

MINUTES

Baltimore County Planning Board Meeting

June 7, 2018

Contents

Call to Order, Introduction of Board Members, Pledge of Allegiance, and Announcements

Review of Today's Agenda

Minutes of the May 17, 2018 Meeting

Item for Introduction and Vote

1. 2017 Baltimore County Annual Report on Growth

Item for Introduction

2. Pulaski Crossing, PAI #: XI-1041, Master Plan Conflict**

Other Business

3. Recent County Council Legislation of Interest to the Board
 - a) Bill 28-18 Medical Cannabis Dispensaries – Location
 - b) Bill 29-18 Zoning Regulations – Commercial Recreational Facilities
 - c) Bill 30-18 Zoning Regulations – Uses in Certain B.L. Zones

Adjournment of the Board Meeting

Public Hearing
by the
Baltimore County Planning Board**

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

Items for Public Hearing

1. Bill 37-17: Solar Facilities – Evaluation of the Impacts of Solar Facilities in Baltimore County

**Comments by citizens

Adjournment of Public Hearing

Appendices

- Appendix A** 2017 Annual Report on Growth
- Appendix B** Department of Planning Report on Pulaski Crossing Master Plan Conflict
- Appendix C** PowerPoint Presentations on Pulaski Crossing by Venable and Lorely-Beach
- Appendix D** Review of Article 4F* of Baltimore County Zoning Regulations Regarding Solar Facilities
- Appendix E** Department of Planning’s Staff Report on Bill 37-17: Solar Facilities
- Appendix F** Comments Submitted by the Public

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

Minutes

June 7, 2018

Call to Order, Introduction of Board Members

Chairman Phillips called the meeting to order at 4:07 p.m. The following members were:

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

County staff present included Andrea Van Arsdale, Jeff Mayhew, Jenifer Nugent, Wally Lippincott, Kui Zhao, Jeff DelMonico, and Joe Wiley from the Department of Planning. Mr. McGinnis arrived at 4:14 pm and 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 modifications to the agenda were made.

Minutes of the May 17, 2018 Meeting

Chairman Phillips asked the Planning Board members if they had any questions regarding the minutes from the May 17th, 2018 meeting. No questions were posed and the Chair entertained a motion to accept the draft minutes. Ms. Hafford made the motion and Mr. Warren seconded the motion, which passed unanimously at 4:08 p.m. Absent for the vote was Ms. Berzins, Ms. Lipkowitz, Mr. McGinnis, Mr. Herbst, and Mr. Perlow.

Item for Introduction and Vote

1. 2017 Baltimore County Annual Report on Growth

Ms. Kui Zhao from the Department of Planning presented a summary on the 2017 Baltimore County Annual Report on Growth. Ms. Zhao explained that these reports review the trends and patterns of new development, legislative amendments, public facilities improvements and land preservation within Baltimore County. Ms. Zhao provided the Planning Board with data derived from these reports and was available to answer questions following the presentation.

Mr. Warren asked if Ms. Zhao had investigated how many total lots are available for developing. Ms. Zhao indicated that the report has a residential development capacity study on page 31.

Mr. Schlossberg asked if there were comparisons to previous years. Ms. Zhao confirmed that the report makes comparisons to prior years.

The Chair entertained a motion to recommend adoption of the 2017 Baltimore County Annual Report on Growth. Ms. Hafford made a motion, Ms. Wolfson seconded the motion, which passed unanimously at 4:18 p.m. Absent for the vote was Ms. Berzins, Ms. Lipkowitz, Mr. Herbst, and Mr. Perlow.

Item for Introduction

2. Pulaski Crossing, PAI #: XI-1041, Master Plan Conflict**

Ms. Jenifer Nugent, Chief of Development Review for the Department of Planning, opened by providing background information and explained how Pulaski Crossing came before the Planning Board. The Administrative Law Judge found that the proposal goes counter to the Master Plan transect zone of T2-R and referred it to the Planning Board per Baltimore County Code §32-4-231(a)(1). Ms. Nugent provided the Board with images of the zoning and Master Plan designations. It is the Department's evaluation that the T2-R transect designation for this area was done in error and thus the Department finds that this is not a Master Plan conflict.

