



Howard County

Internal Memorandum

Subject: Testimony on Council Resolution No. __-2022
Resolution requesting approval of a Payment in Lieu of Taxes Agreement for Patuxent Commons

To: Lonnie Robbins, Chief Administrative Officer

From: Kelly Cimino, Director of Department of Housing and Community Development
K. Cimino

Date: February 24, 2022

Summary

Resolution __-2022 supports approval of the terms and conditions of a Payment In Lieu Of Taxes Agreement (PILOT) by and between Howard County, Maryland and Patuxent LLC, a limited liability company, (Patuxent) for the development of a 76-unit mixed-income rental housing development to be known as Patuxent Commons.

Background

Patuxent plans to construct and operate a 76-unit mixed-income rental housing development; 69 units will be rented to households that earn at or below 60 percent of Area Median Income (AMI), of which 19 units will be rented to persons with disabilities that earn at or below 30% of AMI; and 7 units will be rented at market rate.

Patuxent has received approval for public financing from the Maryland Department of Housing and Community Development in the form of equity financing from 4% Low Income Housing Tax Credits in the approximate amount of \$13,400,000; a Rental Housing Works loan in the approximate amount of \$2,500,000; a Partnership Rental Housing Fund loan in the approximate amount of \$2,300,000, as well as multiple state loans, bonds and grants for a total of almost \$36,000,000 to construct the new development.

Patuxent submitted a request to the Department of Housing and Community Development that the County permit Patuxent to make payments in lieu of County real property taxes pursuant to Section 7-506.1 of the Tax-Property Article of the Annotated Code of Maryland and in accordance with the PILOT Agreement, and for purposes of Section 16.1103(e) of the Adequate Public Facilities Act of Howard County. The Housing and Community Development Board reviewed and recommended approval of this request at its board meeting on February 10, 2022.

Patuxent has demonstrated to the County that an agreement for a PILOT is necessary to make the Development economically feasible. As a condition of the PILOT, the County requires the owner to restrict the occupancy of a certain number of units to persons of lower income for 40 years. Patuxent would be required to make payments of \$633,066 to the County for the first 20 years of the PILOT. In any given year, most likely after Year 20, Patuxent will be required to pay additional amounts from the project's surplus cash (2%) and residual receipts up to the full amount of taxes otherwise due. By its terms, the PILOT terminates upon, among other things, a foreclosure or a default under the PILOT or the lower income covenants.

Patuxent has applied to the County for a grant of \$3,200,000 from MIHU fee-in-lieu funds to be used to acquire the land for the development on or before the sales contract closing deadline of July 31, 2022.

Fiscal Impact

Should the PILOT be approved, the fiscal impact to the County is expected to be approximately \$23,560 in property tax revenue in Year 1. The County property tax revenue for Years 1 - 5 is expected to be \$125,083. Patuxent has demonstrated that the proposed PILOT is necessary to make the project financially feasible.

Adequate Public Facilities Act Special Affordable Housing Opportunities Provision

Pursuant to Section 16.1103(e) of the Adequate Public Facilities Act, if an affordable housing project or phase of a project is located in the attendance area of a school that is closed for development due to projected enrollment in the school capacity chart, the Director of the Department of Planning and Zoning shall authorize the affordable housing project to proceed subject to all provisions of the Act if:

1. At least 40 percent of the units shall be affordable to households earning 60 percent or less of AMI;
2. The project is led by or in partnership with a local nonprofit or the Housing Commission;
3. The project is seeking or has received an allocation of Low Income Housing Tax Credits;
4. The project has received a letter of support from the County Executive;
5. The County Council and County Executive have approved either a PILOT for the project or a resolution authorizing the project to proceed.

As part of the approval of the PILOT, the County Council shall hold a public hearing and consider:



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1. The capacity utilization at the school or schools impacted by the project and at adjacent schools, including limiting the potential impact on any elementary or middle school with a capacity utilization rate greater than 115 percent unless an adjacent school with the same grade levels has a capacity utilization rate of 100 percent or less;
2. Estimated student generation from the project;
3. Any potential for the Board of Education to add capacity to the impacted school or schools through redistricting, facility expansion, or other programs; and
4. The need for affordable housing the County, including factors such as the housing cost burden on families, the availability of housing for individuals with disabilities, and the extent of homelessness among families and school children.

Attachments for Council consideration:

1. DPZ memo titled “Patuxent Commons PILOT Agreement and APFO Exemption”.
2. DHCD memo titled “Patuxent Commons – Developer’s Request for PILOT and APFO Waiver”.

