopment of their Metro site, but also residents of other areas potentially affected by Metro station projects, including community groups in Forest Glen and White Flint.
- Supporters also include organizations such as the Sierra Club, Coalition for Smart Growth, and Action Committee for Transit.
- The Planning Board has testified in favor of this legislation and has provided ample expert advice regarding the benefits of Smart Growth and the market realities inhibiting it.
- Representatives of WMATA's development partner at White Flint have confirmed the fundamental economic reality facing large, master-planned, high-rise development at Metro stations.

The County's land use, transportation, housing, and environmental goals cannot be achieved in the absence of compact, transit-oriented development.

- There is substantial unmet need for both market rate and affordable housing in Montgomery County and the region.
- The current climate crisis cannot be addressed in the absence of bold policies that will get people out of their cars and onto public transportation, and out of far-flung auto-oriented developments and into compact live-work communities.
- In master plan after master plan, both the community and the Council's planning experts are advocating for policies that would result in strategic, compact development in transit-oriented locations.
- These policies are embodied in Council approved master plans, climate plans, agricultural land preservation policies, and housing policies.

Using Grosvenor as a case study, it is evident that the stated goals of the master plan, approved unanimously in 2018 by the Council, cannot be achieved in the absence of high-rise development.

- The plan was added to the Planning Department's work program for the purpose of maximizing the site.
- Master plan goals included signature buildings, a distinctive gateway, preservation of on-site open space, and varied building setbacks and heights.
- Achieving the goals of this master plan, which had broad community support and was approve and adopted unanimously at the Planning Board and the Council, is not possible in the absence of high-rise development.
- Proponents of the prevailing wage amendment have offered no "alternative facts" to dispute this notion.

Prevailing wage amendment

The County does not require the prevailing wage in other similar contexts. If the Council wants to impose a prevailing wage requirement broadly, it should do so in the context of a policy discussion that would apply broadly.

- In 2008, the Council chose NOT to apply the prevailing wage to property tax credits and limited the application of the law to public works projects or projects that were using appropriated funds for the purpose of funding construction.
- The County does NOT require a prevailing wage as a condition of land dispositions.
- The County does NOT require a prevailing wage on other PILOTs, such as affordable housing PILOTs, or in the case of property tax credits, such as the recently approved Green Building Tax Credit.
- The County does NOT require a prevailing wage in Economic Development Fund agreements where the grant amount is based on incremental property tax revenues generated by a project.
- Neither the State of Maryland nor Montgomery County require prevailing wages in the context of development projects that receive Enterprise Zone benefits. Those benefits include abated property taxes, impact tax exemptions, and income tax credits. Together those preferential tax statuses result in larger subsidies than the proposed 15-year abatement for Metro station developments.

The cost of the "prevailing wage" amendment would completely overwhelm the value of the PILOT and would do nothing to advance projects in the County's smartest growth locations.

- Estimates of the impact of prevailing wage vary, but most fall in the range of 10% to 20%.
- The nationally recognized general contractors we have spoken with cited a range of impacts between 15% to 20% on the cost of the project.
- The experience in Michigan when the prevailing wage requirement was repealed indicated average cost savings on public works projects of 10% to 16%.
- A solicitation in Frederick County that was bid both with and without a prevailing wage indicated that the requirement added 6.6% to the cost of a school construction project.
- During the Council's 2008 consideration of the County legislation, an association of non-union contractors indicated that the County could expect a cost increase on its public works projects in the range of 5% to 10%.
- As a point of reference if prevailing wage were to add 5.5% to the cost of this project then it would DOUBLE the existing financial feasibility gap. A 5.5% increase would be well below most credible estimates of the impact of a prevailing wage requirement.
- To illustrate the potential impact of this, because of the time value of money, even extending the PILOT from 15 years to 50 years or more would not close the additional gap created by the prevailing wage requirement.

Case Study: Fiscal and economic benefits of development at Grosvenor

Grosvenor and other Metro sites in Montgomery County are currently generating $0 in tax revenue. Using the first building ("Parcel 2") at Grosvenor as an example, the impact of high-rise development on the site is positive. See © C.

- Estimated $1.35 M in additional annual, recurring revenue would result from the development of this building.
- The estimated cost of serving the development is $0.85 M in annual, recurring costs.
- The ratio of revenues to costs (1.59 to 1.00) would likely be replicated for the remainder of the development potential on the site. Parcel 2 represents approximately 1/5th of the total development potential at build-out, so the potential net fiscal benefit is in the range of $2.5 M annually.
- The construction of Parcel 2 will result in roughly 600 construction jobs per year for 2 years. A similar impact would be replicated on other parcels as the development builds out.
- The construction investment will indirectly generate more than 100 jobs per year in other industries during the two-year project.
- It is important to understand that public-private projects are incredibly complex. WMATA solicited developer proposals for this site in 2013, and it is possible that with Bill 29-20 a building will be completed in 2023. If the Council is concerned that economic and fiscal fundamentals will change in the coming years, the Council will have ample opportunity to revisit the legislation before it will result in development on Metro station sites without existing public-private development agreements.

The opportunity cost – property taxes not collected – is essentially the flip side of the "but for" test.

- The County is only giving up property tax revenue that it is currently not receiving. And development at Metro stations, without the abatement, has not happened.
- Without the property tax abatement, the status quo will continue. High-rise developments at Metro stations will not happen, will happen at a much smaller scale (i.e. stick built, about ½ as many units), or will be delayed.
- Without the property tax, the public will not receive the full benefits of development, i.e. the result will be less privately funded public infrastructure, less placemaking, and less impact tax revenue to fund countywide capacity needs.

Some of the development that does not occur at Grosvenor will end up occurring at other locations in Montgomery County that are more expensive to serve.

- The result will be more lane miles of road, more miles of water and wastewater pipes, more impervious surface and associated stormwater management costs, and more expenditures for school bus transportation and public safety protection.
- Transit ridership and fare revenue increase with compact, transit-adjacent development.

For all the above reasons, I urge you to approve Bill 29-20. This important legislation has the potential to generate substantial fiscal and economic benefits, address the County's growing demand for housing, reduce greenhouse gas emissions and increase transit ridership, and make this once vibrant economy competitive with other area jurisdictions.

In light of the evidence that "prevailing wage" requirements increase project cost I urge you to reject the prevailing wage amendment proposed by Council Vice President Hucker and Councilmember Jawando. To the extent that there is support for such adding such a requirement, I urge you to consider the issue in a separate piece of legislation that would affect development that benefits from other, similar mechanisms, including the following:

- Affordable housing PILOTs;
- County property dispositions;
- Enterprise Zone benefits;
- County property tax credit programs;
- Economic development fund agreements that are structured to offset property taxes; and
- Impact tax "use" exemptions (such as those that benefit bioscience developments or senior housing).

