

Transportation Impact Tax Material

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MEMORANDUM

TO: County Council

FROM: ^{GO} Glenn Orlin, Deputy Council Staff Director
^{MF} Michael Faden, Senior Legislative Attorney

SUBJECT: Action: Resolution to amend development impact tax rates

Management and Fiscal Policy Committee recommendation (2-0-1, Councilmember Denis abstaining): adopt as introduced.

The attached resolution, introduced on April 8, 2003, by Councilmember Praisner, would amend the impact tax rates to raise more funds for transportation projects. The proposed rates would be identical in each impact tax district (Clarksburg, Eastern Montgomery, Germantown, and 'County') by land use category. In many cases, the rates would be set to the levels now assessed in the Clarksburg Impact Tax District.

At the hearing on this resolution and other tax measures, held on April 28, developer representatives opposed the resolution and argued that any further action on impact tax rates should be postponed until the Council considers the Annual Growth Policy this fall. Some speakers noted that the Countywide impact tax was adopted only a year ago and the Director of Finance will adjust all impact tax rates effective July 1 to account for inflation over the past 2 years. Other speakers endorsed the resolution because much more transportation funding is needed.

Fiscal impact. OMB and Department of Finance staff developed revenue estimates for the proposed rates for each of the next several years. (For current revenue see the Executive's report on ©4-8.) The fiscal impact statement estimates that in FY04 the current rates (with no change) would generate \$9.24 million, and the proposed rates would add \$4.44 million more for a total of about \$13.7 million. In FY04 rates are already scheduled to increase because of the biennial inflation adjustment (about 5%). In FY04, the rates would continue to be phased in under the current law, with 75% of the full rate applied to permits issued between July and December, 2003, and full rates becoming applicable on January 1, 2004. The fiscal impact statement also reports that in FY 05 the current rates with no change would generate \$9.63 million, and the proposed rates would add \$4.7 million more for a total of about \$14.3 million.

Council staff recommends two adjustments to these estimates. First, the new revenue estimates for the current rates are higher than those estimated last year. There has been no real experience on which to create a different estimate. The first 10 months of FY03 have generated

only about \$1.34 million in net revenue, a lower-than-average year even though the tax now applies countywide. In fact, Council staff believes last year's estimates should be lowered by \$1 million per year. The low revenue results not just from the economy, but also because the countywide tax was phased in (at 25% of the full rate between July and December, 2002 and 50% between January and June, 2003) and building permits issued in FY03 were exempted from the tax if they are located in subdivisions approved before July 1, 2002.

The second adjustment involves lost revenue due to credits, which the OMB fiscal impact statement pegs to the raise in the rates. The statement assumes that 40% of the gross revenue is not collected because of credits. While this may be a valid current estimate, it is not an accurate assumption to carry forward if the rates are increased, as the following example shows:

If a developer's impact tax adds up to \$1 million, but it has built (or is obligated to build) an off-site road to meet its adequate public facilities requirement which happens to cost \$800,000, then it will receive a dollar-for-dollar credit for the road and pay only \$200,000 in impact taxes. If impact tax rates double, then the developer's impact tax would add up to \$2 million, but the credit would still be \$800,000. Therefore, instead of paying \$200,000 in impact taxes, it would pay \$1.2 million. *As rates increase, therefore, nearly all the increase in gross revenue will be captured.* The only time it will not be captured is if the developer has an 'excess credit': that is, the road it is building costs more than the impact tax it owes, even after the tax rates increase.

Council staff's recommended adjustments to the fiscal impact statement's revenue estimates -- using the lower estimate for the current rates developed last year and a smaller estimate of credits taken against the tax -- result in the following estimates for the current and proposed rates:

Year	Current Rates	Proposed Rates	Change
FY 04	\$6,000,000	\$13,100,000	\$7,100,000
FY 05	\$7,000,000	\$14,400,000	\$7,400,000
FY 06	\$7,400,000	\$15,500,000	\$8,100,000
FY 07	\$8,000,000	\$16,500,000	\$8,500,000
FY 08	\$8,000,000	\$17,200,000	\$9,200,000
FYs 04-08	\$36,400,000	\$76,700,000	\$40,300,000

Because these adjustments somewhat offset each other -- our estimates of revenue from the current rates are lower, but our estimates of increased revenue from the proposed rates are higher -- our *total* estimates for FYs 04 and 05 are not very different that the \$13.7 million and \$14.3 million estimates included in the fiscal impact statement. Therefore, for different reasons, Council staff and OMB/Finance staff generally concur on these estimates.

