October 17, 2022

FISCAL AND POLICY NOTE

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

FROM: Josh Hamlin
Director of Budget and Policy Analysis

RE: Policy Analysis and Fiscal Impact Statement
CR-121-2022 Mill Branch Revitalization Tax Credit District

CR-121-2022 (*proposed by*: Council Member Turner)

Assigned to Committee of the Whole (COW)

A RESOLUTION CONCERNING THE CREATION OF THE MILL BRANCH REVITALIZATION TAX CREDIT DISTRICT for the purpose of designating an area within Prince George's County, Maryland (the "County") as a revitalization tax credit district established pursuant to Section 10-235.03(c) of the Prince George's County Code, as amended (the "Code"), to be known as the "Mill Branch Revitalization Tax Credit District"; providing for and determining various matters in connection with the establishment of the Mill Branch Revitalization Tax Credit District; and generally relating to the Mill Branch Revitalization Tax Credit District.

Fiscal Summary

Direct Impact:

Expenditures: No additional expenditures.

Revenues: Likely substantially reduced revenues.

Indirect Impact:

Likely favorable.

Legislative Summary:

CR-121-2022, proposed by Council Member Turner, was introduced on October 11th, 2022, and referred to Committee of the Whole (COW). CR-121-2022 would apply the County law regarding Revitalization Tax Credit Districts, as it may be amended by CB-073-2022, to designate the Mill Branch Revitalization Tax Credit District and provide for a Revitalization Tax Credit for eligible improvements within the District.

Current Law/Background:

Existing County Law

Under Subdivision 5B[1] of the County Code, the requirements to establish Revitalization Tax Credits (RTC) and Revitalization Tax Credit Districts (RTCD) are outlined. Currently under § 10-235.02[2] of the County Code the current process to create RTCD and the requirements to be eligible for RTC are described.

Under § 10-235.02 (a) of the County Code, the County Executive may recommend the creation of a RTC or RTCD; the County Council may also establish them, by ordinance. Once a RTCD is created, the potential impact in relation to community redevelopment, business revitalization, median household income, residential density, land use, economic factors, and unemployment rates within an area are considered. As described in § 10-235.02(c) all property within a RTCD will be eligible for a RTC that will be applied to eligible real property taxes based on *the value of the eligible improvements that require a County building permit*. Examples of eligible improvements requiring a County building permit are:

- Construction, reconstruction, or extension of nonresidential structures;
- Reconstruction or extension of existing residential structures;
- Construction or reconstruction of new single-family residential structures being built on lots where a residential structure has been razed or demolished within the prior five (5) years, or on vacant lots between adjacent lots with single-family residential structures;
- New construction on developments with less than ten (10) one-family dwellings, as set forth in the plan of subdivision[3]

Upon resolution of the County Council, new construction in developments of ten (10) or more one-family dwellings, as set forth in the plan of subdivision, or new multifamily units may be eligible for an RTC. Any eligible improvements have the possibility of being limited in an ordinance establishing each RTCD. Unless otherwise stated in the ordinance establishing a RTCD,

[1] Prince George's County Code, SUBDIVISION 5B. - REVITALIZATION TAX CREDITS.
[2] Prince George's County Code, Section 10-235.02
[3] Prince George's County Code, Section 10-235.02(d)(1)(2)(3)(4)

any nonresidential improvements will be eligible for a tax credit over five (5) consecutive years that may not exceed an amount equal to 100% of the costs of eligible improvements. Residential improvements are eligible for a tax credit over three (3) consecutive years that may not exceed 100% of the costs of eligible improvements[4].

For the five (5) consecutive years that a nonresidential improvement is eligible for a tax credit, the tax credit shall decrease with each subsequent year:

- Year 1: 100%
- Year 2: 80%
- Year 3: 60%
- Year 4: 40%
- Year 5: 20%

For the three (3) consecutive years that a residential improvement is eligible for a tax credit, the tax credit shall decrease with each subsequent year:

- Year 1: 100%
- Year 2: 66%
- Year 3: 33%

The Supervisor of Assessments will determine any increased assessment on property within a RTCD due to residential and nonresidential improvements. The application for the RTC will be provided by the Director of Finance, which will include a legal description of the property, proof of a properly issued use and occupancy permit that is applicable to any eligible improvement to determine if an applicant can qualify for the RTC.

