

**County Executive's Testimony on the Subdivision Staging Policy
and Bill 37-20**

County Council Hearing

September 15, 2020

I am Meredith Wellington, Land Use Policy Analyst, testifying on behalf of the County Executive on the Planning Board Draft of the SSP and Bill 37-20.

On Thursday, September 10, the County Executive sent an analysis of the Planning Board's recommendations, including OMB's fiscal analysis of the Planning Board's tax proposals.

Summary

The County Executive supports Bill 37-20, and notes no fiscal impact. The OCA has recommended one change to the wording of the Bill, and the CE supports that change.

The County Executive opposes the Planning Board's proposed SSP/Growth Policy, and recommends that the Council leave the current SSP in place. This happens automatically when the November 15 deadline for adopting the SSP passes.

The County Executive's reasons for opposing this SSP:

- 1. This SSP ignores the requirements under the Adequate Public Facilities Ordinance (APFO), instead encouraging school overcrowding, by removing any mechanism—an emergency button-- except in Clarksburg--to manage the overcrowding.**
- 2. This SSP ignores its mandate, and instead of securing its resources to assure that infrastructure keeps up with new development, it voluntarily gives up revenue—losing over \$43M from FY21FY26 in impact taxes—and then tries to recoup the losses through complicated, destabilizing revenue proposals, including an increase in the recordation tax.**
- 3. This SSP proposes housing incentives that reduce the impact tax revenues that are supposed to be for schools.**
- 4. This SSP proposes this housing, even though housing under the current SSP is already going to the locations where the county wants it to go, with the payment of the impact taxes.**
- 5. Under this SSP, developers do not pay their fair share of impact taxes, and the tax burden is shifted to the residents.**
- 6. This SSP improperly singles out Clarksburg for different treatment from the rest of the county.**

1. **This SSP encourages school overcrowding, and fails to establish, except in Clarksburg, any mechanism to manage it. The County Executive supports an emergency button that places a limit on school overcrowding.**

- Removes moratorium in approximately 97% of the county and sets no outer limit on school overcrowding. 120% is the county limit now, but there will be no limit if the Council approves this proposal.
- Raises the standard for moratorium in Clarksburg from greater than 120% to greater than 125% meaning more overcrowding in Clarksburg.
- Changes technical standards (4.6-- “snapshot” test) to allow a looser standard for school adequacy, allowing more overcrowding.
- As noted above, the County Executive supports an emergency button, to deal with serious school overcrowding.

2. **This SSP ignores its mandate, and instead of securing its resources to assure that infrastructure keeps up with new development, voluntarily gives up revenue—losing over \$43M from FY21FY26 in impact taxes. It tries to recoup the losses through complicated, destabilizing revenue proposals, including an increase in the recordation tax. The County Executive would keep the current SSP, and retain its stable, successful revenue structure with some modifications.**

- On July 6, the County Executive sent the County Council, and on July 28, the Council approved, a FY21 Savings Plan. **The shortfall in revenues--over \$1 billion during the next six years - will have long-term consequences due to the current charter limit.**
- The reduced county revenues are occurring at a time when we know we don't have enough funding to address current needs. **Legislation to increase State Aid for school construction will require expensive match requirements at the same time that we are ramping down our General Obligation bond borrowing to rein in debt service costs.**
- Based on the analysis of OMB, this SSP proposes rate structure changes that, without adjustments in exemptions and new funding sources, will result in a loss of \$43.9M dollars from FY21-FY-26 due to deep cuts and discounts in the school impact taxes and the elimination of a surcharge.

3. **This SSP ignores its mandate, and proposes housing incentives using the revenues that are supposed to be for school infrastructure under the APFO.**

- The Planning Board proposes to encourage housing in some locations by manipulating the impact tax rates.
- To do so, it lowers the impact tax rates and includes a substantial discount, to encourage housing in certain locations.
- These rate changes drastically reduce revenues for adequate public facilities.

4. **This SSP proposes these housing incentives, even though housing under the current SSP is already going to the locations where the county wants it to go.**

- Initially, the SSP recommended the county's 23 Activity Centers as the locations where the county should encourage housing, and proposed reduced impact taxes in all 23 ACs in order to incentivize it.
- OMB worked with Planning to analyze the consequences of this recommendation, and the proposal as a whole. OMB's analysis showed that 66% of growth was already going to the Activity Centers.
- The Planning Board then altered the list of locations where it believed development should go, removing Bethesda, and categorizing it as a non-desirable area for housing.
- Even this revised list, however, suggests that substantial growth is already occurring in the county's preferred locations. If Bethesda were included, the success of the county policies would be even more apparent.

5. **Under this SSP, developers do not pay their fair share of impact taxes, and the tax burden is improperly shifted to the residents. The County Executive would retain the current SSP where developers are paying their fair share.**

- The rate reductions and substantial discounts on top of that, mean that developers are not paying their fair share of the impact of their new developments on infrastructure.

- Increasing the recordation tax only exacerbates the problem, because it is a tax on residents, not developers.
- For the County Executive, it is essential that the costs of new development be shared fairly, and not passed on to our residents.

6. **This SSP improperly singles out Clarksburg for different treatment from the rest of the county.**

- For Clarksburg the Planning Board proposes much higher overall impact taxes without any discount, as compared to the rest of the county.
- Clarksburg, like Bethesda, is designated a non-Desirable Growth Area, even though Clarksburg is a COG approved Activity Center.
- Clarksburg is the only area that is recommended for a policy of moratorium.
- The County Executive believes that it is wrong to offer some MCPS students in one geographic location greater protection from school overcrowding than students living in other parts of the county.
- All areas of the county must have an emergency button when schools are way over capacity due to students from new development.

CONCLUSION

The Adequate Public Facilities Ordinance has served this county since 1973. Adequate public facilities are a critical part of building a thriving and successful community. If school capacity is disregarded and there's no concern about managing congestion, then we risk losing our perceived edge in education and we confirm to businesses and residents alike that we're not serious about improving transportation.

Let's work together for a better Growth Policy for all residents of Montgomery County.