October 25, 2020
Re: Subdivision Staging Policy/County Growth Policy

Dear Council President Katz and County Councilmembers:

Thank you for your service to our County.

We agree with many of the comments put forth by the County Executive’s office and the Town of Chevy Chase, and we support Councilmember Jawando’s letter. Following this letter are additional specific comments.

Moratoria are an imperfect tool, made more imperfect by budget placeholders, but they do put limits on school overcrowding under certain circumstances. If moratoria are eliminated, other measures with substantial certainty must be adopted to place limits on school overcrowding and to adequately fund construction. Moratoria are a poor substitute for better zoning, affordable housing, school boundary policies, and cost control measures (e.g. in school construction), and the County must act holistically so that we are less dependent on moratoria and developer tax incentives in the future. We also support funding of transportation needs as stated by the County Executive and the Town of Chevy Chase.

The SSP is not just an infrastructure measurement tool; it must also assure that we generate the resources to pay for development’s direct infrastructure demands. Stripping out moratoria AND lowering school impact taxes first removes the emergency button that is meant to stem severe overcrowding, and secondarily hinders the County’s ability to keep pace with that unregulated enrollment growth.

To its credit, the Council has not supported increased property taxes in this COVID environment, even as County expenditures rise. To reduce sources of revenue is untimely, especially without cause-and-effect data which would support the outcomes the Council is trying to achieve. It is particularly impolitic to raise recordation taxes to backfill tax decreases for market-rate commercial development.

We note that in regard to builder incentive strategies – such as the tax abatements associated with the Strathmore Square project and Bill 29-20 – it may be helpful to remember that foregone tax dollars are equivalent to dollars spent, and should be analyzed as part of the overall economic picture. Consider that there are 34,000+ housing units in the Planning Department’s pipeline report, and over 24,000 of those in the pipeline were approved since 2015. Many of those seem to be awaiting bank funding, and it’s unclear whether impact taxes are even the primary prohibitive factor (fundamental affordable housing policies and market forces may be more important), so why give them away in this or any environment? What is clear is that we need more effective strategies than we have – the 34,000 housing units include little deeply affordable housing – and analyzing these strategies should be an emphasis moving forward. By reducing school impact taxes in myriad ways, and adopting ineffectual premium payment policies, the Planning Department, the Planning Board, and the Council jeopardize the County’s ability to cover the costs associated with new development.
The undersigned groups and individuals pledge to support the County to research and adopt best practices to create affordable housing. More time and more data are necessary for this. Fully deliberated policies are needed to ensure schools are fully funded, affordable housing needs are met, and our future economic tax base is ensured. The Council needs to protect revenues to meet increased expenses associated with the COVID environment and should not add to its deficit by eroding existing revenue streams. If the Council raises recordation taxes now to subsidize policies based on unproven assumptions, the revenue is lost for future needs and the Council’s desire to keep property taxes at current levels will be tested. The Council will continue to have opportunities to evaluate incentives where they are warranted but should not build them into policies with lasting and irreversible fiscal impacts.

Lastly, we ask that the OLO generate Social Justice and Racial Equity Impact Statements for the proposed Growth and Infrastructure Policy and related bills prior to adoption.

Thank you for considering our suggestions and for all you do for the County.

Respectfully submitted,

- D1 Neighbors (D1N)
- Montgomery County Taxpayers League (MCTL)
- Montgomery Countryside Alliance (MCA)
- Coalition of Bethesda Area Residents (CBAR)
- East Bethesda Citizens Association (EBCA)
- Montgomery County Council of PTAs (MCCPTA)
- Citizen’s Coordinating Committee on Friendship Heights (CCCFH)
  
  CCCFH includes 18 communities that include over 20,000 residents

Enc.  Comments attached

CC:  Glenn Orlin, Senior Analyst, County Council
     Pam Dunn, Senior Legislative Analyst, County Council
     Meredith Wellington, County Executive Office
Comments on specific recommendations:

The PHED and GO Committees have made many positive changes have been made to the Planning Board’s Recommended Policy. However, we find the following recommendations warrant further examination and revisions in order to achieve a balanced policy that will support both the County’s growth and infrastructure objectives.