§ 10-235.03[5] of the County Code details the census tracts[6], based on the 2010 Census, that qualify as being a part of a RTCD. Median Income in these census tracts does not exceed one hundred percent (100%) of the median household income for the County. § 10-235.03 also establishes the method that census tracts are chosen based on the year following the American Community Survey (ACS) Report. The Maryland National Capital Park and Planning Commission reviews the ACS census tract data and submits to the County Executive and County Council the changes in census tracts.

CB-073-2022

CB-073-2022,[7] which is scheduled for public hearing and enactment on October 25, 2022, would expand the criteria for the establishment of a revitalization tax credit district to include those areas

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[4] Maximum dollar amount of eligible residential improvements is set at $200,000 per dwelling unit
[5] Prince George's County Code, Section 10-235.03
[6] 2010 Census Tracts - Map
[7] CB-073-2022 is sponsored by Council Members Turner, Streeter, Franklin, Harrison, Hawkins, Medlock, and Taveras.

that are not included in the enumerated census tracts and that satisfy the requirements of an economic development project as defined in §7-516(a)(3) of the Tax-Property Article of the Annotated Code of Maryland. Specifically, CB-073-2022 would amend §10-235.03 of the County Code to extend the eligibility for the revitalization tax credit to include "areas that do not qualify as an enumerated census tract or part of an enumerated census tract designated in subsection (a) of this Section but do meet the following requirements:

1) The project satisfies the requirements of an economic development project as defined by Section 7-516(a)(3) of the Tax-Property Article of the Annotated Code of Maryland;
2) the owner or owners of said economic development project have demonstrated to the satisfaction of the County Executive and County Council that the County or its designated agency has conducted an economic analysis of the project in accordance with Section 7-516(b)(1)(i);
3) there is a public benefit provided in accordance with Section 7-516(b)(1)(ii);
4) there is a financial necessity for an exemption in accordance with Section 7-12 516(b)(1)(iii); and
5) the private capital being invested in said economic development project includes an equity investment in accordance with Section 7-516(b)(1)(iv)."

CB-073-2022 further provides that the "Revitalization Tax Credit District established pursuant to this subsection shall be created by resolution."

<u>*State Law*</u>

Section 7-516 of the Tax-Property Article of the Annotated Code of Maryland authorizes, *under certain conditions*, the County, by resolution of the governing body, to exempt or partially exempt an *economic development project* from the County real property tax. "Economic development project is defined in §7-516(a)(3) as:

> a real estate development project that consists of newly constructed or rehabilitated commercial property if the real estate development project:
> (i) has a certificate of occupancy issued on or after October 1, 2012;
> (ii) is located on one or more parcels of land, all of which are situated in a designated focus area[8]; and
> (iii) includes at least one of the following:
> 1. a hotel that:
> A. provides at least 100 full-time equivalent job opportunities; and

[8] Designated focus area is defined as:
(i) a transit-oriented development, defined as a development or project within one-half mile of a Washington Metropolitan Area Transit Authority transit station or one-half mile of a Maryland Area Regional Commuter transit station, as measured from the main entrance of the building to the nearest entrance of the transit station;
(ii) a revitalization tax credit district, as defined in § 10-235.02 of the Prince George's County Code and designated by the governing body of Prince George's County; or
(iii) an urban renewal area, as designated by the governing body of Prince George's County.

B. has a private capital investment of equity and debt combined of at least $20,000,000;

2. an office building that:
   A. provides at least 100 full-time equivalent job opportunities; and
   B. has a private capital investment of equity and debt combined of at least $20,000,000;
3. a retail facility that:
   A. provides at least 100 full-time equivalent job opportunities; and
   B. has a private capital investment of equity and debt combined of at least $10,000,000;
4. an off-street parking facility that:
   A. contains at least 250 parking spaces; and
   B. has a private capital investment of equity and debt combined of at least $2,500,000; or
5. a mixed-use facility that contains one or more of the facilities described in items 1 through 4 of this item, at least one of which satisfies the minimum criteria set forth in item 1, 2, 3, or 4 of this item."