Regards,

Jacob Sesker, Principal
Harpswell Strategies
202-590-1478

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SPECIAL REPORT

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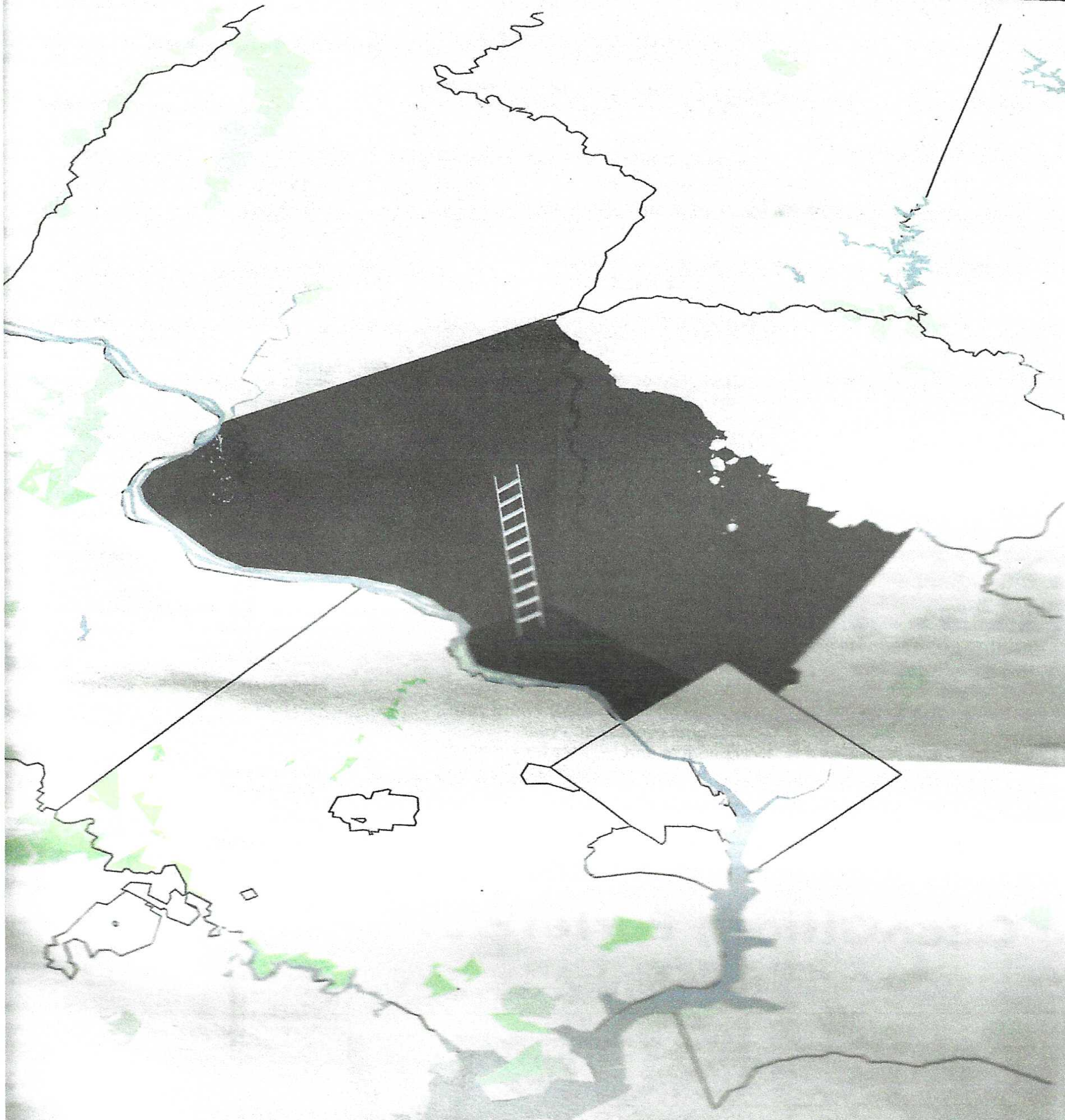

REAL ESTATE INC. EXTRA

IN DEEP

Montgomery County has been falling behind its peers when it comes to growth. What will it take to finally climb out of its hole — and in a pandemic no less?

(13)

A

W-ZHA, LLC

MEMORANDUM

TO: Fivesquares Development, LLC

FROM: Sarah Woodworth, Managing Member

RE: Economic Due Diligence on Mixed-Use Apartment Building at Strathmore Square

DATE: August 3, 2020

INTRODUCTION

Study Purpose

W-ZHA, LLC was retained by Fivesquares (the Developer) to independently determine the need for a real estate tax deferral based on current costs of construction and market rents in order to make high-rise construction economically viable at Strathmore Square. More specifically, W-ZHA assessed the reasonableness of the Developer's economic assumptions regarding the Phase I building at Strathmore Square. In question is whether the Developer's request to continue the current tax status of the property after development is necessary in light of the Project's economics.

W-ZHA evaluated, revised, and tested the Developer's assumptions and developed an independent Project pro forma. W-ZHA also tested whether the Developer's investment returns with the tax deferral were within industry standards for a mixed-use, high-rise apartment building.

Process

The Developer provided W-ZHA with their assumptions regarding the Project's development cost, projected operations, and financing. W-ZHA evaluated these assumptions by analyzing third-party sources and W-ZHA's experience with development economics in the Washington Metropolitan Area. In its contract with the Developer, W-ZHA reserved the right to terminate the agreement if W-ZHA concluded that the Developer did not require a property tax deferral (as contemplated by Bill 29-20) in order to make the Project economically viable and financeable with third-party institutional capital. Based on our analysis, W-ZHA concludes that Fivesquares Development can only proceed in developing Strathmore Square (as contemplated and approved by the Montgomery County Council and the Montgomery County Planning Board) with the passage of Bill 29-20 and importantly, only to the extent no additional or unique costs or charges are imposed. Our assumptions include 15% MPDU's pursuant to County requirements.

W-ZHA Qualifications

Established in 2007, W-ZHA, LLC is the successor organization of ZHA, Inc., a firm established in 1975. W-ZHA provides real estate advisory services to private, public, and non-profit clients. W-ZHA's staff has conducted development-related assignments in over 30 states for hundreds of public and private clients. Sarah Woodworth is the Managing Member of W-ZHA.

W-ZHA assists public and private sector Clients in evaluating development proposals, particularly their financial/economic aspects. W-ZHA supports our Clients in negotiating joint development arrangements by objectively analyzing the economic, financial, and fiscal implications of various public/private financing arrangements.

Locally, W-ZHA staff supported (or are supporting) joint development negotiations on the public/private financing for Gallery Place and Mandarin Hotel in Washington, DC, Rockville's Town Square, the White Flint Sector Plan, North Potomac Yard in Alexandria, and the redevelopment of Landmark Mall in Alexandria, VA. W-ZHA is one of Maryland-National Capital Park & Planning Commission's on-call market and economic consultants.

Project Overview

Program

Strathmore Square is located at the Grosvenor-Strathmore Metro Station. The first building, (the "Project") contains between 385 and 400 apartment units in a 17-story building with a penthouse. The Project also includes amenity space, 10,905 square feet of retail and 8,068 square feet of cultural retail. The apartments and retail are above a five-story underground garage. The capital budget includes the cost to develop these components of the Project.[1]

Table 1

Development Program
Mixed-Use Multi-Family Building
Strathmore Square

	Gross Sq Ft	Units
Apartments	403,654	385-400
Retail	10,905	
Cultural Retail	8,068	
Total	422,627	
Parking Spaces	303	

Source: Fivesquares Development; W-ZHA

The mixed-use apartment building totals 422,627 square feet. Approximately 85% of this space is leasable. There are 303 parking spaces in the parking garage.

[1] There are other significant infrastructure cost components that are borne by the Developer and their partners to bring Strathmore Square to fruition. These other components include a 1.25-acre public park, Metro parking development, and other infrastructure. The Developer anticipates these costs will be recouped as value is created and future phases of Strathmore Square are developed.

W-ZHA, LLC

Development Cost

Table 2

Development Cost
Mixed-Use Multi-Family Building
Strathmore Square

	Budget		/GSF
Hard Cost (Inc. Parking and Tenant Improvements)	$124,325,400	*83%*	$294.17
Soft Costs	$19,323,800	*13%*	$45.72
Sub-Total	$143,649,200		$339.90
Financing	$6,077,200	*4%*	$14.38
Grand Total	$149,726,400	*100%*	$354.28

Source: Fivesquares Development; W-ZHA

The cost to develop the Project is approximately $150 million in today's dollars. For purposes of this analysis, the Project is projected to commence construction in January of 2021. The Developer (and W-ZHA in its analysis) have conservatively assumed development costs will remain constant during the time between January 2021 and when the actual construction begins.

The Project will be constructed on WMATA land. The Developer will lease the land from WMATA.

Operations

Rent

In today's dollars the Developer assumed a market-rate apartment rent of $2.82 per square foot per month. Depending on the unit count, this translates into $2,399 to $2,494 per month.

In today's dollars, the Developer has assumed a retail rent of $33.30 per square foot triple net. The "cultural" retail is leased at no charge to Strathmore Music Center.

Operating Expenses

Residential operating expenses amount to $6,000 per unit per year in today's dollars. Retail operating expenses will be passed on to the retail tenants. The land lease payment is another component of the Project's operating expenses.

