

MINUTES

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Minutes
July 18, 2013

Call to order, introduction of Board members, remarks on procedures by Chairman, and presentation by staff

Chairman Edward Gilliss called the meeting of the Baltimore County Planning Board to order at 4:37 p.m. The following members were:

Present

Mr. Edward J. Gilliss
Mr. Paul Miller
Mr. Randy Thompson
Mr. Eric Lamb
Ms. Nancy Hafford
Mr. Mark Schlossberg
Mr. Scott Jenkins
Mr. Jeffrey Gordon
Mr. N. Scott Phillips
Mr. Rainier C. Harvey, Sr.
Mr. Howard Perlow
Mr. Gerard J. Wit
Mr. Wayne C. McGinnis
Mr. Scott Holupka

Absent

Mr. John Polek

County staff present included Andrea Van Arsdale, Jeff Mayhew, Curtis Murray, Lynn Lanham, Donnell Zeigler, Jessie Bialek, Janice Graves, and Kathy Schlabach from the Department of Planning. Also attending the meeting was David Thomas from the Department of Public Works.

Review of today's Agenda

There were no changes to the Tentative Agenda as published, which is filed as Appendix A.

Minutes of the June 6, 2013 Meeting

Mr. Miller moved to accept the Minutes of the June 20, 2013 meeting as circulated. Mr. Harvey, Sr. seconded the Motion, which unanimously passed at 4:39 p.m. Absent was Mr. Polek.

A copy of the June 20, 2013 approved Minutes are filed as Appendix B.

Items for Discussion and Vote

1. Food Truck Legislation

Mr. Gilliss invited Mr. Zeigler from the Department of Planning to advise the Board of any further comments or concerns from the Department of Planning prior to the Board's vote on the proposed Food Truck legislation. Mr. Zeigler replied that the department had no further comments. Mr. Gilliss invited a Motion from the Board to adopt the proposed Food Truck legislation.

Mr. Miller moved that, the Baltimore County Planning Board adopt the Proposed Food Truck Regulations Report dated May 16, 2013 as presented by staff and recommends it be forwarded to the Baltimore County Council to become Baltimore County regulatory law. Mr. Perlow seconded the Motion. Ms. Hafford questioned the provision that allows food trucks to park within 100-feet of a food service establishment.

Mr. Perlow moved to amend Mr. Miller's original Motion to delete the provision that allows food trucks to park within 100-feet of a food service establishment. Mr. Phillips seconded the Motion with the amendment which unanimously passed at 4:42 p.m.

Mr. Lamb moved to further amend Mr. Miller's original Motion to amend Section D (3) regarding revocation of a food truck license. This amendment provides a bench mark to determine when a food truck has violated this section regarding the maximum hours that a food truck may be permitted to park in a metered parking location. Mr. Lamb's amendment to Section D (3) added a numeral value of 5 for the number of times during a calendar year that a food truck could be cited for parking more than four hours at an expired metered parking space the food truck license can be revoked. Mr. Miller seconded the Motion, which unanimously passed at 4:45 p.m. Absent was Mr. Polek.

Mr. Miller's original Motion, seconded by Mr. Perlow, as amended, was now before the Board for vote. The Motion as amended unanimously passed at 4:47 p.m. Absent was Mr. Polek.

A copy of the 2012 Proposed Food Truck Regulations Report is filed as Appendix C.

2. Cycle I Zoning Action — Petition for Reclassification-Chestnut Ridge 11700 Falls Road, Case No. R-2013-0199

Mr. Gilliss invited Ms. Bialek from the Department of Planning to advise the Board of any further comments or concerns from the Department of Planning prior to the Board's vote on the Cycle I Zoning Action — Petition for Reclassification-Chestnut Ridge 11700 Falls Road, Case No. R-2013-0199. Ms. Bialek responded that the Department of Planning has no further comments to offer to the Board. Mr. Perlow moved that the Baltimore County Planning Board adopts the Director of Planning's June 6, 2013 Cycle Zoning Report for Chestnut Ridge Golf Club, LLC request to change the zoning from RC 7 to RC 5. Mr. Harvey Sr. seconded the motion.