The preconditions that must be met in order for the property tax exemption to be granted are referenced in lines 6 through 14 of CB-073-2022, and are:

1) an economic analysis done by the County or its designated agency that includes:
   (a) a detailed description of the project and the development budget, including the identification of all sources of debt and equity financing;
   (b) a multiyear cash flow pro forma of the project detailing all incoming and outgoing cash flow revenues, operating expenses, debt service, taxes, capital expenditures, and any other cash outlays;
   (c) the projected return on investment for the owner or owners;
   (d) a determination that the project is an economic development project that meets the requirements of this section; and
   (e) any other relevant analysis;
2) a demonstrated public benefit that the project will provide, including:
   (a) the number of jobs expected to be created, directly or indirectly, as a result of the project and the percentage of those jobs expected to be held by Prince George's County residents;
   (b) the wage rates and benefit packages for the jobs expected to be created;
   (c) other Prince George's County tax revenues, exclusive of real property taxes, that the project is expected to generate during the term of the payment in lieu of taxes agreement, including income, admissions and amusement, personal property, hotel, parking, energy, and other taxes;
   (d) the encouragement of economic development;
   (e) the general promotion and improvement of Prince George's County and its facilities;
   (f) the participation of local minority business enterprises and local business enterprises in the economic development project; and
   (g) any other relevant benefits;

3) a demonstrated financial necessity for the exemption;
4) private capital being invested in the economic development project that includes an equity investment that is:
   (a) commensurate with the overall undertaking; and
   (b) (i) for a hotel or an office building, an amount greater than or equal to 10% of the combined equity and debt investment; or
   (ii) for an off-street parking facility, an amount greater than or equal to $250,000.[9]

Resource Personnel:

- Tomeka Bumbry, Chief of Staff/Legislative Aide, District 4

Discussion/Policy Analysis:

The Mill Branch Crossing Project

The property that is proposed as the Mill Branch Crossing Project is located at the northeast corner of the intersection of Mill Branch Road and US 301, just south of Prince George's Stadium in Bowie. Green Branch LLC (the "Developer") or an affiliate proposes to improve a currently undeveloped portion of land with residential, retail, restaurant and hotel uses. The preliminary plan of subdivision (PPS) for the project is for subdivision of the property into 190 lots and 39 parcels for development of 77,635 square feet of commercial floor area, a 150-room hotel, 190 townhouse units, and 408 multifamily units.[10]

RTCD Eligibility of Mill Branch Crossing Project

As noted above, CB-073-2022 would expand the universe of development projects beyond the geographic, census tract-defined boundaries of the RTCD currently established under §10-235.03, to include certain economic development. As amended, the County law would make projects eligible to Revitalization Tax Credits if:

- the project satisfies the requirements of an economic development project as defined by Section 7-516(a)(3) of the Tax-Property Article of the Annotated Code of Maryland;
- an economic analysis of the project in accordance with Section 7-516(b)(1)(i) has been done;
- there is a public benefit provided in accordance with Section 7-516(b)(1)(ii);

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[9] For an exemption under §7-516, the owner or owners must also enter into a payment in lieu of taxes (PILOT) agreement or agreements, begin construction within 18 months after the agreement, and the project must not involve gambling activities. These are not pertinent to the creation of a Revitalization Tax Credit District and thus are not referenced or included in CB-073-2022.

[10] PGCPB No. 2021-42, approved April 8, 2021

- there is a financial necessity for an exemption in accordance with Section 7-516(b)(1)(iii); and
- the private capital being invested in said economic development project includes an equity investment in accordance with Section 7-516(b)(1)(iv).

The first requirement: meeting the State law definition of “Economic Development Project,” includes three components, relating to the (1) timing of; (2) location of; and (3) substance of the development.