Financial Assumptions

The Developer has assumed conventional financing at a 5% interest rate amortized over 30 years. The Developer's proforma assumes a 5% residual capitalization rate.

EVALUATION

Development Program

The apartment building's leasable area is 85% of its gross area. In W-ZHA's experience, building efficiency ranges from 83% to 85%. Therefore, the Developer's assumption is reasonable.

The development program indicates that the average residential unit has between 850 and 885 square feet of living area. The unit size is consistent with other projects W-ZHA has analyzed in the Washington Metropolitan Area.

Conclusion: Development program assumptions are reasonable.

Development Cost

Marshall & Swift CoreLogic is a cost estimating tool. Marshall & Swift estimates costs for a variety of land uses at different quality levels. W-ZHA referred to Marshall & Swift to evaluate the reasonableness of the Developer's Project costs.

W-ZHA assumed a 17-story, mixed-use apartment building located in the 20852-zip code area. No architect's fees were assumed as they are in the soft costs. No parking costs are included in the Marshall & Swift estimate.

As is noted later in this Technical Memorandum, the Developer's projected rents are at the high-end for the Project's market. To achieve these rents, the building will include materials and finish characteristics consistent with what Marshall & Swift characterizes as a luxury high-rise apartment building. W-ZHA obtained a building cost estimate for a "good" quality luxury apartment building.

To compare costs, the building cost excludes the parking garage, soft costs, financing costs, and amenities. W-ZHA added a $5,000 per unit allowance for appliances and Project amenities (like a pool) to the Marshall & Swift estimate to allow an apples-to-apples comparison.

Table 3

Building Cost
Mixed-Use Multi-Family Building
Strathmore Square

	Developer Budget	Marshall & Swift Luxury Apartment
Building Cost /1	$103,082,000	$116,781,000
Appliance & Amenity Allowance	Inc.	$2,000,000
Total	$103,082,247	$118,781,000

1. Includes sitework, hard cost, general contractor fees, interior finishes. mechanicals and HVAC. Does not include soft costs, appliances or project amenities.

Source: Fivesquares Development; Marshall & Swift CoreLogic; W-ZHA

The Developer's budget is low for a good quality, high-rise luxury apartment building. According to the Developer, multiple contractors have bid on the Project.

The Developer assumes that the parking cost will average $48,000 per space. The mixed-use building is developed on top of a five-story garage underground garage. W-ZHA is not expert in construction cost estimating. In our experience, however, the cost for underground parking is very sensitive to local conditions like water table, soil conditions, the presence of rock, topography, and the shape of the site. It is not unusual for underground parking structures to cost $50,000 to $60,000 per space.

The Developer's soft costs total 15.5% of hard costs. W-ZHA's experience with projects in the Washington Metropolitan Area indicate that soft costs range from 15% to 20%. W-ZHA typically assumes 20% soft costs in our analyses.

Conclusion: Given Marshall & Swift cost estimating data, the Developer's building cost is reasonable, if not low. Given W-ZHA's experience with parking costs, the Developer's parking cost assumptions are reasonable, if not low. The Developer's soft cost assumptions are reasonable.

Operations

Rent

As per the County's requirements, 15% of the Project's apartments are Moderately Priced Dwelling Units (MPDUs). The remaining units are market rate units.

In today's dollars the Developer has assumed a market-rate rent of $2.82 per square foot per month or approximately $2,400 to $2,495 per month. To determine the reasonableness of this assumption, W-ZHA researched asking rents at high-rise apartment projects in the vicinity of Strathmore Square (see the table on the following page).

W-ZHA, LLC

ble High-Rise Apartment Projects and Current Asking Rental Rates f
North Bethesda

Meridian @ Grosvenor Station

Built 2009
Units 305
Height 15 Stories

	Size (Sq Ft)	Mo Rent	Rent /SF/Mo
Studio	578	$1,550	$2.68
Studio	578	$1,740	$3.01
1 Bedrm/1 Ba	751	$1,510	$2.01
1 Bedrm/1 Ba	751	$1,693	$2.25
1 Bedrm/1 Ba	793	$2,100	$2.65
1 Bedrm/1 Ba	793	$1,856	$2.34
1 Bedrm/1 Ba	793	$1,830	$2.31
1 Bedrm/1 Ba	809	$1,780	$2.20
2 Bedrm/2 Ba	1,184	$2,190	$1.85
2 Bedrm/2 Ba	1,209	$2,302	$1.90
2 Bedrm/2 Ba	1,209	$2,306	$1.91
2 Bedrm/2 Ba	1,209	$2,385	$1.97
2 Bedrm/2 Ba	1,209	$2,345	$1.94
2 Bedrm/2 Ba	1,209	$2,270	$1.88
2 Bedrm/2 Ba	1,209	$2,280	$1.89

The Pallas at Pike & Rose

Built 2015
Units 319
Height 20 Stories

	Size (Sq Ft)	Mo Rent	Rent /SF/Mo
1 Bedrm/1 Ba	770	$1,935	$2.51
1 Bedrm/1 Ba	734	$2,044	$2.78
1 Bedrm/1 Ba	764	$2,083	$2.73
1 Bedrm/1 Ba	749	$2,170	$2.90
1 Bedrm/1 Ba	736	$2,249	$3.06
1 Bedrm/1 Ba	1106	$3,933	$3.56
1 Bedrm/1 Ba	743	$1,904	$2.71
1 Bedrm/1 Ba	702	$1,914	$2.45
1 Bedrm/1 Ba	780	$1,964	$2.45
1 Bedrm/1 Ba	802	$1,984	$2.51
1 Bedrm/1 Ba	792	$1,989	$2.34
1 Bedrm/1 Ba	849	$2,034	$2.33
1 Bedrm/1 Ba	874	$2,054	$2.65
1 Bedrm/1 Ba	774	$2,084	$2.32
1 Bedrm/1 Ba	898	$2,109	$2.34
1 Bedrm/1 Ba	900	$2,114	$2.37
1 Bedrm/1 Ba	892	$2,124	$2.39
1 Bedrm/1 Ba	889	$2,154	$2.34
1 Bedrm/1 Ba	922	$2,154	$2.37
1 Bedrm/1 Ba	907	$2,169	$2.30
1 Bedrm/1 Ba	942	$2,174	$2.88
1 Bedrm/1 Ba	756	$2,189	$1.75
1 Bedrm/1 Ba	1249	$2,253	$1.80
1 Bedrm/1 Ba	982	$2,264	$2.31
1 Bedrm/1 Ba	1298	$2,298	$1.77
1 Bedrm/1 Ba	1010	$2,364	$2.34
1 Bedrm/1 Ba	1154	$2,378	$2.06
1 Bedrm/1 Ba	1313	$2,418	$1.84
1 Bedrm/1 Ba	1530	$2,433	$1.59
1 Bedrm/1 Ba	1151	$2,453	$2.13
1 Bedrm/1 Ba	1482	$2,483	$1.68
1 Bedrm/1 Ba	1629	$2,528	$1.55
1 Bedrm/1 Ba	1114	$2,534	$2.27
1 Bedrm/1 Ba	878	$3,058	$3.48
2 Bedrm/2 Ba	1120	$2,453	$2.19
2 Bedrm/2 Ba	1158	$2,550	$2.20
2 Bedrm/2 Ba	1206	$2,739	$2.27
2 Bedrm/2 Ba	1289	$2,935	$2.28
2 Bedrm/2 Ba	1214	$3,180	$2.62
2 Bedrm/2 Ba	1281	$3,839	$3.00
2 Bedrm/2 Ba	1055	$2,170	$2.37
2 Bedrm/2 Ba	989	$2,230	$2.36
2 Bedrm/2 Ba	1077	$2,280	$2.35
2 Bedrm/2 Ba	1144	$2,305	$2.33
2 Bedrm/2 Ba	1074	$2,315	$2.30
2 Bedrm/2 Ba	1151	$2,330	$2.29
2 Bedrm/2 Ba	1219	$2,380	$2.28
2 Bedrm/2 Ba	1164	$2,425	$2.28
2 Bedrm/2 Ba	1348	$2,897	$2.27
2 Bedrm/2 Ba	1214	$2,962	$2.27
2 Bedrm/2 Ba	1503	$3,052	$2.27
2 Bedrm/2 Ba	1214	$3,589	$2.26
2 Bedrm/2 Ba	1359	$3,684	$2.26
2 Bedrm/2 Ba	1596	$4,119	$2.25
2 Bedrm/2 Ba	1593	$4,387	$2.25
2 Bedrm/2 Ba	1854	$4,542	$2.25
2 Bedrm/2 Ba	1947	$4,687	$2.25
3 Bedrm/2 Ba	*1491*	*$3,814*	*$2.24*
3 Bedrm/2 Ba	*1573*	*$4,317*	*$2.22*
3 Bedrm/2 Ba	*1983*	*$4,697*	*$2.24*
3 Bedrm/2 Ba	*2007*	*$4,722*	*$2.25*
3 Bedrm/2 Ba	*1779*	*$4,727*	*$2.25*
3 Bedrm/2 Ba	*1699*	*$4,827*	*$2.26*
3 Bedrm/2 Ba	*1908*	*$5,137*	*$2.26*