4.1 We support Councilmember Jawando’s suggestion to reevaluate the proposed Impact Areas. The variance in impact rates creates inequity in the costs associated with development in different parts of the county. The unintended consequence is that the cost of housing will go up where it is currently more affordable. This may meet the goals of the Planning Board to direct growth to certain areas, but it does not meet the goals of residents driven outside of our urbanizing centers to find housing within their financial reach.

4.2 We oppose classifying Purple line Station policy Areas as Infill Impact Areas. Impact areas should be designated based on the reality of the neighborhoods in question, and not by how we want or expect them to behave in the future. Neighborhoods along the Purple Line serve more families than Metro Station areas and generate more students. As Council Staff pointed out, the Purple Line doesn’t offer the same level of service that Metro does. It will also be many years before the Purple Line is completed, and Impact Areas will be assessed every four years with this policy. 2024 will be a perfect time to reevaluate.

Perhaps most importantly, the Purple Line was sold as a transportation-as-equity initiative. Gentrifying Purple Line Station areas is inconsistent with that, particularly with impact tax rates that do not support the demand we actually see there.

4.6 We support keeping the Annual School Test as-is, comparing students generated by an application to the available capacity, and oppose setting adequacy for the entire year. Adequacy cannot be determined without consideration of demand.

Chapter 50 of the County Code, Subdivision Regulation Section 4.3.J.2 says that “The Board may only approve a preliminary plan when it finds that public facilities will be adequate to support and service
the subdivision.” The spirit of the policy is to compare the needs of an application to our ability to meet those needs. This must be done for each application.

Furthermore, annual status will undermine our ability to collect Utilization Premium Payments, which are meant to offset Impact Tax reductions. With annual status, hundreds of units will be approved every year, many of which will exceed adequacy thresholds and should trigger Premium Payments as a result, and yet they will yield none. This will open the door to severe, chronic school overcrowding, and undermine our ability to address it.

4.7 The proposed Utilization Report should include analysis of the severity and duration of inadequacy for all schools over 105% enrollment, currently or at any point in the forecast period, and flag schools that languish at inadequate levels for three or more years.

4.9 The elimination of moratorium must be offset by revenue to address overcrowding wherever it occurs.

4.11 This is moot if moratoria are eliminated, however under no circumstances should the Planning Board consider theoretical capacity in assessing adequacy. The CIP reflects the actions that MCPS intends to take and the capacity that our schools have and will have, and other possibilities are irrelevant. “Borrowing” is at odds with Thrive Montgomery 2050, which promotes compact development and planning for more, smaller facilities, walkable neighborhoods and “15-minute living.”

4.16 Utilization Premium Payments must be set at a rate that is sufficient to generate revenue to meet the demands of new development, and we support Councilmember Jawando’s proposal. For an Infill Impact Area residential unit, only a 100% UPP – and only if charged across all three school levels – would generate as much revenue as the current impact tax on that unit. Rates of 20%/40%/60% do nothing to remedy the severe overcrowding that UPPs are intended to address. Higher UPP rates applied to already deeply reduced Impact Taxes will still provide savings to developers. (Included with this letter is an Excel tool that you may find useful in evaluating the net cost per unit of Impact Taxes plus Premium Payments at various rates.). Like strict moratoria, Utilization Premium Payments are not a long-term substitute for better zoning, affordable housing, school boundary policies, and cost control measures.

Our public schools are falling further and further behind, with both maintenance and capacity needs well beyond our ability to keep up. Without this dedicated revenue, our public schools will compete with other capital projects for funding. Our schools will be pitted against each other for declining resources. Moratoria created inequity by directing funding to areas where the Planning Board and Council want development. Failing to fund our schools will also result in inequity by forcing schools to clamor for inclusion in an insufficiently funded CIP. Not all school communities have the time and resources to do this, and we see the consequences of that. Eliminating moratoria is a drastic choice to support growth objectives, and equally drastic solutions are necessary to replace the protections that were afforded by that (admittedly flawed) policy.