



## FRIENDS of FREDERICK COUNTY

*preserving our land, our water and our quality of life*

June 29, 2010

Randy McClement  
Mayor, City of Frederick  
Frederick City Hall  
101 North Court Street  
Frederick, Maryland 21701

Re: Municipal Growth Element

Dear Mayor McClement:

We are writing to express our support for your efforts, in consultation with the county, to assess the infrastructure and public service impacts, costs and financing associated with development of properties in Tier 1 and Tier 2 of the City's proposed Municipal Growth Element. We believe the City's decision to "meet and confer" with the county, as required by Maryland law, and the Appendix to the Municipal Growth Element, are important steps forward in this process.

At the same time, however, we wish to address one misunderstanding that has arisen in these discussions. This is the notion that Tier 3 may somehow be included "unofficially" in the City's Municipal Growth Element, despite the fact that Tier 3 development has not undergone the rigorous impact and cost analyses required by HB1141.

Under HB1141, a property is not eligible for annexation unless it is included in a Municipal Growth Element. Article 23A § 19(o)(3)(iii). By the same token, a property may not be included in a Municipal Growth Element unless the infrastructure and public service impacts, costs, and financing associated with its development are comprehensively evaluated in that document. Article 66B, § 3.05 (a)(4)(x).

In the case of Tier 3, the City has made no effort to perform this assessment, despite its receipt of "letters of interest" proposing the annexation and development of large properties in Tier 3, including the 302 acre Kelly & Staley Properties, the 804 acre Glade Valley property and the 161 acre Kemp Lane Assemblage. Without the required impact and cost analyses of these and other developments within Tier 3, Tier 3 may not legally be included in the City's Municipal Growth Element.

Similarly, HB1141 does not provide for the inclusion of Tier 3 in the proposed Municipal Growth Element on some sort of "unofficial" basis. Any effort to circumvent the requirements of HB1141 through the creation of some new, unauthorized category of properties would be unlawful and subject to legal challenge.

We fully support the City's on-going discussions with the county to find common ground on the city's future growth plans, and hope that they lead to agreements to revise the current draft of the Municipal Growth Element. As you are aware, the City may not adopt its Municipal Growth Element until it completes its discussions with the county, and then only after concluding the mediation authorized by HB1141, if either party requests it. See Article 66B, § 3.05(e)(6)(ii).

Under its most recent extension of time from the Maryland Department of Planning, the City has until October 1, 2010 to complete this process. It will be extremely difficult to conduct a thorough and technically sufficient analysis of Tier 3 development by that date. If its Municipal Growth Element with a comprehensive analysis is not adopted by that time, the City's zoning authority will be suspended by operation of law. Article 66B, § 3.05(f)(3).

We urge the City to remove Tier 3 from its proposed Municipal Growth Element to facilitate the timely conclusion of this process.

Thank you for your consideration.

Sincerely,

Janice Wiles  
Executive Director  
Friends of Frederick County

cc: Sandra A. Nickols, Esq., City Attorney

Jan Gardner, President  
Board of County Commissioners, Frederick County

Jenny King, Planner  
Maryland Department of Planning, Planning Services

Shelley Wasserman, Principal Counsel  
Maryland Department of Planning, Office of the Secretary