Italicized units are not available for lease as of 7/23/2020, but rents are published.

Source: Meridian at Grosvenor Station website; Apartments.com; W-ZHA

The Meridian is an older, high-rise apartment project near the Grosvenor-Strathmore Metro station. W-ZHA referred to the Meridian's website for rental rates. The rents for units available in September, October and November were collected. The rental rates published for a 12-month lease at the Meridian were well below the Developer's projected rents. The highest 1-bedroom rent for a unit available during the queried months is $2.65 per square foot.

The Pallas at Pike and Rose is a newer high-rise apartment building. Rental rates by unit type are not available on the Pallas' website. W-ZHA obtained asking rents from Apartments.com. Assuming 70% of the Pallas' units are 1-bedroom, 20% 2-bedroom and 10% 3-bedroom, the average rent per square foot is $2.76. This is below the Developer's assumed rent of $2.82 per square foot.

There are other mid-rise apartment buildings in the vicinity of Strathmore Square. The Developer's rent is well above asking rents at these mid-rise projects.

In today's dollars, the Developer has assumed a retail rent of $33.30 per square foot triple net. The Developer has assumed that the "cultural" retail will lease for free. There are very few comparable retail spaces listed for-rent on Loopnet.com, a commercial real estate database. Therefore, W-ZHA cannot determine whether the retail rent assumption is reasonable.

Conclusion: The Developer's assumed market-rate apartment rental rates are above what existing high-rise projects are achieving in rent. Therefore, the Developer has not low-balled market-rate apartment rents.

<u>Operating Expenses</u>

The residential operating expense of $6,000 per unit (net of property taxes) is a reasonable assumption given W-ZHA's experience.

Financial Assumptions

The 5% interest rate on a conventional commercial mortgage is high in today's market. Where interest rates will be in 2022 is unknown, so 5% is a conservative assumption. W-ZHA has run a scenario where the permanent financing interest rate assumption is changed to 4.5%. A lower interest rate increases supportable debt thereby reducing required equity. This, in turn, improves investment return.

The residual capitalization rate of 5% is reasonable. According to the "PwC Real Estate Investor Survey: 2nd Quarter 2020", the national average is 5.19%. Because of its relatively strong economy, Montgomery County's residual capitalization rate tends to be below national averages.

Investor Return

W-ZHA developed a pro forma to evaluate the Developer's return. W-ZHA applied its own assumptions regarding annual inflation and supportable debt. The analysis assumes that the property is granted a property tax deferral.

W-ZHA assumed that the Developer's base rent of $2.82 would escalate at a rate of 1.24% per year through to stabilized occupancy. According to the "PwC Real Estate Investor's Survey: 2nd Quarter 2020" the average market rent change over the last quarter was 0.59%. Low rental rate growth is likely the result of COVID 19. In the prior quarter, the rental rate change was 2.4%. W-ZHA assumed that after stabilized occupancy, rents would escalate at 2.4% per annum.

W-ZHA escalated operating expenses at 2.6% per year, which is the average in the PwC Real Estate Investor's Survey.

To determine supportable debt, W-ZHA applied a 1.25 debt coverage ratio to the Project's stabilized net operating income. As a base case, W-ZHA applied the Developer's 5% interest rate assumption.

W-ZHA assumed the Developer would sell or refinance the Project one year following the first year of stabilized occupancy. The Project is assumed to achieve stabilized occupancy in Year 2. Therefore, the analysis assumes it is sold or refinanced in Year 3.

Applying these assumptions, the Developer achieves a yield (net operating income divided by total development cost) of 5.5%, which is at the low-end of the scale for a high-rise apartment. W-ZHA would expect that the yield threshold would be 5.5% to 6% for high-rise construction because of cost and market risk.

The internal rate of return on equity is low at 13.3%. W-ZHA would expect that a Developer would require an internal rate of return on equity in the 14% to 16% range to get financing. Reducing the interest rate on the permanent loan to 4.5% reduces up-front equity and results in a 15.4% internal rate of return on equity, which is reasonable. Any increase in cost or reduction in rental income will challenge the Project's economic feasibility.

CONCLUSION

Based on regional experience and third-party sources, W-ZHA considers the Developer's assumptions regarding development costs reasonable, if not low. The Developer's rent assumptions are reasonable, if not slightly aggressive given existing market conditions. With the benefit of Bill 29-20 which would continue the current tax status of the property, W-ZHA's analysis indicates that the Project would be feasible.

The Project is just at the margin of acceptable returns with the tax deferral. Increases in material, labor, and entitlement costs or stable (rather than increasing) residential rents would make the Project perform below the economic returns required to obtain equity and debt financing. In such a case, the Project could not proceed. Given our analysis, the Project cannot support additional affordable housing units above 15% MPDUs nor any other requirements that would increase costs.

W-ZHA's analysis concludes that the Project would not be feasible without the passage of Bill 29-20.

Council President Katz and all Councilmembers:

I have been retained by FiveSquares Development to analyze the fiscal and economic impacts of their Strathmore Square project, a joint development with partner WMATA on a 14.6-acre WMATA-owned property at Grosvenor Strathmore Metro Station. I focused my analysis on the first phase of the project ("Parcel 2"), for which unit mixes and project budgets have already been determined. Based on this analysis, I conclude that the project will have a positive fiscal impact without property tax revenue, and that the economic impact of construction is substantial.

In preparing this report I drew upon my own expertise in Montgomery County's fiscal policies, budgets, and standard practices in evaluating economic development projects, which is based on years of experience as a senior analyst for the County Council. Numerous publicly available reports and data sources were also consulted, including: Montgomery County FY20 Operating Budgets and Fiscal Plan; Maryland Statistics of Income Reports; Federal data sets including the American Community Survey, the Housing Census, and the Bureau of Economic Analysis' national economic accounts and regional input-output model; and assorted planning documents associated with the Minor Master Plan Amendment that was approved in 2017. Finally, I also used project specific information provided by my client.

The context for this report is the feasibility gap facing the Strathmore Square project. Bill 29-20, which would continue the current property tax exempt status of the property, would close that gap. Given the context, the focus of this analysis is the relative values of revenue impacts and expenditure impacts at a point in time after Parcel 2 is complete and leasing has stabilized. The "impacts" identified in this report are the revenues and expenditures that are "variable," i.e. those that can be said to be the result of this development.

Complexity for complexity's sake is the downfall of many models. Except as otherwise noted, costs and revenues that clearly offset were also excluded. This is a "snapshot in time" and as such it captures the likely/average annual impacts without engaging in myriad complex assumptions about cash flows, construction and leasing inflation rates, outcomes of future negotiations regarding cost-shares, or changes to County personnel costs over time.