Cc: Dr. Opel Jones, Council Chair
Christiana Rigby, Council Vice Chair
Elizabeth Walsh, Councilperson
Deb Jung, Councilperson
David Yungmann, Councilperson
Michelle Harrod, Administrator
Craig Glendenning, County Auditor

Attachments



HOWARD COUNTY DEPARTMENT OF PLANNING AND ZONING

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Voice/Relay

Amy Gowan, Director

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From: Jeff Bronow, Chief, Division of Research, DPZ
To: Kelly Cimino, Director DHCD
Date: January 4, 2022
Subject: Patuxent Commons PILOT Agreement & APFO Exemption

Patuxent Commons is a proposed 76-unit rental apartment project seeking Low Income Housing Tax Credits (LIHTC) administered by the Maryland Department of Housing and Community Development and is located at 6367 Cedar Lane and 6441 Freetown Road in Columbia, MD. All 76 housing units will be in a single building and will include a 25% set-aside for persons with disabilities, as well as a senior preference for 40% of the units. However, due to fair housing laws, the senior preference must permit seniors who have minor children living with them (for example, a grandparent raising a grandchild).

Given the types of households targeted (persons with disabilities for 25% of the units and a senior preference for 40% of the units), it is likely that number of students living in the building will be lower than expected if this targeting were not to occur. However, for purposes of this analysis, given the actual results from the targeting is not determinable, this analysis is based on comparable student yields from other LIHTC projects in Howard County using the same methodology conducted for other recent developments seeking PILOT and APFO exemptions. It should be kept in mind, however that the resulting estimated number of students that may reside in Patuxent Commons shown in this analysis further below is likely higher than what will be the case given the targeted household types.

Once a site development plan for this project is approved, it will receive Established Communities allocations (as there are an ample amount currently available) but will then fail the School Capacity test due to Clemens Crossing Elementary being closed on the current adopted APFO School Capacity chart approved by the County Council on July 6, 2021. Wilde Lake Middle and Atholton High are both open on the chart.

Per Section 16.1103(e)¹ of the Adequate Public Facilities regulations, LIHTC housing projects with at least 40% of the units designated as affordable that are being developed in partnership with the Howard County Housing Commission with a letter of support from the County Executive and with an approved Payment In lieu of Taxes (PILOT) agreement or a resolution authorizing the project to proceed may proceed with development despite failing the APFO School Capacity test. This approval process requires the County Council to hold a public hearing and consider 4 criteria. This memo provides information related to the first two of the four criteria listed below:

¹ This provision was added to APFO under CB 1-2018 (adopted 2/14/2018) with the intent, as indicated in the code: “to balance the County’s policy goals to provide adequate school facilities and affordable housing in accordance with section 7-101 of the Land Use Article of the Annotated Code of Maryland and the County’s General Plan.”

1. The capacity utilization at the school or schools impacted by the project and at adjacent schools, including limiting the potential impact on any elementary or middle school with a capacity utilization rate greater than 115 percent unless an adjacent school with the same grade levels has a capacity utilization rate of 100 percent or less;
2. Estimated student generation from the project;
3. Any potential for the Board of Education to add capacity to the impacted school or schools through redistricting, facility expansion, or other programs; and
4. The need for affordable housing in the County, including factors such as the housing cost burden on families, the availability of housing for individuals with disabilities, and the extent of homelessness among families and school children.

Criterion 1

The table below shows the capacity utilization for the schools that will serve Patuxent Commons based on the current school attendance area boundaries: Clemens Crossing Elementary, Wilde Lake Middle, and Atholton High in 2024, the first year of the current adopted APFO School Capacity chart. The actual capacity utilizations for the official September 30, 2021 enrollments are also shown in the table for comparison purposes. Clemens Crossing Elementary and Wilde Lake Middle schools are less than the 115% as specified in criteria 1 above. However, the project would still fail the School Capacity test given Clemens Crossing Elementary is projected to be over 105% in 2024. Although high schools are not part of criterion 1, capacity utilization is shown just for informational purposes. The map on the page below shows the Clemens Crossing and adjacent elementary school districts, the school locations, and the location of the proposed Patuxent Commons development.

Per the APFO regulations, the first year of the school capacity chart upon adoption is 3 years in the future given it takes approximately 3 years for a plan to move through the subdivision, site planning, and construction process. So, it can be reasonably anticipated that the 76 apartment units in Patuxent Commons will be completed by 2024.

