

MINUTES

Baltimore County Planning Board Meeting

November 16, 2017

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Appendix A 2015 Victoria Crossing Planned Unit Development Post-Submission Preliminary Evaluation

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

**Minutes**  
November 16, 2017

**Call to Order, Introduction of Board Members**

Chairman Phillips called the meeting to order at 4:00 p.m. The following members were:

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

County staff present included Andrea Van Arsdale, Jeff Mayhew, Kathy Schlabach, Lloyd Moxley, Jeff DelMonico and Teri Rising from the Department of Planning. Mr. Herbst arrived at 4:02 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 November 2, 2017 Meeting**

Chairman Phillips asked the Planning Board members if they had any questions regarding the minutes from the November 2<sup>nd</sup>, 2017 meeting. No questions were raised by the Board members.

The Chair entertained a motion to accept the draft minutes. Mr. Warren made the motion and Ms. Wolfson seconded the motion, which passed unanimously at 4:03 p.m. Absent for the vote was Ms. Lipkowitz.

**Item for Discussion and Vote**

1. Victoria Crossing Planned Unit Development (PUD) - Involvement of a Historic Structure

Chairman Phillips introduced Mr. Lloyd Moxley, Development Review Planner for the Department of Planning. Mr. Moxley explained to the Board the review process for a development involving a historic structure. The structural and architectural qualities of the landmark structure are not under the purview of this Board. The Landmark Preservation Commission (LPC), in its capacity met its regulatory obligations

by approving a Certificate of Appropriateness for the proposed physical improvements to the landmark structure. The review process will culminate with the Administrative Law Judge (ALJ) whose order will incorporate recommendations and findings from many sources to include this Board. The written decision of the Planning Board is binding upon the ALJ. The role of the Board is to consider the development plan proposal in the context of the landmark structure. The Butler House, through time and unique experience, has gained a historic status. This PUD proposal, if approved, will undoubtedly have impacts on that unique experience. The Board is tasked with determining if and how the proposed development influences, enhances, distracts, or detracts from the landmark structure in the sense of how the unique experience of the Butler House is perceived by members of the community.

On September 16, 2015, the Department of Planning provided a preliminary evaluation of the early proposal for Victoria Crossing. Staff identified the potential for adverse visual impacts upon the landmark structure at that initial juncture. The potential for adverse visual impacts were still present in the submitted concept plan prompting staff to comment again on the condition within the May 2017 concept plan report to the Department of Permits, Approvals, and Inspections (PAI). Staff still does not believe that these comments have been adequately addressed by the recently submitted development plan. The Department will remain consistent in its comment through the PUD process. The Department of Planning's position is that mitigating visual impacts upon the Butler House through the architecture of the adjacent buildings and landscape screening protects the landmark structure and effectively responds to the requirement that the PUD proposal achieve a development of substantially higher quality than conventional development as required by the Baltimore County Code (BCC).

The LPC, in its review, observed the same potential for visual impacts upon the Butler House independently. The LPC offered advisory comments to the Department of Planning, the ALJ, and this Board. The Board may accept advisement from any source it deems to be expert. Staff finds that the impacts of this PUD proposal are not so ponderous upon the landmark structure that the project cannot be successful. The developer has made good faith efforts in addressing concerns that this Department has found in other aspects of the plan. It is in that good faith that staff recommends to the Board that the addition of architectural detailing of the rear facades of units 15 through 21, being complementary to the landmark structure, will mitigate the adverse visual impacts of the PUD upon the historic Butler House thereby preserving the unique historical perspective of the landmark structure for future generations.

Mr. Yaffe asked about the content of discussion between staff and the developer regarding the 2015 comments on architectural design. Mr. Moxley explained that staff provided a written comment within the preliminary evaluation in which it was identified that there would be rears exposed to the historic structure. Staff had the expectation that the architecture would be enhanced. The concept plan submission maintained the same condition. This prompted staff to write a more specific comment confirming vegetative screening for the rears and that material usage on the rears, specifically for the decks, would be upgraded. At that time, the Department had no concrete concept of the architectural designs. The pattern book has since been provided but the rears do not exhibit architecture detailing that approaches the requirements of a PUD nor considers the landmark structure.