Use of funds. In the early years of the CIP revenue from the proposed rates could be used to fund most of the studies proposed in Facility Planning - Transportation. Only those studies that would lead to non-impact tax-type projects would be ineligible. The balance of the funds could be used to supplant much of the Go Montgomery! PAYGO the Executive had recommended, but which has not materialized, thus allowing projects like Nebel Street Extended and Stringtown Road Extended to continue unimpeded towards implementation. The projected

revenue in FYs 07-08 would be placed in reserve for programming for new projects coming out of facility planning. These projects could also proceed, of course, if there were a new multi-year commitment of funds from any alternative revenue source.

Issues

1) **Rates** As noted above, the proposed rates would be uniform throughout the County and generally are keyed to the rates now in effect in Clarksburg, the impact tax district where the most development is expected to occur. The rate for a single-family house would substantially increase in all areas. The townhouse and apartment rates would increase, but not as much, in all areas but Clarksburg. The office rates, dramatically reduced several years ago, would increase by 67% in the County district and 25% in the other districts. The industrial rates, likewise reduced, would increase 25% in all districts. The retail and other non-residential rates would be equalized at much lower levels than those currently charged in Clarksburg. The equalized retail rates would increase by 233% in the County district and reduce by 38% in Clarksburg and 31% in Germantown. As the materials in the packet for Bill 9-03 show, in staff's opinion, the proposed rates would be well within the range of applicable rates in other Maryland jurisdictions. **Committee recommendation:** approve the proposed rates.

2) **Grandfathering** The issue of grandfathering any rate increase is discussed in the packet for Bill 9-03, the proposed school impact tax. However, Council staff notes a critical distinction between the two taxes: while the school impact tax was first formally proposed when Bill 9-03 was introduced last month, the transportation impact tax has been levied since 1986 and the Council expressly reserved the ability to increase or decrease the tax rates by resolution when it applied the tax Countywide last year. Thus, from at least March 12, 2002, when the Council enacted Bill 47-01, every developer has been on notice that these rates could change at any time. As Councilmembers may remember from past discussions, the original 1986 fee/tax was not grandfathered beyond the normal 91-day effective date. **Committee recommendation:** apply the proposed rates to any application for a building permit filed on or after June 1, as the introduced resolution provides (see ©3, par. 2). Under the current phase-in schedule, the full rates would not be payable until next January 1 (see ©3, par.3).

Resolution No. _____
Introduced: April 8, 2003
Adopted: _____

**COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND**

By: Councilmember Praisner

SUBJECT: Impact Tax - Rates

Background

1. County Code §52-57(d) authorizes the County Council, by resolution, after a public hearing advertised at least 15 days in advance, to increase or decrease the impact tax rates set in §52-57(a).
2. The Council finds that it is necessary to increase the rates of the impact tax to more adequately fund urgent transportation infrastructure priorities.
3. A public hearing was held on this resolution on (date).

Action

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

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

Tax per Dwelling Unit or per Square Foot of Gross Floor Area (GFA)				
Land Use Type	Germantown	Eastern Montgomery County	Clarksburg	County District
Single-family detached residential (per dwelling unit)	[\$2,492] <u>\$3300</u>	[\$1,727] <u>\$3300</u>	[\$2,753] <u>\$3300</u>	[\$2,100] <u>\$3300</u>

Single-family attached residential (per dwelling unit)	[\$2,492] <u>\$2753</u>	[\$1,727] <u>\$2753</u>	\$2,753	[\$2,100] <u>\$2753</u>
Multifamily residential (per dwelling unit)	[\$1,794] <u>\$1981</u>	[\$1,243] <u>\$1981</u>	\$1,981	[\$1,100] <u>\$1981</u>
Multifamily-senior residential (per dwelling unit)	[\$531] <u>\$573</u>	[\$368] <u>\$573</u>	\$573	[\$325] <u>\$573</u>
Office (per sq. ft. GFA)	[\$2] <u>\$2.50</u>	[\$2] <u>\$2.50</u>	[\$2] <u>\$2.50</u>	[\$1.50] <u>\$2.50</u>
Industrial (per sq. ft. GFA)	[\$1] <u>\$1.25</u>	[\$1] <u>\$1.25</u>	[\$1] <u>\$1.25</u>	[\$1] <u>\$1.25</u>
Bioscience facilities (per sq. ft. GFA)	\$0	\$0	\$0	\$0
Retail (per sq. ft. GFA)	[\$5.08] <u>\$3.50</u>	[\$3.52] <u>\$3.50</u>	[\$5.61] <u>\$3.50</u>	[\$1.50] <u>\$3.50</u>
Places of worship (per sq. ft. GFA)	[\$0.29] <u>\$0.32</u>	[\$0.20] <u>\$0.32</u>	\$0.32	[\$0.20] <u>\$0.32</u>
Private elementary and secondary schools (per sq. ft. GFA)	[\$0.48] <u>\$0.53</u>	[\$0.33] <u>\$0.53</u>	\$0.53	[\$0.30] <u>\$0.53</u>
Hospitals (per sq. ft. GFA)	\$0	\$0	\$0	\$0
Other nonresidential (per sq. ft. GFA)	[\$5.62] <u>\$2.50</u>	[\$3.89] <u>\$2.50</u>	[\$6.20] <u>\$2.50</u>	[\$1] <u>\$2.50</u>