In the case of the Mill Branch Crossing Project, the “timing” requirement will be met as the certificates of occupancy for the Development will be issued after October 1, 2012. According to page 3, lines 6-11 of the Resolution, the “substance” requirement will be met “because the Mill Branch Crossing Project includes a retail facility that is expected to provide at least 100 full-time equivalent job opportunities and is expected to have a private capital investment of equity and debt combined of at least $10,000,000.”

With regard to the State law “location requirement, an eligible project must be “located on one or more parcels of land, all of which are situated in a designated focus area.” The full definition of a “designated focus area” is included in footnote 8, above, but generally it requires an eligible project to be either “transit-oriented development,” in an RTCD, or in an “urban renewal area.” The Mill Branch Crossing Project is neither “transit-oriented development” nor in an “urban renewal area,” and its current location is not within an existing RTCD. The question, and it is a legal, not policy, question, is whether a project’s location within an *existing* RTCD is a necessary precondition to being defined as an “Economic Development Project” and thereby being eligible to be designated as an RTCD pursuant to CB-073-2022.

The Resolution contains declarations that the other requirements of the County law as amended by CB-073-2022 – *i.e.*, an “economic analysis” done, a demonstrated “public benefit,” a demonstrated “financial necessity,” and adequate private capital investment – have been met.

Economic and Other Benefits of Mill Branch Crossing Project

Development of the Mill Branch Crossing Project will undoubtedly generate a substantial amount of economic activity. According to the Resolution and provided supporting documentation,[11] the Project will:

- increase the overall percentage of multi-family and townhome residential use in the County (page 2, lines 19-22);
- create an estimated 1,466 temporary full-time equivalent construction jobs and, upon completion, an estimated 186 permanent direct full-time equivalent jobs and 47 permanent indirect jobs (page 2, lines 23-26); and
- generate approximately $47 million in additional revenues for the County (page 2, lines 27-30).

[11] Due to the time constraints associated with CR-121-2022’s October 11 introduction, Council staff is reliant on supplied information and has not been able to independently analyze that information.

Additionally, the Developer proposes to improve a number of existing offsite infrastructure problems that will allow the Mill Branch Crossing Project to be developed and will also enable future development in the surrounding area. These improvements include new turn lanes on Route 301 to improve currently failing traffic conditions and extending the water and sewer improvements to the Development. The Developer also proposes to install road access and an access trail to the *proposed* Green Branch Regional Park.

Fiscal Impact:

- *Direct Impact*

Adoption of CR-121-2022 will likely have a significant, near-term, adverse fiscal impact in the form of foregone tax revenues as provided in the resolution. The amounts of the tax credits are set forth on page 4, line 21 through page 5, line 9 of the Resolution and correspond to the amounts County Code § 10-235.02 (g) recited above on page 3 of this memorandum. Of course, because the credits are against the value of the eligible *improvements*, this conclusion assumes that the improvements will happen *with or without* the credits. If there is indeed a demonstrated financial necessity for the credits, and they are not awarded, the Development may proceed on a much smaller scale or not at all. In such an instance, the benefits that would flow to the County as a result of the Development, will be reduced or eliminated.

- *Indirect Impact*

Assuming the financial necessity of the award of the credits, adoption of CR-121-2022 will likely have a significant positive long-term fiscal impact on the County, in the form of substantial additional revenue and infrastructure improvements made by the Developer.

- *Appropriated in the Current Fiscal Year Budget*

No.

Effective Date of Proposed Legislation:

The Resolution "shall be effective on the date that CB-073-2022 is enacted."[12]

If you require additional information, or have questions about this fiscal impact statement, please reach out to me via phone or email.

[12] It may be more appropriate to provide that the Resolution shall be effective on the date that CB-073-2022 takes effect. Under the Charter, CB-073-2022 could be enacted, but vetoed without override, or petitioned to referendum and rejected, and thus never take effect. The designation of the Mill Branch RTCD under CR-121-2022 is dependent on the amendments to County law made by CB-073-2022.