Mr. Yaffe asked if staff has had this discussion with the developer or seen any responses to these requests. Mr. Moxley indicated that both sides met in good faith addressing multiple issues with the proposal. The rear architectural treatments have yet to be addressed. The Board is limited in its scope of review as it relates to the historic structure, whereas the Department of Planning must consider all aspects of the PUD when reviewing the development. These rear facades are exposed to the public common areas. Enhancing these facades improves the quality of the entire PUD development.

Mr. Yaffe asked upon whose opinion this stance is based. Mr. Moxley stated that this is based on staff's experience with policy, practice, and the requirements of the regulations. Mr. Yaffe stated that the community input meeting (CIM) minutes did not mention any issue as it relates to the facades. Mr. Yaffe

repeatedly asked if staff had seen any mention by the community expressing concern over the rear façades. Mr. Moxley stated he read no comment addressing the rear façades in the CIM minutes. Director Andrea Van Arsdale indicated that staff is not bound by the CIM. CIM comments are considered during the professional review process. Mr. Yaffe asked staff to corroborate his understanding that the LPC found this development to be a benefit as designed. Ms. Van Arsdale explained that the LPC confirmed the benefit as it relates to the landmarked structure; this Board is looking at the development plan as a whole. Mr. Yaffe asked if staff, as experts of this plan, does not like the proposal. Ms. Van Arsdale stated that the Department supports the overall development but believes it can be enhanced with additional architectural treatments on the rears of the buildings which face the structure. Mr. Yaffe asked at what point is the line drawn when looking at design as there is a lot which could be continually enhanced. Ms. Van Arsdale stated that the final decision rests with the ALJ. Mr. Moxley shared that the past precedent is to sit down with the developer and come to terms in those meetings. Staff hopes to continue with efforts in working with the developer on this proposal.

Mr. Yaffe asked if the developer is being unyielding with the Department. Mr. Moxley stated that past discussions had focused primarily on the front and side façades, streets, sidewalks, open space and all other aspects that encompass the development. Some dialogue of the exposed rears were discussed with respect to the open space. Mr. Yaffe asked if the developer has refused to abide by the requests of the Department. Mr. Moxley stated that the Department has not been given a refusal but the developer has not addressed the comments in the pattern book or development plan. Mr. Yaffe inquired if staff would have reason to believe that the developer would not be willing to work with the Department moving forward. Mr. Moxley indicated that the Department has no reason to assert such a claim.

Ms. Wolfson indicated that she had spoken with the owner of the property whom had indicated that they would not be improving the generic façades of the rears facing the historic building. The owner stated that they had invested heavily into the restoration of the landmark and had no plans to change the façades on the rear.

Mr. Perlow shared his view that this development is a major improvement for the property with the historic structure being rehabilitated and sold. The more urban setting of this development does not lend itself towards large vista views like other developments do in more rural settings. Mr. Perlow does not believe that the Board should ask for everything to maintain an affordable development. Mr. Warren shares Mr. Perlow's sentiments about concerns of housing affordability within the County and shared his preference in removing of the landmark structure. The presence of the historic structure increases the values of the homes around it making the property less affordable for families.

Mr. Herbst acknowledged the expertise of the members of the LPC but feels that they should not be redesigning the developments and have overstepped their authority. Mr. Herbst believes that the LPC should stay focused on the historic structure and not make the process too onerous on the developers. Too much oversight may discourage redevelopment. Mr. Herbst cautions his colleagues in making the developer change the rear elevations as the Board does not know how much of a cost burden it would have.

Vice Chairwoman Berzins concurred with Mr. Herbst's statement but shared her view that it would be best to find common ground on this issue. Vice Chairwoman Berzins asked for specifics on what the Department wants to see on the rear elevations. Mr. Moxley indicated that previous discussions with the developer have led to resolutions on multiple fronts. That being said, the developer has not addressed the rear elevations. The Department has the capacity to envision what a successful design of the development would entail but would need to work with the developer. The developer has shown different color blocks, material usage, depths and additional elements on three sides of the building which the Department would like to see those concepts carried onto the rear.

