

MINUTES

Baltimore County Planning Board Meeting

October 5, 2017

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Appendix A Public hearing sign-in sheet for Resolution 28-17.

Note: A copy of the appendices is located in the official Planning Board file.

Minutes
October 5, 2017

Call to Order, Introduction of Board Members

Chairman Phillips called the meeting to order at 4:48 p.m. The following members were:

<u>Present</u>	<u>Absent</u>
1. Mr. N. Scott Phillips	1. Ms. Michelle Lipkowitz
2. Ms. Christina Berzins	2. Mr. Howard Perlow
3. Ms. Nancy Hafford	
4. Mr. Todd Warren	
5. Dr. Chris Haffer	
6. Mr. Mark Schlossberg	
7. Mr. Jon Herbst	
8. Mr. Paul Hartman	
9. Ms. Cathy Wolfson	
10. Mr. Wayne McGinnis	
11. Ms. Lori Graf	
12. Mr. Rick Yaffe	

County staff present included Jeff Mayhew, Jeff DelMonico, and Marta Kulchytska from the Department of Planning. Also present was Jan Cook from the Department of Permits, Approvals and Inspections. Mr. Herbst arrived at 5:01 pm.

Review of Today's Agenda

Chairman Phillips asked staff if any changes were made to the agenda. Mr. DelMonico indicated that no changes to the agenda were made.

Minutes of the September 7, 2017 Meeting

Chairman Phillips asked the Planning Board members if they had any questions regarding the minutes from the September 7th, 2017 meeting. Dr. Haffer requested that a revision be made on page four to show that his research involved only one other jurisdiction and not more. The Chair entertained a motion to accept the draft minutes. Ms. Berzins made the motion and Mr. Warren seconded the motion, which passed unanimously at 4:50 p.m. Absent for the vote were Ms. Lipkowitz, Mr. Herbst and Mr. Perlow.

Other Business

1. Report from the September 14th, 2017 meeting of the Landmarks Preservation Commission

Mr. Yaffe reported that on September 14th, 2017 the LPC voted to issue 13 Certificates of Appropriateness (COA).

2. Recent County Council Legislation of Interest to the Board

Mr. DelMonico gave a report on the recent County Council legislation. These Bills and Resolutions are listed below.

- c. Bill 48-17 – Zoning Regulations – R.C.8 (Environmental Enhancement) Zone
- d. Resolution 73-17 – Amending the Perry Hall Commercial Revitalization District

Adjournment of the Board Meeting

Chairman Phillips called for a motion to adjourn the Board meeting. Mr. Warren made the motion and Ms. Hafford seconded the motion, which passed unanimously at 4:55 p.m. Absent for the vote were Ms. Lipkowitz, Mr. Herbst and Mr. Perlow.

Public Hearing by the Baltimore County Planning Board**

Call to Order, Introduction of Board Members, and Remarks on Procedure by Chairman

Item for Public Hearing

1. Resolution 28-17 – Review of Regulations on Development Plans and Plats

Chairman Phillips welcomed Mr. Jan Cook from the Department of Permits, Approvals and Inspections (PAI) before the Board. Mr. Cook provided the Board with an overview of the current development review process as regulated by the County.

Mr. Cook began by providing a history on the development process. This process has evolved over the years through legislative revisions to the Baltimore County Code (BCC). The Joint Sub-division Planning Committee (JSPC) was in effect from 1955 to 1982. The JSPC consisted of representatives from the Office of Planning and the Department of Public Works while other agencies offered comments when required. The approval of the JSPC was in addition to those of the Planning Board and the Department of Public Works as explained in Title 25 of the 1955 BCC. Following the JSPC, the County Review Group (CRG) was in effect from 1982 to 1994. The Office of Planning and the Department of Public Works would make the final determination of the plan. The current development process began in 1994.

Mr. Cook explained that County Council Resolution 28-17 was mainly geared towards reviewing residential development practices. Residential developments have two processes, the major and minor sub-division routes. The minor sub-division process is for developments with 3 or fewer lots. These sub-divisions require that the property be posted and give public notice. The Zoning Review section of PAI oversees the minor process. The review is done by the County; all agencies submit their comments to Zoning and no meetings are required.