Ms. Wolfson asked if the R.C. 2 portion has remained R.C. 2. Ms. Nugent confirmed that the R.C. 2 portion was rezoned in the last cycle. Ms. Wolfson asked if the Department is then suggesting that there be no transition between R.C. 2 and heavy industrial usage like BR. Ms. Nugent stated that the rezoning of the property allowed the front portion to be zoned BR-AS. The "Pan-handle" portion was never proposed to be developed. Ms. Andrea Van Arsdale, Department of Planning Director, stated that the R.C. 2 was inside the Urban Rural Demarcation Line (URDL), and as part of the Comprehensive Zoning Map Process (CZMP), the transition area was created.

Chairman Phillips asked for clarification on this particular argument for Master Plan Conflict. Ms. Van Arsdale explained that the Administrative Law Judge (ALJ) viewed the T2-R (large lot) transect for this property as a conflict with the proposal. However, transects within the URDL generally allow for more intense development which leads the Department of Planning to conclude that a mistake was made when the Master Plan 2020 was conceived.

Adam Rosenblatt, Esq., Venable LLP, provided the Planning Board with a legal review of Master Plan conflicts within Maryland's history and highlighted the chronology of events for this specific property. The ALJ referred this development to the Planning Board to make a determination on whether this is a Master Plan conflict. The County Council may overrule the Planning Board's decision but the Planning Board's motion is binding upon the ALJ's order. Ms. Rosenblatt states that this development is consistent with the "Employment Center" Land Management Area designation which is also within the Master Plan.

Ms. Wolfson inquired if the units are for purchase or rental. Mr. Rosenblatt stated that they are all for sale. Ms. Wolfson asked if there is to be any accommodation for low income families. Mr. Rosenblatt avowed that this development does not seek affordable housing.

Mr. Warren asked if there is an estimate on total cost reductions if the seven acre buffer went away. Mr. David Karceski, Esq. stated that the D.R. zoned portion is already recorded under a conservation easement buffer so it cannot be built on. The full development potential for the property is 169 townhome units and the proposal is for 150.

The Chairman called for any speakers on this topic. Michael McCann, representing Bowerman-Loreley Beach Community Association, provided the Planning Board with a review of why this should be considered a Master Plan conflict. This property is only allowed residential units in the BR because it adjoins a D.R. 5.5 zoning. Mr. McCann stated that the D.R. 5.5 used to be R.C. 2 until the recent zoning change. This change in zoning thus allowed for residential units into the BR. Mr. McCann also argued that the Master Plan has been deemed a regulatory device in previous case law and should be used as such. Mr. McCann introduced Christopher Jakubiak to provide more details on this Master Plan conflict. Mr. Jakubiak stated that the area is more compatible for heavy industrial uses and not residential homes. The Land Management Area of "Employment Center" is not conducive to residential housing.

Mr. Herbst asked who would develop the site as an employment center. Mr. Jakubiak stated that the County wants an employment center located there which is why the appropriate zoning is provided. The market may not be there currently but it is not uncommon to find zoning projecting ahead of the market. This very neighborhood has employment centers within it. The residential community will cause additional traffic congestion.

Mr. Yaffe asked about the amount of taxes that will be generated as a residential community rather than a vacant lot. Mr. Jakubiak stated that he was unaware of that number but there are school capacity issues for the neighborhood which may cause added costs to the County. Mr. Yaffe asked if Mr. Jakubiak would have issue with the level of added traffic from an employment center. Mr. Jakubiak stated that this type of traffic would be more consistent with the peak periods of traffic for this area and would not attract school buses.

Mr. Karceski addressed Mr. Yaffe's question on taxes. Mr. Karceski stated that the property is currently assessed at \$2 million, with 150 townhomes, that would increase the value to somewhere near \$40 million. Mr. Karceski asserted that Mr. Jukubiak is not a traffic engineer and was presenting information which is not relevant to the decision which the Board needs to make. The Planning Board's focus is to make a determination on if this is a Master Plan conflict. There is also a highly dense mobile home park adjacent to this property.

Mr. Jakubiak opined that a mobile home park is a defined term in the zoning regulations which is considered a commercial use. This is not allowed in the BR except by special exception so this is not a residential use. Chairman Phillips asked if people live there. Mr. Jakubiak confirmed that people live there but there is a commercial element in the front for a R.V. center.