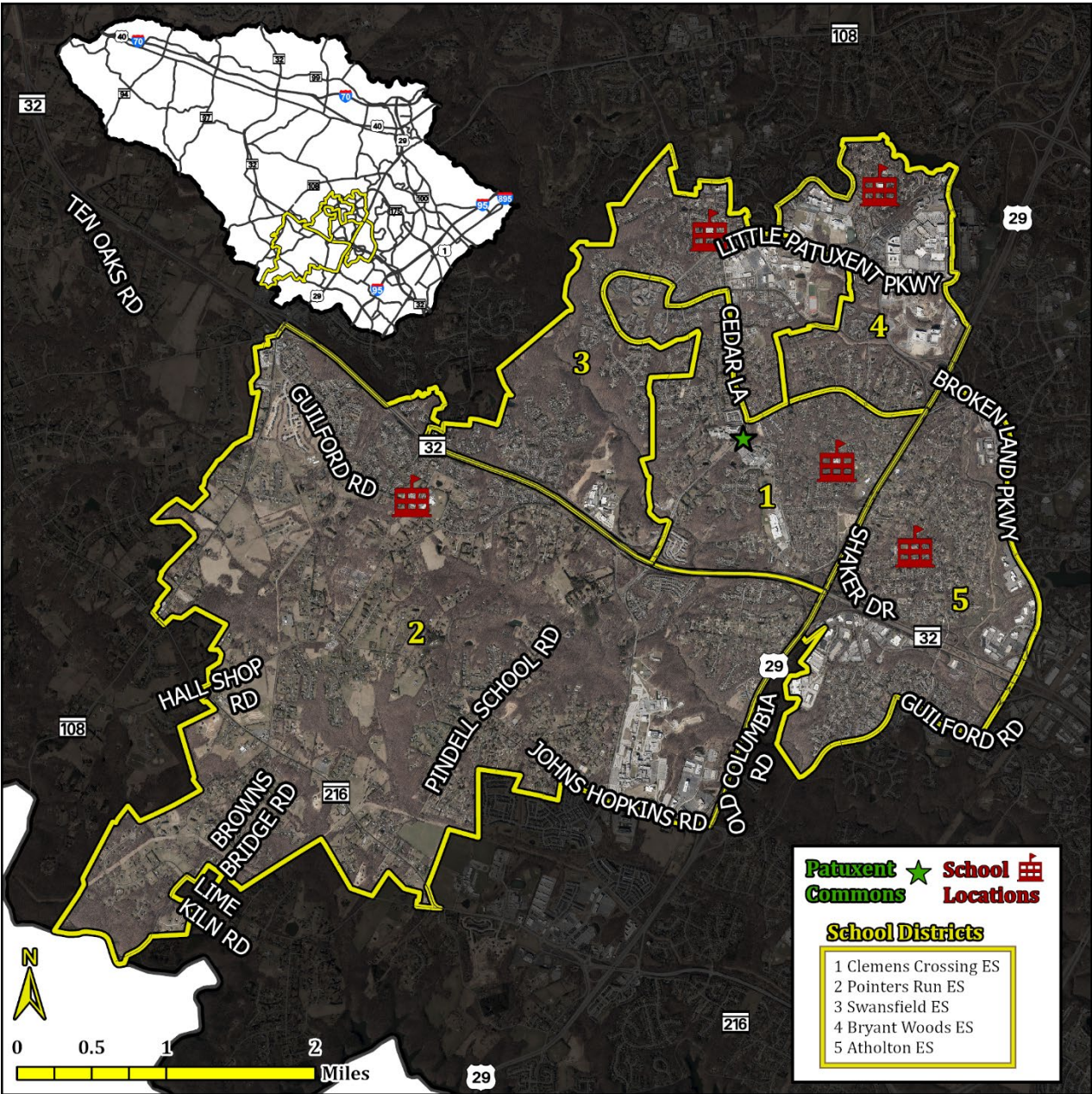
2021 and 2024 Capacity Utilizations for Patuxent Commons Attendance Areas (and adjacent elementary schools)

Schools	2021 (1)			2024 (2)		
	Capacity	Enrollment	Utilization	Capacity	Enrollment	Utilization
1. Clemens Crossing Elementary	521	563	108.1%	521	555	106.5%
<i>Adjacent Elementary:</i>						
2. Pointers Run	744	743	99.9%	744	810	108.9%
3. Swansfield	672	497	74.0%	672	616	91.7%
4. Bryant Woods	361	312	86.4%	361	493	136.6%
5. Atholton	424	453	106.8%	424	476	112.3%
Wilde Lake Middle	740	626	84.6%	740	765	103.4%
Atholton High	1,440	1,456	101.1%	1,460	1,651	113.1%

(1) Capacities from the HCPSS 2021 Feasibility Study. Enrollments from official September 30, 2021 counts.