A major sub-division process is for developments proposing four or more lots. The development management section of PAI oversees the major sub-division process of which Mr. Cook is in charge. After a major sub-division is submitted to PAI the department will begin to create records, collect fees, and distribute the plans to each County agency. PAI sets the dates for the Concept Plan Conference (CPC) to be within 10 working days of the filing of the concept plan as described in BCC §32-4-216. When PAI distributes the plans to other agencies, the County Council, Board of Education, Baltimore Gas & Electric and other outside entities, such as Verizon, obtain copies of the plans for notification only. The project will also be posted on the County webpage. The reviewing agencies are Environmental Protection and

Sustainability (EPS), Development Plans Review, Zoning, Planning, Recreation and Parks, Real Estate Compliance, House Numbers, Fire, and the State Highway Administration (SHA). PAI conducts a CPC where the reviewing agencies submit comments to the developer and engineer. This meeting is open to the public but is not open for input from residents. PAI will then schedule and conduct a community input meeting. The developer posts the property and provides notice to community organizations.

Mr. Cook explained that the community input meeting is scheduled to be completed within 10 working days of the CPC. The community input meeting must be held no earlier than 21 days and no later than 30 days after the posting as referenced in BCC §32-4-217. The developer has one year from the last community input meeting to schedule a Development Plan Conference (DPC). If the developer is not able to comply with the 12 month deadline, the plan would need to start over from the beginning. The development plan must be filed with PAI within that 12 month period per BCC §32-4-221. The developer must then schedule with PAI a DPC and a hearing officer's hearing (HOH) before the Administrative Law Judge (ALJ). PAI provides notices of dates and times on the website. PAI then submits the plans to the reviewing agencies for comments. The DPC is scheduled at least 10 days before the HOH per BCC §32-4-226. The HOH is scheduled no earlier than 21 days and no later than 30 days after the plan has been accepted as filed. The property has to be posted at least 20 days prior to the HOH per BCC §32-4-226 through BCC §32-4-227. At the HOH, the ALJ takes testimony from the County agency representatives, developers, consultants and interested citizens. The ALJ then makes a determination if this plan meets County laws and will recommend approval or denial. The ALJ shall issue a final decision within 15 days after the conclusion of the final hearing held on the development plan. The ALJ's decision can be appealed to the Board of Appeals which may overturn the ruling from the ALJ. The Board of Appeals decision may be appealed to the Circuit Court.

After a development plan is approved by the ALJ, the approved development plan is valid for four years from a non-appealable approval. An applicant may make a written request to the hearing officer for an extension of one year under certain circumstances. The developer may make amendments to the plan and ask for an A or B limited exemption from the Development Review Committee (DRC). The A exemption would allow the developer to go straight to building permit for minor alterations. The B exemption is considered a plan amendment that requires reviewing agencies to re-examine the plan for approval. Any material amendment to an approved residential plan or plat shall be reviewed in accordance with BCC §32-4-262. Any increase of density or increase in the number of buildable lots is considered a material amendment. The DRC determines if the amendment is material.

The vesting of plans for non-residential and residential plans are mostly similar. If a plat is not recorded, the plan vests when substantial construction occurs with respect to any portion to the plan. If a plat is recorded, than the plan vests when the plat recordation occurs for any portion of the plan. The main difference for a residential plan is that any construction of a development plan occurring more than nine years after the plan was granted final non-repealable approval must comply with all laws in effect at the time permits are issued per BCC §32-4-274. If the plan has a material amendment, the plan will need to comply with current regulations.

Ms. Berzins noted from Mr. Cook's presentation that a developer can ask for an extension if a County agency made a filing error. Ms. Berzins asked if there are also extensions available for development plans if market conditions change. Mr. Cook indicated that Bill 58-09 was in response to the market crash of 2008 when development froze. The County Code lists five types of extensions which a developer could apply for.

Ms. Wolfson asked if there is a time line for posting the community input meeting minutes. Jeff Mayhew, Deputy Director for the Department of Planning, stated that the BCC does not give a timeline requirement for when a citizens input meeting minutes are posted. Mr. Mayhew shared that as part of the DPC, the developer has to send out development plans to everyone who attended that input meeting

which is an interim step before the hearing. Those who attended the input meeting would know if the minutes will be available at a later date. Mr. Cook indicated that the project manager's aim is to get the minutes out within a two week timeframe. Mr. Cook affirmed that a timeframe for the posting of the minutes could be established if not done so already.