Mr. Miller made a request to make a statement prior to the Board's vote on the Chestnut Ridge petition for zoning reclassification. Mr. Miller specifically requested that his remarks be accurately reflected in the minutes of the July 18, 2013 meeting. In response to that specific request the following remarks were transcribed:

Mr. Miller: As I think all of you know, I am not an attorney, however since this petition for reclassification has been presented to us on the basis of the County Council having made an error, it seems to me that the basic issue was whether or not the County Council in its deliberation and judgment had in fact resulted in the decision on CZMP 2-031 that was an error or a mistake. In considering matters like these the words 'error' and 'mistake' are synonymous and so my first question to answer was a legal one... Was the County Council's decision an error or a mistake? That leads me now to asking, who is the Planning Department's legal counsel?

Ms. Van Arsdale: Michael Field.

Mr. Miller: The Planning Department is...

Ms. Van Arsdale: The County Attorney is Michael Field.

Mr. Miller: Okay. Did the Planning Department contact their counsel to see if they had a legal opinion as to whether the County Council committed an error or a mistake?

Ms. Van Arsdale: No

Mr. Miller: Wouldn't that...wouldn't that be appropriate to have such opinion?

Ms. Van Arsdale: No, we are looking at it from a planning perspective.

Mr. Miller: Why wouldn't it be appropriate?

Ms. Van Arsdale: We're not looking at it from that perspective. We are looking at it from how we have interpreted it and taking it through, and this is the normal process.

Mr. Miller: So you assumed the council did make an error, otherwise...

Mr. Gilliss: Ms. VanArsdale said that planning staff is looking at this from a planning perspective, not an error.

Mr. Miller: Last Monday I was contacted by the attorney for the petitioner who gave me a copy of a document entitled Title 1, Public Ethics and he explained to me that since I was a board member of the Valleys Planning Council (VPC), the rules on County Ethics precluded my taking part in the vote on this issue.

I took the advice seriously, and still felt this was a legal issue as to an error or mistake that I should consider, and that it was not an issue of whether or not I liked or didn't like, or agreed or didn't agree with the County Council's CZMP decision on issue 2-031.

So, I contacted the counsel for the Ethics Commission who is Susan Dubin.

I advised her I was a Board Member of the VPC and they had spoken at the Planning Board public hearing. I discussed my status and this matter with her three times on the phone.

I understood her comment to be that whether or not the Valleys Planning Council was a party to this issue was debatable and the word party was not defined in the ethics document.

I also heard from the counsel for the County Council, who said they believed there was not a conflict of interest if I did participate in this matter.

Nevertheless, even though I feel very strongly that the Council did not commit an error or mistake and I have no conflict in participating, I still hope the Planning Board will not recommend approval of this petition. In order to save all the attorneys from spending any more time on this, I now recuse myself from the rest of the discussion and voting on this matter this evening.

Thank you and I would certainly appreciate my remarks to be accurately recorded in the minutes.

Mr. Miller's remarks generated discussion and debate amongst the Board members. The discussion involved the relationship between error versus mistake and if the Board's consideration should be based off of a land use perspective or a legal perspective. Mr. Schlossberg stated that he did not think the Council's CZMP decision was an error or mistake and advised that he would vote against the Motion. The majority of the Board agreed to view the issue from a land planning perspective and leave the legalities of the matter to the Board of Appeals.

Mr. Gilliss iterated the motion made by Mr. Perlow wherein he moved that the Baltimore County Planning Board adopt the Director of Planning's June 6, 2013 Cycle Zoning Report for Chestnut Ridge Golf Club, LLC request to change the zoning from RC 7 to RC 5, and that Mr. Harvey, Sr. seconded the motion.