Resolution No.: _____

2. This Resolution takes effect on June 1, 2003, and the rates set herein apply to any building for which an application for a building permit is filed on or after that date. Subsections (b) and (c) of County Code §52-57 will apply to the rates set in this resolution as if the rates were set under subsection (a) of that section.
3. As provided in 2002 Laws of Montgomery County, Chapter 4, §2(b), each taxpayer in the County District may pay the development impact tax at 50% of the rates set in this resolution for any building permit application filed between June 1 and June 30, 2003, and 75% of the rates set in this resolution for any building permit application filed between July 1 and December 31, 2003.

This is a correct copy of Council action.

Mary A. Edgar, CMC, Clerk of the Council

Date

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OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Douglas M. Duncan
County Executive

MEMORANDUM

March 24, 2003

001789

TO: Michael L. Subin, President
County Council

FROM: Douglas M. Duncan, County Executive

SUBJECT: Revenue Collected From Development Impact Tax
Calendar Year 2002 Annual Report

The following is the Development Impact Tax revenue report as required by Section 52-52 of the County Code.

I. A summary of the revenue collected from the tax in the previous calendar year in each impact tax district;

A.	Germantown	\$1,013,578.50
B.	Eastern Montgomery County	\$ 422,124.50
C.	Clarksburg	\$ 492,001.00
D.	County District	\$ 126,630.16

II. A list of each building exempted from the tax during the previous calendar year under Section 52-49(g) or taxed at a rate of \$0 under Section 52-57, and the tax that otherwise would have been paid for that building; (See Attached List)

III. Other Information - A summary of revenue collected from the tax in the previous calendar year in the City of Rockville and Gaithersburg

A.	City of Rockville	\$ 49,206.00
B.	City of Gaithersburg	\$ 5,735.50

DMD:tm

Attachments

cc: Sidney A. Katz, Mayor of Gaithersburg
Larry Giammo, Mayor of Rockville
Robert Hubbard, DPS
Tim Firestine, FIN
Albert Genetti, DPWT

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Revenue Collected From Development Impact Tax

Calendar Year 2002

Annual Report

List of Buildings Exempted Under Section 52-49(g)

Impact Tax, Eastern Montgomery County	
Address	Tax That Otherwise Would Have Been Paid
1081 Good Hope Dr., Silver Spring	\$8,417.96
900 Ellsworth Dr., Silver Spring	\$84,658.00
Eastern Montgomery County Total	\$93,075.96

Impact Tax, Germantown	
Address	Tax That Otherwise Would Have Been Paid
13751 Harvest Glen Way, Germantown	\$1,794.00
13749 Harvest Glen Way, Germantown	\$1,794.00
13747 Harvest Glen Way, Germantown	\$1,794.00
13745 Harvest Glen Way, Germantown	\$1,794.00
13757 Harvest Glen Way, Germantown	\$1,794.00
13755 Harvest Glen Way, Germantown	\$1,794.00
13753 Harvest Glen Way, Germantown	\$1,794.00
12972 Pinnacle Dr., Germantown	\$1,794.00
12974 Pinnacle Dr., Germantown	\$1,794.00
12976 Pinnacle Dr., Germantown	\$1,794.00
12978 Pinnacle Dr., Germantown	\$1,794.00
12980 Pinnacle Dr., Germantown	\$1,794.00
12982 Pinnacle Dr., Germantown	\$1,794.00
12984 Pinnacle Dr., Germantown	\$1,794.00
12986 Pinnacle Dr., Germantown	\$1,794.00
12988 Pinnacle Dr., Germantown	\$1,794.00
12990 Pinnacle Dr., Germantown	\$1,794.00
12992 Pinnacle Dr., Germantown	\$1,794.00
12994 Pinnacle Dr., Germantown	\$1,794.00
12981 Middlebrook Rd., Germantown	\$1,794.00
12981 Middlebrook Rd., Germantown	\$1,794.00
12981 Middlebrook Rd., Germantown	\$1,794.00

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Revenue Collected From Development Impact Tax

Calendar Year 2002

Annual Report

List of Buildings Exempted Under Section 52-49(g)