Ms. Wolfson also inquired if an increase in impervious surface would be considered a material amendment. Mr. Cook suggested that it would not be a material amendment since it is not changing the density. If an apartment development was to increase parking, this would be considered a non-material amendment but the regulations of storm water management would still need to be satisfied.

Chairman Phillips asked Mr. Cook if the County has been consistent with applying the existing regulations on development plans. Mr. Cook affirmed that the County has remained steady with the review process under Mr. Cook's leadership by following guidelines defined within policy manuals. County regulations change over the years but County employees are consistent with adapting to new legislation when reviewing plans.

Dr. Haffer stated that it would be helpful if the presentation gave context to the broad range of costs exerted upon the developer when going through the process. Additionally, Dr. Haffer suggested that the presentation should highlight within the process diagrams where citizen input is permitted. Dr. Haffer believes that his recommendations will allow for a better understanding of this process for the Council and average County resident. Chairman Phillips suggested implementing a section to explain the roles and responsibilities of the developer and County agencies, where the opportunities exist for citizen input and a breakdown of cost on the developer imposed by the County.

Mr. Cook shared that there is a fee associated for submitting a plan. The County requires 36 copies of the plan which may consist of more than one sheet. The developer needs to rent a space for the community input meeting. The ALJ will approve the civil plan; phase two will provide more engineering and architectural details from a three dimensional view which is an added cost. Once under construction, the developer has to put up security to the County which can cost hundreds of thousands of dollars.

Mr. Mayhew explained that there are plenty of soft costs accrued upon developers. The industry should be able to evaluate the costs associated with the regulatory review process from the County to better estimate the investment potential of a project. Currently, the County allows for nine years of vesting as a balance between reliability of development verses letting a property sit empty for years which a community may find unsightly.

Mr. Warren mentioned that changing the development process could also have an impact upon affordable housing opportunities within the County. If a developer is spending hundreds of thousands of dollars on a sub-division, the cost may need to be spread out depending on the number of units proposed.

Andrea Van Arsdale, Director for the Department of Planning, indicated that a developer may ask for subsidies if an affordable housing project becomes more expensive than anticipated.

Mr. Mayhew stated that a section to the report can be added outlining the estimated costs for a developer and highlight where opportunities exist for citizen input during the development process. Dr. Haffer requested that the costs for the developer be reviewed in order to determine if the nine year threshold is not long enough as costs may be rising and becoming a burden on the developer. Mr. Mayhew elaborated that changing the timeline would have wide-ranging impacts. Dr. Haffer clarified that the Board should not suggest a specific timeline but only provide the Council with the necessary information to make a practical determination. Ms. Van Arsdale indicated that the Department can reach out to some residential and non-residential developers, lay out the parameters, and get some general ranges of the costs for added context.

Ms. Wolfson expressed her concern that an elongated vesting period would allow for the Comprehensive Zoning and Mapping Process (CZMP) to jeopardize the stability of development every four years. Ms. Wolfson also believes a community should not have to deal with an undeveloped lot that could potentially sit untouched for years.

Chairman Phillips called on the only speaker of the night, Mr. Clyde Speelman. Mr. Speelman stated that Resolution 28-17 was precipitated by a request that he himself had made at the Essex Middle River Civic Council (EMRCC) meeting. Mr. Speelman represents the Hopewell Pointe HOA at these meetings. Mr. Speelman explained his interest on the development process was initiated because a piece of land at the intersection of Ebenezer Road and Philadelphia Road had been vacant for 15 years or more. Towards the end of the 2016 CZMP, the ground began to be dug up. According to Mr. Speelman, the development originally was going to be 380 townhomes but will now be 380 rental units. Mr. Speelman believes that five years is a reasonable timeframe for a developer. After listening to Mr. Cook's presentation, Mr. Speelman does not believe that the current 9 year timeline is adequate and should be brought down somewhere around 5 or 7 years. Mr. Speelman concurred with Ms. Wolfson that the community's needs should be addressed as well. Mr. Speelman stated that the upfront costs on the developer are the basic costs of doing business. The community should not bear the burden of the cost for development.

Adjournment of the Public Hearing