Mr. Gilliss then called for a vote by a show of hands, and by a vote of 9 ayes to 3 nays, the Board supported the Petitioner's request to reclassify the Chestnut Ridge property to RC 5. Mr. Miller recused himself and Mr. Polek was absent.

A copy of the staff report and supporting documents is filed as Appendix D.

Other Business

3. Report from the July 11, 2013 Landmarks Preservation Commission Meeting

Mr. Gilliss referred the Board members to the written report of major actions from the July 11, 2013 Landmarks Preservation Commission meeting contained in the notebooks.

A copy of the report is filed as Appendix E.

4. Legislation of Interest to the Planning Board

Mr. Murray advised the Board that there were four County Council legislative actions since the last Planning Board meeting that may be of interest to the Board. The following are the legislative items of interest:

- Bill 38-13 - Bicycle Parking in the C.T. District of Towson
- Bill 39-13 - Public Swimming Pools and Bathing Beaches
- Res. 50-13 -Designation of Sustainable Community - Towson Area
- Res. 51-13 - Baltimore County Pedestrian and Bicycle Advisory Committee - Bike Sharing Program

Mr. Gilliss asked the Board members if they had any questions for Mr. Murray. Being none, Mr. Gilliss referred the Board members to the copies of the legislation contained in the notebooks.

A copy of the legislation presented is filed as Appendix F.

Adjournment of the Board Meeting

Mr. Phillips moved to adjourn the Board meeting at 4:59 p.m. The Motion passed unanimously. Absent was Mr. Polek.

Public Hearing**
by the
Baltimore County Planning Board

Call to order, introduction of Board members, remarks on procedures by Chairman, and presentations by staff

Chairman Edward Gilliss called the public hearing of the Baltimore County Planning Board to order at 5:25 p.m. The following members were:

Present

Mr. Edward J. Gilliss
Mr. Paul Miller
Mr. Randy Thompson
Mr. Eric Lamb
Ms. Nancy Hafford
Mr. Mark Schlossberg
Mr. Scott Jenkins
Mr. Jeffrey Gordon
Mr. N. Scott Phillips
Mr. Rainier C. Harvey, Sr.
Mr. Howard Perlow
Mr. Gerard J. Wit
Mr. Wayne C. McGinnis
Mr. Scott Holupka

Absent

Mr. John Polek

County staff present included Andrea Van Arsdale, Jeff Mayhew, Curtis Murray, Lynn Lanham, Donnell Zeigler, Jessie Bialek, Janice Graves, and Kathy Schlabach from the Department of Planning. Also attending the meeting was David Thomas from the Department of Public Works(DPW).

Mr. Gilliss advised the Board of the public hearing agenda items to be heard this evening. In addition, he advised the Board that only one speaker signed up to speak on all three hearing agenda items. Therefore, the hearings were combined and all three were heard at the same time. Mr. Gilliss invited Mr. Thomas to brief the Board on the Cycle 31 Water and Sewer Amendments petitioned for 2013.

1. Cycle 31, Water and Sewerage Amendment

Mr. Thomas referred the Board to the Water & Sewerage Plan, Amendment Cycle 31, Staff Report dated July 18, 2013, is filed as Appendix G. Mr. Thomas noted that there were three issues this year known as 13-01 Oheb Shalom Cemetery, 13-02 Dyer Property, and 13-03 Emerson Farms / SPS Maintenance Building.

The Oheb Shalom Cemetery, located at Berrymans Lane, Reisterstown, is zoned DR 2, is currently outside of the URDL, and is divided by the Metropolitan District Boundary. The existing water and sewer designations are W-7/ S-7 and the petitioner requests designations of W-3 / S-3. Baltimore County Staff recommendations from EPS are to deny the petitioner's requests. Planning and DPW recommend W-3 / S-3 on the DR-2 portion of the property, subject to a change in the URDL corresponding to the DR-2 portion of the property.

