



THE PRINCE GEORGE'S COUNTY GOVERNMENT


Office of Audits and Investigations

June 6, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Director of Budget and Policy Analysis

FROM: Malcolm Moody - *mm*
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CR-045-2022, Payment in Lieu of Taxes ("PILOT") Agreement for Birchwood at
Upper Marlboro

CR-045-2022 (*Proposed by:* The Chair of the Council at the request of the County Executive;
Sponsored by: Council Members Hawkins, Harrison, Street, Turner, Franklin, Glaros, Harrison,
and Taveras)

Assigned to the Committee of the Whole

A RESOLUTION CONCERNING PAYMENTS IN LIEU OF TAXES ("PILOT") AGREEMENT FOR Birchwood at Upper Marlboro for the purpose of approving the terms and conditions of a Payment in Lieu of Taxes ("PILOT") Agreement between Prince George's County, Maryland (the "County") and Birchwood at Upper Marlboro, LLC (the "Owner") for the Birchwood project ("Project").

Fiscal Summary

Direct Impact:

Expenditures: No additional expenditures

Revenues: Foregone tax revenues totaling approximately \$3,030,227 over a 40-year period.

Indirect Impact:

None.

Legislative Summary:

CR-045-2022, proposed by Council Chair Hawkins by request of the County Executive and sponsored by Council Chair Hawkins, Vice-Chair Harrison, and Council Members Street, Turner, Franklin, Glaros, Harrison, and Taveras was introduced, on April 26, 2022, and referred to the Committee of the Whole (COW). CR-045-2022 would approve the terms and conditions of a Payments in Lieu of Taxes (“PILOT”) Agreement between Prince George’s County, Maryland (the “County”) and Birchwood at Upper Marlboro, LLC (the “Owner”) concerning the 15402 Marlboro Pike, Upper Marlboro, Maryland project.

Current Law/Background:

Section 7-506.3¹ of the Tax-Property Article of the Annotated Code of Maryland authorizes the County to exempt certain real property from County property taxes in certain circumstances. Specifically, the law permits such exemptions if:

- the real property is owned by a person engaged in constructing or operating housing structures or projects.
- the real property is used for a housing structure or project is acquired, constructed, or rehabilitated under a federal, State, or local government program that:
 - ✓ funds construction or rehabilitation or insures the financing of construction or rehabilitation in whole or in part, including a housing investment trust; or
 - ✓ provides interest subsidy, rent subsidy, or rent supplements; or
- is acquired under the Right of First Refusal program under Subtitle 13, Division 14 of the Prince George's County Code;
- the owner and the governing body of Prince George's County agree that the owner shall pay a negotiated amount in lieu of the applicable county property tax; and
- the owner of the real property:
 - ✓ agrees to commence or continue to maintain the real property as rental housing for lower income persons under the requirements of the government programs described in item (ii) of this paragraph; and
 - ✓ agrees to renew any annual contributions contract or other agreement for rental subsidy or supplement; or

¹ [§ 7-506.3. Payment in lieu of taxes agreements; low-income housing](#)

- ✓ enters into an agreement with the governing body of Prince George's County to allow the entire property or the portion of the property that was maintained for lower income persons to remain as housing for lower income persons for a term of at least 5 years.
 - ✓ If the structure and facilities of the real property are used predominantly for residential purposes, the real property may contain service facilities to serve its occupants and the surrounding neighborhood.
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Resource Personnel:

- Aspasia Xypolia - Director, Department of Housing and Community Development
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Discussion/Policy Analysis:

The Birchwood Project is located at 15402 Marlboro Pike, Upper Marlboro, MD, and is a four-story, elevatored, ninety (90) unit age-restricted affordable rental community for seniors, all of which will provide housing for low-income to moderate-income senior residents. Under the proposed agreement, for the forty (40) year term, the Owner will use the sixty-two (62) one-bedroom units and twenty-eight (28) two-bedroom units for low-to-moderate-income seniors earning up to eighty percent (80%) of the Area Median Income (AMI). One-bedroom units rents will range from six hundred and seventy-five dollars (\$675) to one thousand, four hundred fifty-two dollars (\$1,452). The two-bedroom units rents will range from eight hundred and one dollars (\$801) to one thousand, six hundred eighty dollars (\$1,680). CR-045-2022 would authorize the County to accept a payment in lieu of taxes equal to two hundred- and fifty-dollar (\$250) payment per affordable unit during the term of the PILOT agreement