Mr. Greenspun, the developer, indicated that he does not see a comment from 2015 which address the rears of the buildings. There were previous discussions about screening for the buildings backing towards the historic house but there have been no negotiations regarding the architecture of the rears. Mr. Greenspun specified his evaluation that this did not arise until after the LPC provided advisory comments. Mr. Greenspun indicated that common ground can be found and would be willing to extend color patterns and vinyl widths to the rear. Ms. Hafford asked if the Department of Planning would accept Mr. Greenspun's offer. Mr. Moxley stated that the development could be further negotiated as it continues through the normal review process.

Mr. Greenspun expressed his concern in adhering to the LPC comments as they indicate that the rear elevations should receive as much detailing as the fronts. Mr. Greenspun indicated that those additions would be fiscally un-workable. Mr. Greenspun reiterated his acceptance in finding a middle ground with the Department and does not believe that the Board should mandate it.

Mr. Jason Vettori, Esq. stated that the Department of Planning will be able to make a final case for the architectural design of the rears at the Hearing Officer's Hearing (HOH). Mr. Vettori indicated that the Department never spoke about the rear elevations during the Concept Plan Conference (CPC). Mr. Vettori specified that a pattern book was submitted with the concept plan and again with the development plan. Mr. Vettori believes that this is being propagated only by the LPC advisory comments. Mr. Vettori indicated that there is nothing in the Code which mandates the developer to refer the development to the LPC with respect to the Board's jurisdiction. Mr. Vettori stated that the developer does in fact have to refer it to the LPC as part of a building permit application for the historic structure. Mr. Vettori elaborated that the ALJ is supposed to refer the development plan to the Planning Board. During this process, Mr. Vettori asserts that the Department has added a step to the process which is not codified. Mr. Vettori believes that the LPC is exceeding their expertise by deciding how this development should take place where no historic setting exists. Mr. Vettori indicated that the developer would be willing to work with Planning moving forward as the regular development process proceeds. Mr. Perlow does not believe that the Board should indicate within the motion whether the project's architecture will have an adverse visual impact on the historic structure.

A motion was made by Mr. Yaffe, seconded by Mr. Schlossberg and then voted upon by the Board determining that the development was not detrimental to the Final Landmark Structure and may proceed to the Hearing Officer with the design as submitted.

Chairman Phillips asked if there was need for any further discussion. Ms. Wolfson expressed her view that this will be doubling the density and there should be a higher standard to meet the intent of a PUD. Mr. Schlossberg indicated that after speaking with the County Councilwoman for this area and the community, they do not have a problem with this part of the development. The motion passed at 4:48 p.m. with Ms. Wolfson voting nay. Absent for the vote was Ms. Lipkowitz.

### **Other Business**

#### **2. Report from the November 9<sup>th</sup>, 2017 Meeting of the Landmarks Preservation Commission**

Mr. Yaffe reported that on November 9th, 2017 the LPC voted to issue 8 Certificates of Appropriateness (COA).

### **Special Presentation**

Mr. Kris Weaver, Geographic Information Systems (GIS) specialist with the Department of Planning, provided the Planning Board with a brief historical review of the 50 year existence of the Urban Rural Demarcation Line (URDL). Mr. Weaver explained that the URDL is used to control and moderate land use and urban sprawl. The current line has not changed significantly since its inception. In 2003, the lines were redrawn to be more accurate using the County GIS data. Mr. Weaver indicated that the County is 33.6% urban.

Mr. Warren shared his view that the URDL has caused a plight in certain areas of this community by restricting the ability to build affordable houses around a major metropolitan city leading to segregation. Mr. Warren explains his view that an environmentalist might like the outcome but does not believe it has benefitted the average Baltimore County or City resident.

Ms. Wolfson believes that the URDL has encouraged reasonable redevelopment which creates affordable housing without afflicting the environment. The Board and the community should work to improve our schools and not leave behind an abandon community.

Mr. Perlow believes that the Board should be prepared to see more redevelopment within the community. Towson with the Downtown Towson District is a perfect example of this trend.

### **Adjournment of the Board Meeting**

Chairman Phillips called for a motion to adjourn the Board meeting. Ms. Wolfson made the motion and Ms. Hafford seconded the motion, which passed unanimously at 4:59 p.m. Absent for the vote was Ms. Lipkowitz.