(2) Capacities and projected enrollment from the current adopted School Capacity Chart (adopted July 6, 2021).

Clemens Crossing Elementary school is at 108.1% capacity utilization for the current school year and is projected to decrease to 106.5% capacity utilization by 2024, the first year of the current School Capacity chart. There is one school district adjacent to Clemens Crossing Elementary, Swansfield Elementary, that will have a projected capacity utilization of less than 100% in 2024. Criterion 1 indicates that the County Council take this into consideration when deciding to allow an affordable housing development to move forward despite being in a closed school district. The Howard County Public School System (HCPSS) will be conducting a redistricting process this year, with the new school boundary lines approved by the Howard County Board of Education in November 2021. The new districts will be effective beginning with the 2023/24 school year. This will be before Patuxent Commons would be built. So, it could be that the students coming from this project will not be in a school district that is over 100% capacity.



Criterion 2

An appropriate measure to estimate the number of new students that will reside at the proposed Patuxent Commons development is to use existing student yields for two similar developments, Burgess Mill Station and Monarch Mills as a proxy. Both Burgess Mill Station and Monarch Mills are LIHTC projects owned by the Housing Commission. The table below shows the unit mix for these two projects as well as the proposed Patuxent Commons development. Patuxent Commons is proposed to have a lower average of about 1.5 bedrooms per unit compared to averages of about 2 bedrooms per unit for both Burgess Mill Station and Monarch Mills. There will be a greater proportion of one-bedroom units in Patuxent Commons with 57% compared to only 21% and 25% one-bedroom for Burgess Mill Station and Monarch Mills, respectively.

Unit Type Mix for Patuxent Commons Compared to Burgess Mill Station and Monarch Mills

Bedrooms	Patuxent Commons		Burgess Mill Station		Monarch Mills	
	Number	Percent	Number	Percent	Number	Percent
1-bedroom units	43	57%	41	21%	55	25%
2-bedroom units	27	36%	112	57%	121	54%
3-bedroom units	6	8%	45	23%	48	21%
Total Units	76	100%	198	100%	224	100%
Total Bedrooms	115		400		441	
Average Bedrooms per Unit	1.51		2.02		1.97	
Average Bedrooms per Unit Combined			Burgess and Monarch Combined			
			1.99			

Source: Howard County Housing Department

The table below shows the student yields for Burgess Mill Station and Monarch Mills. Burgess Mill Station includes 198 dwelling units and Monarch Mills includes 224 dwelling units. The total number of HCPSS students residing in these developments as of September 30, 2021 amount to 102 and 163, respectively. This results in a combined average yield of 0.628 students per dwelling unit. The top table on the next page shows the detailed yields by elementary, middle and high schools for each development as well as the combined totals.

The bottom table on the next page shows the estimated number of students that could reside in the 76 units of Patuxent Commons based on the observed yields of Burgess Mill Station and Monarch Mills. This results in 15 elementary school students (K-5), 10 middle school students and 11 high school students for a total of 36 students. These estimates are determined by multiplying the existing combined total yields in Burgess Mill Station and Monarch Mills times 76% (which is the ratio of the average number of units per bedroom in Patuxent Commons to that of Burgess Mill Station and Monarch Mills combined) times 76 units as proposed in Patuxent Commons.

Burgess Mill Station and Monarch Mills Student Standing Yields

	Burgess Mill Station	Monarch Mills	Combined Total
SFA Units	28	0	28
Apt Units	170	224	394
Total Units	198	224	422
Elementary Students	37	75	112
Middle Students	29	44	73
High Students	36	44	80
Total Students	102	163	265
Elementary Yield	0.187	0.335	0.265
Middle Yield	0.146	0.196	0.173
High Yield	0.182	0.196	0.190
Total Yield	0.515	0.728	0.628

Source: Dwelling Units from Howard County DPZ Land Use Databases
Students from HCPSS Planning Office as of September 30, 2021