12981 Middlebrook Rd., Germantown	\$1,794.00
12983 Middlebrook Rd., Germantown	\$1,794.00
12983 Middlebrook Rd., Germantown	\$1,794.00
12983 Middlebrook Rd., Germantown	\$1,794.00
12983 Middlebrook Rd., Germantown	\$1,794.00
12985 Middlebrook Rd., Germantown	\$1,794.00
12985 Middlebrook Rd., Germantown	\$1,794.00
12985 Middlebrook Rd., Germantown	\$1,794.00
12985 Middlebrook Rd., Germantown	\$1,794.00
12987 Middlebrook Rd., Germantown	\$1,794.00
12987 Middlebrook Rd., Germantown	\$1,794.00
12987 Middlebrook Rd., Germantown	\$1,794.00
12987 Middlebrook Rd., Germantown	\$1,794.00
13960 Lullaby Rd., Germantown	\$1,794.00
13962 Lullaby Rd., Germantown	\$1,794.00
13964 Lullaby Rd., Germantown	\$1,794.00
13966 Lullaby Rd., Germantown	\$1,794.00
13968 Lullaby Rd., Germantown	\$1,794.00
13970 Lullaby Rd., Germantown	\$1,794.00
13972 Lullaby Rd., Germantown	\$1,794.00
13974 Lullaby Rd., Germantown	\$1,794.00
13976 Lullaby Rd., Germantown	\$1,794.00
13978 Lullaby Rd., Germantown	\$1,794.00
19431 Rayfield Dr., Germantown	\$1,794.00
19433 Rayfield Dr., Germantown	\$1,794.00
19435 Rayfield Dr., Germantown	\$1,794.00
19437 Rayfield Dr., Germantown	\$1,794.00
19439 Rayfield Dr., Germantown	\$1,794.00
19441 Rayfield Dr., Germantown	\$1,794.00
13 Rockingham Ct., Germantown	\$2,492.00
15 Rockingham Ct., Germantown	\$2,492.00
17 Rockingham Ct., Germantown	\$2,492.00
19 Rockingham Ct., Germantown	\$2,492.00
21 Rockingham Ct., Germantown	\$2,492.00
23 Rockingham Ct., Germantown	\$2,492.00
25 Rockingham Ct., Germantown	\$2,492.00

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Revenue Collected From Development Impact Tax

Calendar Year 2002

Annual Report

List of Buildings Exempted Under Section 52-49(g)

18014 Chatterly Ter., Germantown	\$2,492.00
18012 Chatterly Ter., Germantown	\$2,492.00
18010 Chatterly Ter., Germantown	\$2,492.00
18008 Chatterly Ter., Germantown	\$2,492.00
18006 Chatterly Ter., Germantown	\$2,492.00
18004 Chatterly Ter., Germantown	\$2,492.00
18002 Chatterly Ter., Germantown	\$2,492.00
18000 Chatterly Ter., Germantown	\$2,492.00
17914 Chatterly Ter., Germantown	\$2,492.00
17912 Chatterly Ter., Germantown	\$2,492.00
17910 Chatterly Ter., Germantown	\$2,492.00
17908 Chatterly Ter., Germantown	\$2,492.00
17906 Chatterly Ter., Germantown	\$2,492.00
17904 Chatterly Ter., Germantown	\$2,492.00
17902 Chatterly Ter., Germantown	\$2,492.00
17900 Chatterly Ter., Germantown	\$2,492.00
Germantown Total	\$148,810.00

Impact Tax, Clarksburg

Address	Tax That Otherwise Would Have Been Paid
12610 Piedmont Trail Rd., Clarksburg	\$2,753.00
12608 Piedmont Trail Rd., Clarksburg	\$2,753.00
12606 Piedmont Trail Rd., Clarksburg	\$2,753.00
12628 Piedmont Trail Rd., Clarksburg	\$2,753.00
12630 Piedmont Trail Rd., Clarksburg	\$2,753.00
12632 Piedmont Trail Rd., Clarksburg	\$2,753.00
12662 Piedmont Trail Rd., Clarksburg	\$2,753.00
12664 Piedmont Trail Rd., Clarksburg	\$2,753.00
12666 Piedmont Trail Rd., Clarksburg	\$2,753.00
12706 Piedmont Trail Rd., Clarksburg	\$2,753.00
12708 Piedmont Trail Rd., Clarksburg	\$2,753.00
12710 Piedmont Trail Rd., Clarksburg	\$2,753.00

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Revenue Collected From Development Impact Tax

Calendar Year 2002

Annual Report

List of Buildings Exempted Under Section 52-49(g)

23707 Clarkmeade Rd., Clarksburg	\$2,753.00
23709 Clarkmeade Rd., Clarksburg	\$2,753.00
23711 Clarkmeade Rd., Clarksburg	\$2,753.00
Clarksburg Total	\$41,295.00

Impact Tax, County District	
Address	Tax That Otherwise Would Have Been Paid
None	None

Total Impact Taxes Waived	\$283,180.96
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List of Buildings taxed at a rate of \$0 under Section 52-57	
Address	Tax That Otherwise Would Have Been Paid
NONE	NONE

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