<u>Development Program:</u>

The multi-phase project features a vertical mix of uses, is predominantly residential in nature, and at least 15% of units will be moderately priced (MPDU). The first phase, "Parcel 2," will result in 422,627 square feet of new development, and includes 428 market rate residential units, 76 moderately priced units, and 18,973 square feet of street-activating uses. The unit mix includes 167 efficiencies, 249 one-bedroom units, 20 one-bedroom units with den or office, 47 two-bedroom units, 9 two-bedroom units with den or office, and 12 three-bedroom units. The 2-year construction project has a total budget of $166.3 million.

The 504 units skew small, a characteristic that is consistent with transit-oriented developments elsewhere in the region. Given the average unit sizes, it is possible that the student generation rates will result in overstating the education expenditure impact of the project.

An additional 1.8 million square feet will be developed in subsequent stages of the project, including 1,654 to 1,855 additional residential units. The entire multi-phase project will include a total of 2.25 million square feet of development. It is worth noting that "Parcel 2" is a good proxy to use in estimating the relative impacts of subsequent phases of development because it does not involve unusual costs and because the mix of uses is similar to the overall mix at build-out.

Economic Impact of Construction:

I analyzed the economic impact of construction using the U.S. Bureau of Economic Analysis' RIMS-II (Regional Input-output Modeling System) data and standard/best practices in the field of regional economics. The input-output model is based on the national economic accounts, which document the relationships between industries (and commodities) in the economy, and is useful for quantifying the impact of an event, or "final demand change," such as a construction project.

In this case, the "final demand change" is the investment of $140.4 million over two years in the first phase of construction at Strathmore Square. While the total budget for Parcel 2 is $166.3 million, it is standard practice to exclude land acquisition costs, financing costs, and state/local taxes and fees from the final demand change. The final demand change must be assigned to an aggregate or detailed industry for which data is available. In this case the "final demand industry" is residential structure construction.

There are two ways that the impact can be measured. The first is using "Type I" multipliers, which measure the direct and indirect impacts of the initial investment, i.e. the impact of the construction investment on jobs, earnings, and value added in the residential structure construction industry, as well as on other industries that will be affected by the investment. "Type II" multipliers also include the impacts of additional "induced" spending by the households of workers in affected industries. For several years, the Council has had a policy of not using "Type II" multipliers in its evaluation of economic development projects, and consequently only "Type I" multipliers were used for this analysis.

The most appropriate geography for an economic impact analysis is one that reflects economic activity, i.e. the metropolitan statistical area. I also measured the impact on the State of Maryland. In my experience, County-level analyses are more subject to "leakage" and other challenges that can produce results that are less accurate or intuitive.

The following summary describes the impact of the project on the economy of the Washington, D.C. Metropolitan Statistical Area economy based on the RIMS-II model:

- Each $1.00 invested in the project generates an additional $0.26 of economic activity in the region, resulting in $36.5 million of "indirect" impact during the 2-year construction project.
- The three industries experiencing the largest indirect impact: (1) Retail Trade; (2) Professional, Scientific, and Technical Services; and (3) Durable Goods Manufacturing.
- Earnings by workers in the Construction Industry will be $56.9 million during the 2-year project. The impact on workers' earnings in other affected industries is $10.9 million.
- Total jobs (or job-years) during the project are 1,181, or 590 per year. This number includes 478 jobs per year in construction and 112 jobs per year in other industries.

The following summary describes the impact of the project on the economy of the State of Maryland based on the RIMS-II model:

- Each $1.00 invested in the project generates an additional $0.39 of economic activity in the State of Maryland, resulting in $55.2 million of "indirect" impact during the 2-year construction project.
- The three industries experiencing the most indirect impact: (1) Retail Trade; (2) Durable Goods Manufacturing; and (3) Professional, Scientific, and Technical Services.
- Earnings by workers in the Construction Industry will be $59.8 million during the 2-year project. The impact on workers' earnings in other affected industries is $15.2 million.
- Total jobs (or job-years) during the project are 1,244, or 622 per year. This number includes 471 jobs per year in construction and 151 jobs per year in other industries.

<u>Demographic Impact:</u>

At-place employment was estimated by using a multiplier of 400 square feet of gross floor area per employee for the retail space, which yields an impact of 27 new jobs.

To translate unit size mix into population, I used the American Housing Survey (2017) as a source for average number of people per household by bedrooms for renter-occupied units in complexes with 50 or more units. Applying these averages, I estimate the demographic impact at 641 "net new" residents.[1] Note that the best available data for three-bedroom units was the average for three-bedroom rental units of all structure types.

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[1] A footnote, but an important point: this is not an assumption that all residents of this building will be new to Montgomery County. However, as history has illustrated, new development in Montgomery County does not equal increased vacancy rates, but rather, new households. The region's housing market is constrained by supply, not by demand. Units that are vacated by County residents who move into the building will also be filled, as will the units vacated by those who fill them, etc. On average, units are filled by people who previously paid a comparable rent. Some people downsize due to a change in life circumstances or income, and others upgrade for the same reasons, and still others move for building amenities, proximity to a new job, or other reasons not related to income such as desire to be on metro. Put simply, the new units will house more households; and the additional households will have

- Efficiency: 1.00/unit
- One-bedroom: 1.33/unit
- Two-bedroom: 2.05/unit
- Three-bedroom: 2.90/unit

Empty units are not households, and it is typical in the Washington, D.C. region to assume a 5% vacancy rate. Therefore, the project will generate 479 households. Looking at the most recent years for which Statistics of Income have been published, it would be reasonable to assume 1.05 returns per household. Maryland's statistics do not include data about multi-return renter households, or multi-return households by income, and as such 1 return/household is assumed. [2]

For Montgomery College, it is assumed that there are 0.0468 students (full time equivalents) per household, based on the current number of full-time equivalent students. This rate yields 22 additional full-time equivalent students.

The current MCPS student generation rate is 0.084 per high rise unit for all grade levels. This student generation rate yields an impact of 42 additional students. Given the small unit sizes, this may overstate actual student generation rates meaning actual fiscal positive impacts for the County could be larger than projected.

Student Generation Rates for SW Montgomery County

Structure Type	Level	/ unit
Multi Family High Rise	ES	0.041
Multi Family High Rise	MS	0.018
Multi Family High Rise	HS	0.025
Total	*K-12*	*0.084*

Parcel 2: Demographic Impacts - Summary Table	
Market Rate Units	428
Moderately Priced Units	76
Total Units	*504*
Vacancy Rate	5%
Households	479
Income Tax Returns Per Household	1.00
Total Income Tax Returns	*479*
Resident Population	641
MCPS Enrollment	42
College Enrollment	22
Retail Employees	27

Source: Harpswell Strategies

incomes, and households with incomes will file income tax returns; and these net new households will have a rent-to-income ratio that is similar to current households.

[2] It is possible, therefore, that this analysis understates the income tax revenue assorted with the net new households.

Annual Expenditure Impact:

Based on my knowledge of Montgomery County government, annual operating budget impacts are most likely to occur in two areas: education (K-12 and Community College) and transportation. Operating budget impacts include the cost of educating 42 MCPS students and 22 Montgomery College students, as well as the cost of operating one Capital Bikeshare Station.

That the impacts are limited to education and transportation is confirmed by the County's 2017 Fiscal Impact Statement (FIS) for the Council's review of the draft plan.[3] After contacting each department or agency, the Office of Management and Budget identified only two affected budgets in its FIS: MCPS and Transportation. The FIS assumed no impact to Montgomery College, but to be conservative, I have included it in this analysis.

In the FIS, operating budget impacts are generally based on estimates provided by agencies and departments to OMB. In this instance, the cost listed for the K-12 impacts is based on MCPS' cost to educate each student, not based on the County's cost of contributing to MCPS' budget. Given that one-third of MCPS' per pupil operating cost is funded with formula-based State Aid, the FIS significantly overstates the impact on Montgomery County's budget.

The near-term transportation operating budget impact relates to the operation of the capital bikeshare station associated with the first phase. This was among three such costs identified in the FIS, though the other two relate to large, transit capacity projects that are not tied to the development of Parcel 2, the MD 355 and North Bethesda Transitway Bus Rapid Transit Lines.