Estimated Students That May Reside in Patuxent Commons

	Burgess and Monarch Combined	Patuxent Commons	Ratio
Average Bedrooms per Unit ==>	1.99	1.51	76%
Elementary Yield	0.265		
Middle Yield	0.173		
High Yield	0.190		
Total Yield	0.628		
Yields Multiplied Times 76% Ratio			
Elementary Yield	0.202		
Middle Yield	0.131		
High Yield	0.144		
Total Yield	0.477		

Students at Patuxent Commons in 76 Apartment Units (1)	
Elementary Students	15
Middle Students	10
High Students	11
Total Students	36

(1) Rounded to whole number of students

Source: Bedrooms from Howard County Housing Department
Yields from HCPSS Planning Office as of September 30, 2021



To: Housing & Community Development Board

Through: Kelly Cimino, Director – *K. Cimino*

From: Tom Wall, Fiscal Specialist - *twall*

Date: February 4, 2022

Re: **Patuxent Commons – Developer’s Request for PILOT and APFO Waiver**

This is a request for a recommendation from the Housing and Community Development Board (the “Board”) concerning an application from Mission First Housing Development Corporation (the “Developer”) for a PILOT and APFO Waiver for the redevelopment of the Patuxent Commons community in Columbia, Maryland.

Developer’s Proposal. Patuxent Commons will be a new 76-unit housing community that will serve adults with disabilities, older adults and families. The development will be a new, three-story apartment building of one-, two- and three-bedroom units.

The project has been awarded Low Income Housing Tax Credit (LIHTC) financing (4%) from the MD Department of Housing and Community Development (MD DHCD). In addition to the LIHTC financing, the project will receive \$7.4M from the State of Maryland, \$2.9M from federal funding sources and a \$1.5M grant from the Weinberg Foundation. The developer would like to complete the acquisition of the land in July 2022 and close on the construction financing in February 2023. The construction process will be approximately 16 months with a target completion date of June 2024.

Evidence of the PILOT approval will be required before the closing on the construction financing can occur. The Developer is also requesting an APFO waiver as permitted for affordable housing projects under Section 16.1103(e) of the County Code.

Materials Provided with Application. The Developer submitted a package to the Department on 1/28/22. Staff will send copies to the Board on 2/7/22. The Developer will make a presentation to the Board at a meeting on 2/10/22. The Developer provided all the items on the attached checklist for the board to review and consider when making a recommendation. A student yield analysis from Jeff Bronow at the Department of Planning and Zoning was also provided to the board.

Staff Analysis. Staff analyzed the financial statements, including the LIHTC Form 202 with and without the PILOT, and statement of sources and uses, for the financing package. The Evaluation Summary is attached to this memo.

Staff Recommendation for the PILOT. The Developer submitted an application and documentation for the project, which meet the following criteria for a PILOT:

- The Developer is creating new, affordable units for adults with disabilities, older adults and families in a high opportunity area;
- The demand for affordable rental units far exceeds the existing supply in the County and this project will help address the shortage of units;
- The project was awarded LIHTC financing credits from MD DHCD;
- The project's LTV is 85%, the loan repayment term is 40 years, the debt service coverage ratio is 1.15% and the developer is deferring a portion of the developer fee;
- If the PILOT is not approved, there will be a financing gap of approximately \$570,000 which means the project will not be able to proceed;
- This project has the support of the disability advocates, particularly the Howard County Autism Society, the Housing Affordability Coalition, neighboring communities, the village board and the Columbia Association;
- Creating affordable rental units for special needs populations, such as adults with disabilities and seniors is a recommendation in the Housing Opportunities Master Plan; and
- The Developer appears to have accessed all available funding and maximized debt on the project.

Staff Recommendation for the APFO Waiver. The Developer is requesting consideration of a waiver of the APFO requirement as allowed under Section 16.1103(3) of the County Code based on the projected overcrowding at the elementary school level (106.5%) in 2024. A waiver can be granted if:

- at least 40% of the units shall be affordable to households earning 60% of HUD Baltimore MSA AMI;
- the project is led by or in partnership with a local nonprofit;
- the project has received an allocation of LIHTC or other state or federal financial assistance for affordable housing;
- the project has received a letter of support from the County Executive; and
- the County Council or County Executive has approved either a PILOT or a resolution authorizing the project to proceed.

Based on these findings, staff recommends approval of the PILOT and APFO Waiver requests.

cc: Carl DeLorenzo, Director of Policy and Programs
Constance A. Tucker, Principal Counsel