The Project is expected to cost approximately twenty-four million, six hundred sixty-three thousand, eight hundred nineteen dollars (\$24,663,819) including acquisition, infrastructure development and construction. Financing proceeds include a mortgage loan made by CitiBank, NA ("First Loan") totaling approximately eleven million, four hundred ninety-nine thousand, nine hundred ninety-seven dollars (\$11,499,997); approximately two million, five hundred thousand dollars (\$2,500,000) from a loan by the Maryland Community Development Administration ("CDA"), a unit of the Division of Development Finance of the Department of Housing and Community Development of the State of Maryland, under its Rental Housing Works program ("RHW Loan"); approximately seven million, four hundred ninety-one thousand, two hundred eighty-nine dollars (\$7,491,289) from investor equity in connection with Low-Income Housing Tax Credits ("LIHTC") awarded by CDA; deferred payment of the developer's fee of approximately nine hundred forty-two thousand, five hundred thirty-three dollars (\$942,533); approximately two hundred thirty thousand dollars in a return of Freddie Mac fee (\$230,000); and a Prince George's County HOME Investment Partnerships ("HOME") Program loan of approximately two million dollars (\$2,000,000). The year one value of the County PILOT is approximately fifty thousand one hundred and sixty-eight dollars (\$50,168).

The Birchwood at Upper Marlboro community is planning to be acquired by Lead developer MBID of Delaware, LLC (d/b/a/ Ingerman) and Housing Initiative Partnership, Inc (together, the “Development Team”), and is subject to rent restrictions, though all its units are priced at levels affordable to households earning eighty percent (80%) of the AMI. The Developer intends to have several exterior features developed for the Birchwood Project that will include walkways, seating areas, and parking. Interior amenities will include social spaces, a fitness center, game rooms, recreational space, and a suite of management and maintenance offices. The PILOT will remain in effect for forty (40) years which includes the extended affordability period.

According to staff in the Department of Housing and Community Development, the Project’s annual real property assessed value after Development will be approximately \$7,266,768, and the County real property tax that will be due on the Project is an estimated \$72,667.68 (\$807.42/unit) in the first year. The PILOT reduces the burden on the entire ninety (90) unit Project to \$22,500; this is equivalent to a two hundred and fifty dollar (\$250) per unit tax burden on the ninety (90) affordable units. Under the agreement, the County would be forgoing real property tax revenue of approximately \$50,168, or \$557.42 per affordable unit, in year one.

Increasing the availability of affordable housing, both through preservation of existing stock and the renovation of existing housing, is a stated objective of the Council, and a key component of the Comprehensive Housing Strategy.

Fiscal Impact:

Direct Impact

Adoption of CR-045-2022 will have an adverse fiscal impact in the form of foregone tax revenue. As described above, accepting the PILOT on the entire Project of \$22,500 will result in a loss of approximately \$50,168 in the first year of the term. Factoring in the 2% estimated average annual increase in the property tax assessment, the total impact is estimated at \$3,030,227 over the forty (40) year period that the PILOT agreement remains in effect.

However, should CR-045-2022 not be adopted the Owner may not be able to complete construction that will negatively impact current County residents. Alternatively, the Owner may raise rents, making the units unaffordable to tenants at 80% AMI. Additionally, due to the appeal of affordable housing and fixed rent, the property may attract new residents.

Indirect Impact

Adoption of CR-045-2022 may have a positive indirect fiscal impact upon the County to the extent that new residents generate additional economic activity, though the exact impact is unknown.

Appropriated in the Current Fiscal Year Budget

N/A

Items for Committee Consideration:

- Is the acceptance of the PILOT agreement a condition precedent of the completion of the development as proposed (*i.e.*, does it pass the “but-for” test)?
 - Does encouraging this type of development provide a reasonable return, economic or otherwise, to the County for the forgone tax revenue?
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Effective Date of Proposed Legislation:

The proposed Resolution shall become effective as of the date of adoption.

If you require additional information, or have questions about this fiscal impact statement, please call me.