Other Business

3. Recent County Council Legislation of Interest to the Board

Mr. DelMonico provided a brief report on the recently passed County Council legislation which are listed below.

- d) Bill 28-18 Medical Cannabis Dispensaries – Location
- e) Bill 29-18 Zoning Regulations – Commercial Recreational Facilities
- f) Bill 30-18 Zoning Regulations – Uses in Certain B.L. Zones

Adjournment of the Board Meeting

Chairman Phillips called for a motion to adjourn the Board meeting. Ms. Hafford made the motion and Mr. Warren seconded the motion, which passed unanimously at 5:20 p.m. Absent for the vote was Ms. Berzins, Ms. Lipkowitz, and Mr. Perlow.

Public Hearing
by the
Baltimore County Planning Board**

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

Items for Public Hearing

1. Bill 37-17: Solar Facilities – Evaluation of the Impacts of Solar Facilities in Baltimore County

Chairman Phillips called the Public Hearing to order at 5:38 pm and welcomed Wally Lippincott to present before the Board. Mr. Lippincott provided an overview of the Department of Planning's report on Bill 37-17 as well as the process for how the report was produced. Mr. Lippincott showcased a number of solar facility projects which have already come in for review by the County and explained the process which they have gone through. Mr. Lippincott stated that the Department's recommendations as defined within the report.

Ms. Hafford asked if there were hearings in all of the Councilmatic districts. Mr. Lippincott stated that there were two meetings to solicit stakeholder input but not in every district.

Mr. McGinnis asked if the report states the number of farmers who provided input. Mr. Lippincott stated that there was one farmer that is not full time. Chairman Phillips asked if any others attended the meetings. Mr. Lippincott confirmed that no other farmers attended.

Mr. Schlossberg asked if acreage was ever discussed in the meetings. Mr. Lippincott shared that the areas for special exception are 15 acres or less which is what is needed to produce 2 megawatts.

Mr. McGinnis asked if the committee discussed the difference between prime and productive soils such as class 1, 2, 3 soils (more productive) vs. 4, 5, and 6 (less productive). Mr. Lippincott stated that this was not discussed at the meetings.

Mr. Schweitzer asked about the legislation's ability to account for potential technological improvements which may increase the output of the solar panels. Mr. Lippincott stated that there is a limitation on the capacity of the lines but the technology is blossoming which will require vigilance. Mr. Schweitzer asked if there is an understanding on how runoff of water would impact the ground underneath the panels. Mr. Lippincott stated that there has to be a plan submitted to the Department of Environmental Protection and Sustainability (EPS) for them to consider storm water management.

Ms. Wolfson asked why the committee which met on this legislation so exclusive. Mr. Lippincott stated that Bill 37-17 called for who shall participate and the meetings were open for others to attend. Ms. Van Arsdale stated that if more agricultural professionals wanted to come than they were welcome to come. Mr. Lippincott stated that the Department had expanded upon the group listed in Bill 37-17 to include representatives from the Rural Land Trust and the Agricultural Land Preservation Advisory Board to provide input on the agricultural issues.

Mr. McGinnis asked if the R.C. 2 regulations were ever amended to allow commercial non-agricultural uses. Mr. Lippincott stated that back in the early 1990's new rules were issued to balance between rural communities with agriculture. The State recently changed the uses permitted on agricultural easements to take into consideration additional agricultural commercial activities which take place on farms.

Chairman Phillips allowed for testimony from the public on this topic. There were a total of 26 registered speakers, the list of speakers and submitted comments are located in the Planning Board's file. The speakers were largely in opposition to allowing solar facilities be integrated into the rural landscape. Some speakers recognized the benefits of renewable energy but also stressed the importance of protecting the agricultural capacity of Baltimore County. Speakers also expressed concerns on the potential impacts that a solar facility would have on home values if located in view of a residence. Suggestions comprised of locating solar facilities in more visually isolated areas, in urban settings, and in "brown fields". One speaker asked the Board to provide him flexibility with his land as he investigates building a solar facility on a portion of his land or sub-dividing it to generate earnings.

Chairman Phillips stated that the Board members will take all comments into consideration as the vote is tentatively scheduled for June 21, 2018.

Adjournment of Public Hearing