Operating Budget Impacts	Unit	Count	Per Unit Local Cost	Expenditure Impact
K-12 Education	Students Generated	42	($10,510)	($444,966)
Community College	Students Generated	22	($7,981)	($178,846)
Transportation	Bikeshare Station Ops	3	($85,880)	($28,627)
	Subtotal Operating Costs			**($709,692)**

Source: Harpswell Strategies; Montgomery County Fiscal Impact Statement

The County capital projects that are uniquely associated with the build-out of the development are pedestrian and bicycle projects identified in the master plan.[4] In the FIS, the County identified pedestrian and bicycle infrastructure projects that cost an estimated $16.9 million. Of that total, $11 million are clearly both (a) related to the Master Plan, and (b) related in whole or in part to the Strathmore Square development. The one project that is not – the side path to be constructed along MD 355 – is a $5.9 million project.

None of those projects are in the County's Capital Improvement Program, and some may not be built until the Strathmore Square project's final phase. For example, under the approved sketch and preliminary plans, the bicycle lane on Tuckerman is required in the last phase of the

[3] The FIS is a list of all capital and operating expenditures associated with **full build-out** of a plan.
[4] The list of projects and associated costs are derived from the FIS and represent the *County's assumptions at the time*. Including those projects and costs here does not indicate agreement between the parties on the financial terms of any future cost sharing, but rather that the list represents a reasonable proxy for estimating future fiscal impacts.

project, rather than the first. Consequently, while it may be true that these projects represent costs that should be annualized for the purpose of a fiscal impact analysis, most of these projects will not be programmed or designed for many years, with construction and completion even more remote.[5]

A reasonable approach to the capital project impacts is to annualize the cost of the projects that would not happen in the absence of this development, and to do so in proportion to Parcel 2's share of the total density of Strathmore Square. Parcel 2 includes 18.6% of the development at Strathmore Square at full build-out, and therefore only 18.6% of the cost of the County's share of the bicycle lane is included here.[6]

For purposes of this analysis, I annualized those impacts by converting them to debt service payments on a 3%, level payment, 20-year note. These assumptions are based on the terms of the general obligation transportation bonds issued by the County in November 2019. That is not to say that each of these projects can or will be bond funded, but simply that it is not possible to estimate the annual fiscal impact without either annualizing capital costs, or analyzing the fiscal impacts over a multi-year period.

Master Plan Infrastructure	Estimated Cost	Allocated to Parcel 2	Annual Debt Service Cost
Bikeshare - 20% County Share of 3 Stations	$100,000	18.60%	($1,250)
Enhance Metro/Strathmore Mid-block Crossing	$100,000	18.60%	($1,250)
Tuckerman Lane Separate Bike Lane - 44% County Share	$8,200,000	18.60%	($102,517)
Intersection Crosswalks - 50% County share for crosswalks in plan area	$500,000	18.60%	($6,251)
Bethesda Trolley Trail and Rock Creek Trail - Create wayfinding signs	$100,000	18.60%	($1,250)
MD 355 - Construct ADA compliant bus stop access (Metro to Tuckerman)	$2,000,000	18.60%	($25,004)
Total Annualized Cost of CIP Impacts	**$11,000,000**		**($137,523)**
MD 355 - Construct a side path	$5,900,000	18.60%	($73,763)
Annualized Cost of CIP Impacts w/ Side Path	**$16,900,000**		**($211,286)**

Source: Harpswell Strategies; Montgomery County Fiscal Impact Statement

Total annualized costs are $847,215 (operating impacts of $709,692 plus capital impacts of $137,523). The total increases to $920,978 if the annualized cost of the MD 355 side path is included.

Annual Revenue Impact:

Income tax revenue, which is a function of the number of households and their incomes, will increase when "net new" households move to Montgomery County. Additional housing supply will

[5] Furthermore, projects and cost-shares may be modified by development approvals to the extent that those modifications are consistent with the Master Plan.
[6] Based on the two scenarios for Parcels 1 and 6, Parcel 2 represents 18.45% to 18.75% of the full build-out.

lead to net new households, whether they reside in these new units or backfill units that were vacated by County residents who move to these units. Residents who move into these units will be moving out of units that are – on average – at similar price points.

Rents by Unit Type

Unit Type		MPDU		Market Rate	
Beds	Den +	#	Rent/Unit	#	Rent/Unit
0	0	19	$1,200	148	$1,400
1	0	38	$1,285	211	$2,250
1	1	4	$1,365	16	$2,900
2	0	10	$1,545	37	$3,500
2	1	2	$1,625	7	$3,800
3	0	3	$1,785	9	$4,600
Total		*76*	*$1,331*	428	*$2,163*

Source: FiveSquares Development

The incomes of “net new” households are estimated by using rents. The American Community Survey (2017) indicates that for North Bethesda, the median is 28%. Consequently, 28% is assumed for all market rate units, with 30% assumed for all moderately priced units.

North Bethesda CDP		
Gross Rent as a Percentage of Household Income		
	Count	Percentage
Less than 15.0 percent	1,182	12.00%
15.0 to 19.9 percent	1,268	12.90%
20.0 to 24.9 percent	1,613	16.40%
25.0 to 29.9 percent	1,143	11.70%
30.0 to 34.9 percent	1,069	10.90%
35.0 percent or more	3,535	36.00%

Source: American Community Survey (2017)

After “backing into” household incomes from the rents, those incomes were used to place each household into an income cohort using Maryland’s Statistics of Income. Among the statistics available for each income cohort is the average local tax, net of credits, per return. Average local tax revenue per return was then inflated to from Tax Year 2016, the most recent year for which statistics are available, to Tax Year 2019 (FY20). Since local tax revenue per return is assumed to be the lesser of 3.2% (the maximum allowable under Maryland law) or the average local tax per return for that income cohort.

Operating Budget Impacts		Count	Revenue per Capita	Revenue
Income Tax Revenue	Market Rate Units	428	$2,439	$1,043,753
Income Tax Revenue	Moderately Priced Units	76	$1,400	$106,430
Admissions Tax	Resident Population	641	$3.59	$2,299
E-Cigarette Tax	Resident Population	641	$1.32	$846
Licenses & Permits	Resident Population	641	$8.48	$5,434
Charges for Services	Resident Population	641	$9.45	$6,060
Fines & Forfeitures	Resident Population	641	$30.35	$19,452
Miscellaneous	Resident Population	641	$10	$6,313
Intergovernmental	Resident Population	641	$62	$39,944
Investment Income	Resident Population	641	$1.44	$920
Energy Tax	Resident Population + At-Place Employment	668	$121.86	$81,404
Hotel/Motel Tax	Resident Population + At-Place Employment	668	$13.87	$9,262
Telephone Tax	Resident Population + At-Place Employment	668	$34.50	$23,047
Licenses & Permits	Resident Population + At-Place Employment	668	$2.26	$1,509
Parking Fines	Resident Population + At-Place Employment	668	$1.48	$986
Conference Center	Resident Population + At-Place Employment	668	$1.42	$949
	Total Operating Revenue			**$1,348,608**

Source: Harpswell Strategies

Impact Taxes and Capacity Costs:

Impact taxes are a mechanism through which the County recovers the cost to the system/network that each development project should bear. The system is complex, and its very complexity reflects the fact that so many separate policy decisions were made in the design of the system.[7]

Given that complexity, my approach to capacity issues is legislative deference. That is to say, there is no reason to doubt that the system established reflects the Council's most recent determination of the share of network capacity impacts that the development project should bear, based on a variety of factors considered by the Council (land use, location, affordability, etc.).

As the table below illustrates, the total cost of impact tax payments for Parcel 2 is $4.26 million, which offsets the developer share of capacity-adding projects. At build-out, total impact tax costs for the Strathmore Square project will be $19.3 million to $20.4 million.

[7]This is particularly the case when it comes to transportation capacity, the developer cost of which can be affected by legislative decisions on impact tax rates, waivers, and exemptions; the subdivision process and adequate public facilities ordinances; master plan recommendations and zoning "bonus density" requirements/options; etc. By comparison, the school capacity regime is straightforward.