The Dyer Property, located at Berrymans Lane and Nicodemus Road, Reisterstown, is zoned DR 1, RC 4, and RC 5, is currently outside of the URDL, and is inside the Metropolitan District Boundary. The

existing water and sewer designations are W-7/ S-7 and the petitioner requests designations of W-3 / S-7. Baltimore County Staff recommendations from EPS are to deny the petitioner's requests. Planning and DPW recommend retaining the W-7 / S-7 designations.

Emerson Farms / SPS Maintenance Building, located at 800 Greenspring Valley Road, Baltimore, is zoned RC 2, is currently outside of the URDL, and is inside the Metropolitan District Boundary. The existing water and sewer designations are W-7/ S-7 and the petitioner requests designations of W-7 / S-7 with a special exception. Baltimore County Staff recommendations from EPS is to approve the modifying special exception to include an extension of public sewer connection, restricted to Saint Paul's School maintenance building only. Planning recommends designations of W-7, S-7 with special exception modified to allow extension for the plumbing fixtures required for an 8,000 square foot maintenance building only. DPW recommends keeping current designations with the special exception modified to allow the plumbing fixtures required for an 8,000 square foot maintenance building only.

Following Mr. Thomas' remarks on the petitions contained in Amendment Cycle 31 Water and Sewer, Mr. Gilliss invited Mr. Mayhew to address the Board on the two URDL revisions. Mr. Mayhew briefly described the content of the URDL revision requests.

Mr. Mayhew indicated that the Oheb Shalom Cemetery's request is to move the URDL for the said property to be concurrent with the water and sewer request made under the Water and Sewerage Plan, Amendment Cycle 31 and the zoning change made during the 2012 Comprehensive Zoning Map Process (CZMP). There is existing public water and sewer that is available to the subject property in Nicodemus Road, east of Berrymans Lane.

Subsequently, Mr. Mayhew advised the Board that the Dyer Property petition requests to move the URDL for the said property to be concurrent with the water and sewer request made under the Water and Sewerage Plan, Amendment Cycle 31. There is existing public water and sewer that is available to the subject property in Nicodemus Road, east of Berrymans Lane.

Mr. Gilliss then invited Mr. David Thaler, DS Thaler & Associates to provide any comments he had on the public hearing agenda items, as he was the sole presenter to sign up to speak.

Mr. Thaler, on behalf of his clients, offered the following comments:

Oheb Shalom Cemetery- the purpose of the request is to change the URDL line and the Master Water and Sewerage Plan designations to comport to the DR 2 zoning adopted by the County Council in the recent CZMP. The majority of the site drains into the Gwynns Falls watershed and the Red Run interceptor was sized to serve it. Public water and sewer are available a short distance away and stubs were provided when Berryman's Grant, a neighboring subdivision was constructed.

Dyer Property- Stewart Greenebaum donated his interest in the property to the University of Maryland Greenebaum Cancer Center. The property is approved for a 24 lot residential development. The site is within the URDL, an area according to the Master Water and Sewerage Plan that is eligible to receive public water and sewer service, and the Metropolitan District Line. The purpose of the request is simply to extend public water in the bed of Berryman's Lane to serve the already approved aforementioned site due to the fact that Baltimore City requires public water extensions to be in the bed of public roads.

A copy of the petitions to revise the URDL for the Oheb Shalom Cemetery and the Dyer Property is filed as Appendix H.

Mr. Gilliss asked the Board if they had any questions for Mr. Thaler and also opened the floor to anyone else wishing to speak who may have not signed in. There were no questions nor other citizens that wished to address the Board. Therefore Mr. Gilliss advised that the Public Hearing was concluded and asked for a motion to adjourn. Mr. Phillips moved to adjourn. Mr. Gilliss adjourned the public hearing at 5:58 p.m.

Cjm

APPROVED 9/19/2013-cjm