Capital Budget – Expenditure Impacts		Count	Rate	
School Capacity	Market Rate Units	428	($6,113)	($2,616,364)
Transportation Capacity	Market Rate Units	428	($3,561)	($1,524,108)
Transportation Capacity	Non-residential Sq. Ft.	18,973	($6.35)	($120,479)
			Total	**($4,260,951)**
Capital Budget Revenue Impacts		Count	Rate	
School Impact Tax Revenue	Market Rate Units	428	$6,113	$2,616,364
Transportation Impact Tax Revenue	Market Rate Units	428	$3,561	$1,524,108
Transportation Impact Tax Revenue	Non-residential Sq. Ft.	18,973	$6.35	$120,479
			Total	**$4,260,951**

Source: Harpswell Strategies

The 2017 Fiscal Impact Statement identifies all planned capital projects in the plan area ($57.4 million), and all developer contributions/projects that are referenced in the master plan ($26.7 million). Many of the projects identified in the FIS meet a countywide need which does not arise as a result of this development. but rather are included in the County's Fiscal Impact Statement because the FIS reports simply include the estimated cost of all infrastructure inside the plan boundary that is identified in the plan itself.

In this case the developer has substantial infrastructure obligations that are not a part of the Fiscal Impact Statement, and which will ultimately provide some public benefit. Other WMATA and/or developer-funded infrastructure includes the WMATA garage expansion ($22.3 million) that is currently under construction, the 1.2-acre civic green/park ($6.5 million) that is in the design phase, an additional $5.4 million of site infrastructure on Parcel 2 (Phase 1) and more than $17 million in additional site infrastructure in subsequent phases. Those expenditures will provide a public benefit even if there is no County savings that result from the private expenditures.

Conclusion:

The economic impacts of construction alone are significant: approximately 600 additional jobs for each of the two years of construction, nearly $60 million in earnings for workers in the construction industry, approximately $10 million in earnings for workers in other affected industries, and significant indirect impacts on other industries, including retail trade, professional/scientific/technical services, and durable goods manufacturing.

Furthermore, the fiscal impacts of the new development are positive when compared to the baseline/status quo, even without any property tax revenue, with $1.348 million in revenue impact compared to $847,000 in annual expenditure impact (a ratio of 1.6 to 1). Finally, as noted elsewhere in the report, other factors could affect either revenue or expenditure levels but without changing this conclusion. For example, if one were to include the annualized cost of the MD355 side path then expenditures would increase and would reduce the fiscal margin. Examples of factors that could lead to a wider fiscal margin (larger ratio of revenue to expenditure) include: using the actual ratio of income tax returns to households in Montgomery County (approximately

1.05 to 1) would increase income tax revenue; using a lower student generation rate to reflect the unit sizes planned for this development would likely decrease the MCPS expenditure impact; assuming, as the County did, that there is no fiscal impact on Montgomery College would reduce expenditure impacts; including the fiscal impacts of construction would increase State sales tax revenue and have some small positive effect on County revenues; etc.

I look forward to answering any of your questions regarding this analysis during the September worksession.

Regards,

Jacob Sesker, Principal
Harpswell Strategies
202-590-1478

Attachments:

2017 Fiscal Impact Statement

Statistics of Income

County Capital and Operating Cost Estimates Assumed to be Incurred as a Result of the Grosvenor-Strathmore Metro Area Minor Master Plan
10/24/2017

Capital Improvement Projects

Department		Page	Description	Item Cost ($)	Total Cost ($)
Transportation	Mass Transit	16	MD 355 Bus Rapid Transit (BRT) line. Costs apply to section of BRT within the Plan area only. (See Note #6).	$ 25,700,000	$ 49,600,000
		16	North Bethesda Transitway Grosvenor-Strathmore Option Bus Rapid Transit (BRT) line. Costs apply to section of BRT within the Plan area only.	$ 7,000,000	
		51	Bikeshare - 20% County share for 3 station installation at the Metro site, initial bikes, and one set of replacement bikes (See Note #4).	$ 100,000	
	Pedestrian / Bike/ Intersections	50	Intersection crosswalks - 50% County share for crosswalks in the plan area (See Note #4).	$ 500,000	
		50	MD 355 - Construct a side path. Costs do not include existing Strathmore frontage path.	$ 5,900,000	
		50	Tuckerman Lane - 44% County share to construct a separate bike lane (See Note #4).	$ 8,200,000	
		50	Enhance a Metro / Strathmore midblock crossing.	$ 100,000	
		50	Bethesda Trolley Trail and Rock Creek Trail - Create trail wayfinding signs.	$ 100,000	
		50	MD 355 - Construct Americans with Disability Act (ADA) bus stop access between Tuckerman Lane and the Metro tunnel (includes escalator/stairs, elevator, canopy, bus pull-off, and covered bike parking).	$ 2,000,000	
Public Schools	School Construction	75	Elementary: 99 students x $37,192 per student (See Note #9).	$ 3,682,008	$ 7,789,983
		75	Middle: 41 students x $39,600 per student (See Note #9).	$ 1,623,600	
		75	High: 53 students x $46,875 per student (See Note #9).	$ 2,484,375	
			Subtotal Capital Improvement Projects:		**$ 57,389,983**

Operating Budget Impacts

Department		Page	Description	One-time ($)	On Going ($)	Total Cost ($)
Transportation	Annual Operating	75	3 Capital Bikeshare stations	$ -	$ 85,880	$ 2,035,880
		75	MD 355 Bus Rapid Transit (BRT)	$ -	$ 1,600,000	
		75	North Bethesda Transitway Bus Rapid Transit (BRT)	$ -	$ 350,000	
Public Schools	Annual Operating	75	Elementary: 99 students x 15,144 per student (See Note #8).	$ -	$ 1,499,256	$ 2,867,426
		75	Middle: 41 students x $14,555 per student (See Note #8).	$ -	$ 596,755	
		75	High: 53 students x $14,555 per student (See Note #8).	$ -	$ 771,415	
			Subtotal One-time costs:			**$ -**
			Subtotal Ongoing costs:			**$ 4,903,306**
			Subtotal Operating Budget Impacts:			**$ 4,903,306**

Notes and Assumptions:

1) The following departments reported no fiscal impacts associated with this plan: Recreation, Environmental Protection, and Regional Service Centers.

2) Operating costs are representative of annual costs at full build-out of the plan.

3) Housing fiscal impacts may include costs to preserve affordable housing through rental assistance. Costs will be dependent on the level of need.

4) Transportation fiscal impacts do not include currently programmed or funded County CIP projects, State Highway Administration (SHA) projects that are funded or identified in this plan, and developer contributions/projects that are either wholly assumed or identified in the Plan area. CIP projects include: P501318 Bus Rapid Transit (BRT) for MD 355 Design Costs and P501532 Bicycle-Pedestrian Priority Area Improvements for BIPPA Improvements in Grosvenor and Silver Spring. Developer contributions/projects include: 80% of bikeshare capital costs ($200,000); MD 355/MD 547 intersection changes ($4,000,000); 50% share of intersection crosswalks ($500,000); a street through WMATA property ($11,100,000); 56% share of separate bike lanes on Tuckerman Lane ($10,400,000); a Metro/Tuckerman Lane stairway ($300,000); and lighting, public art, and signage enhancements to the Metro tunnel under MD 355 ($200,000).

5) Transportation fiscal impacts do not include projects identified in the Plan but located outside of the Plan area including: a shared roadway and side path on Grosvenor Lane ($4,900,000), Americans with Disabilities Act (ADA) access with sidewalks at the intersection of MD 355/Grosvenor Lane/Beach Drive ($100,000), the study of eastbound movements from Grosvenor Lane on to Beach Drive ($100,000), MD 355 sidewalks between Grosvenor Lane and Pooks Hill Road ($2,300,000), and the study of Rock Creek Trail connections ($100,000).

6) Montgomery County assumes a cost sharing agreement with the State will be developed for BRT on State roads. A cost sharing agreement will reduce the total capital cost identified above for MD 355 BRT ($25,700,000).

7) Transportation fiscal impacts were calculated prior to the Maryland-National Capital Park and Planning Commission (M-NCPPC) TPAR status. Additional expenses may result if the plan does not pass the areawide transportation adequacy test.

8) School operating budget fiscal impacts are based on: (1) the addition of 1,397 multi-family high-rise units, (2) the Countywide student generation rates identified in the 2016 Subdivision Staging Policy (See SSP FAQ), and (3) the per-pupil operating costs identified in the FY18 Approved MCPS operating budget.

9) School construction costs are based on the Countywide student generation rates and construction costs identified in the 2016 Subdivision Staging policy (See SSP FAQ). Alternative options, including additions to existing schools and reopening former schools, are not included in this analysis. School construction requires approval by the Board of Education.

MCB

8

Agenda Item 8C
October 6, 2020
Action
ADDENDUM 2

M E M O R A N D U M

October 6, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA property - Established

PURPOSE: Action – Council vote required

We received the attached memorandum from the County Executive regarding Bill 29-20 scheduled for Action this afternoon.

This packet contains:	Circle #
County Executive Memorandum	1

F:\LAW\BILLS\2029 Taxation - PILOT - WMATA Property\Bill 29-20 Addendum 2 For Action 10-6-2020.Docx

Marc Elrich
County Executive

OFFICE OF THE COUNTY EXECUTIVE

M E M O R A N D U M

October 5, 2020

TO: Sidney A. Katz, President, County Council

FROM: Marc Elrich, County Executive

SUBJECT: Bill 29-20, Taxation – Payments in Lieu of Taxes – WMATA Property – Established

I am writing to express my concerns about Bill 29-20, which uses public dollars to support developers who, in return, will have to meet only standard requirements for affordable housing at 65-70% of Area Median Income (AMI) (providing no deeply affordable units) while offering weak protection of workers.

At a time when we're struggling to fund county services, where the outlook for the next couple of years is uncertain at best, and where full recovery from this pandemic may take as much as ten years, it is certainly not prudent to reduce revenues coming into the county coffers. Moreover, if estimates – from at least one Councilmember -- are correct that this bill could accommodate 8000 units, that means we would subsidize about 1200 moderately priced units (MPDUs) that are required for any comparable project while other projects with many more affordable housing units will struggle to find the resources and subsidies. With this bill, we are getting no more affordable units than we would otherwise have had.

There's no evidence that 8,000 units won't be built without this bill whether on WMATA-owned land or nearby. Furthermore, a focus on high rise ignores the fact that by its very nature, high rise development is the most expensive that can be built. Advocates want to maximize use of land but if density is used to build high rises, it will be unaffordable to most of the people identified as needing housing. Seventy-five percent of projected need is affordable housing - why would the focus be on subsidizing market rate housing? Zoning in central business districts for high rises far exceeds the zoning for types of housing that are generally affordable and more family friendly – including garden style and mid-rise apartments. The studies that show a need for 40,000 units do not show a generic need for additional units; they show a need for units at specific price points below market rate. We would be better off dedicating a portion of the tax revenue to building affordable housing rather than forgoing tax revenues.

Also, by providing substantial subsidies to developers to stimulate the creation of high-rise, market-rate housing and commercial development on all Metro properties, the Bill, even as amended, will set a bad precedent by shifting costs of new development from developers to County taxpayers. **In addition, a bill that gives a blanket payment in lieu of taxes (PILOT) to all WMATA properties at Metro sites would likely have the unintended consequence of raising the price of the land, thereby negating the intended effect to reduce costs.** Under Federal law, WMATA must seek the highest and best price for their land. Land that is exempted from all property taxes for 15 years is more valuable, which would, in turn, likely raise the parcel's appraised value.

In December 2017, as a member of the County Council, I voted in favor of the Grosvenor-Strathmore Metro Area Minor Master Plan which allows for the Strathmore Station development, planned for the Grosvenor WMATA property, to proceed. The approved Minor Master Plan up-zoned portions of the Plan Area to allow for greater density, particularly on the Metro site. The additional density was approved as an incentive for developers on this particular Metro property, and the value from the appraisal was based on the increased density. WMATA did not do the appraisal until after the rezoning. Appraisers take into account the cost of doing the development, the construction costs, the amenities and the market value of the units to be produced. When agreeing to build on the WMATA land, the developer, FiveSquare, accepted the appraisal and agreed to pay the price as set by that appraisal. If Fivesquare had a problem with the price and appraisal, they had an opportunity to reject the appraisal and the deal. At no point during the Council's consideration of the Minor Master Plan was there any indication that additional public subsidies would be required to get a high-rise project "shovel ready," let alone a 15-year abatement of all property taxes.

The current Bill, as amended, provides an open-ended entitlement to developers on <u>all</u> Metro properties within the County. Without clearly understanding the potential impacts of this Bill at multiple Metro locations – committee discussions have indicated that even deeper subsidies may be needed at some Metro locations - you would be setting a precedent of subsidizing market-rate housing with no additional benefits, such as deeply affordable housing or wage rate guarantees for construction workers. Moreover, this legislation would create ongoing pressure for additional subsidies of market-rate high-rise development at other locations around the County. A better way to proceed would be to evaluate each individual Metro property on a case-by-case basis. This has been the practice in the past, and it makes sense.

Traditional PILOTs are exemptions from the real property tax to support affordable housing, not market-rate housing or commercial uses. A PILOT for commercial development is uncharted territory for Montgomery County. Based on the proposals from FiveSquares Development and WMATA, at full buildout, only the minimum requirement of 15% MPDUs will be included for a total of approximately 330 MPDUs. Under this Bill, the exemption of approximately $88.4 million in property taxes over 15 years equates to a public subsidy of $267,879 per affordable unit.

This bill incentivizes overpayment for property on the assumption that the county will come in and rescue the project. It is counterfactual to the nature of an appraisal to say that WMATA property is simply too high; land value is determined by the use value. If a person can't build a successful project based on the appraiser's assessment of the project's potential revenues, then it's not a valid appraisal. Furthermore, Montgomery County has the lowest commercial property tax in the region (multi-family rental units are considered commercial).

Finally, the Bill as amended, does not provide adequate protections for the workers who will ultimately construct developments on Metro properties. This is not just a workers' rights issue; it is an economic justice issue. Absent a prevailing wage requirement, contractors and subcontractors will compress wages in their bids to win contracts to construct privately owned high-rises on publicly owned property with taxpayer subsidies. This will disproportionately affect construction laborers who, in our region, are overwhelmingly people of color.

A prevailing wage requirement must be included as requested by a large and diverse coalition of labor unions and civic organizations, led by the Baltimore-Washington Laborers' District Council, an affiliate of LiUNA. This coalition includes: United Association (UA), United Brotherhood of Carpenters, International Brotherhood of Electrical Workers (IBEW), CASA, Jews United for Justice, Progressive Maryland, Montgomery County Education Association (MCEA), SEIU 32BJ, SEIU Local 500, SEIU Local 1199, UFCW MCGEO Local 1994, and UNITE HERE Local 25.

An alternative way to proceed could be for the County to collect the full property taxes owed on the development and use those proceeds to pay down the WMATA ground lease, or a portion of it, on behalf of the developer. However, there are still unknowns, including the amount of the ground lease that was agreed upon between WMATA and the developer at the Grosvenor Metro site. A closed session could be proposed to discuss this alternative with all stakeholders and allow County staff access to the information necessary to analyze the alternative. That would allow all parties to assess the feasibility of this proposed alternative as to whether it is economically viable and is in the best interest of County taxpayers.

The full Council should not rush this Bill into law without carefully considering its full impact. The County should consider projects at each Metro station individually, on a case-by-case basis, because every project will be different and economic conditions change over time. Should the Bill be passed, the Council should periodically review whether it achieves its intent of spurring development and having developers move more quickly on their projects; this can be done through adding a sunset provision. The Council should affirm its commitment to economic justice by requiring contractors and subcontractors to pay laborers a family-supporting wage while working on projects so heavily subsidized with public dollars. With our County facing an uncertain fiscal future, we need to be sure to thoroughly evaluate every alternative before making such a long-term commitment. This is not the best use of our public dollars.