

DIVISION OF PLANNING

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September 2, 2010

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The Honorable Winslow Burhans, Mayor
Town of New Market
PO Box 27
New Market MD 21774

RE: Municipal Growth Element (MGE) Comments

Dear Mayor Burhans:

Attached are Frederick County Division of Planning comments on the 2010 Draft Town of New Market Municipal Growth Element. We will be sending comments on the Water Resources Element under separate cover. Please note that the Frederick County Board of County Commissioners may have additional commentary on the Town MGE that they may express at the planned upcoming meeting between the two Boards.

To that end, Planning Division Staff reviewed the MGE and provided comment in an effort to better understand some of the information and context of the Town MGE as well as identified information that would benefit being updated/corrected.

Thank you for the opportunity to provide comments and if you have any questions you can contact me at 301-600-1411 or Tim Goodfellow at 301-600-2508. We look forward to discussing with the Town the MGE at the joint meeting schedule for September 20th.

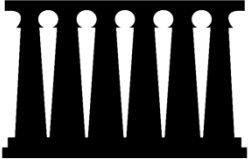
Sincerely,

Eric E. Soter

Eric E. Soter, Director
Division of Planning

Cc: Board of County Commissioners
Ronald A. Hart, County Manager
Jenny King, MDP
Jim Gugel, Chief Planner
Tim Goodfellow, Principal Planner

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General Comments

A 'general observation' is that the MGE is a bit difficult to follow as it seems to bounce around by subject area. Nonetheless, it is difficult to follow as certain issues continue to be interjected in sections that are not applicable. An example is the bypass discussion (while staff understands it is an important issue), it is discussed sporadically throughout the document (even in the schools section) and its relationship is not clearly defined. It would better serve the readers of the document to review the text and reorganize some of the text to that regard.

Another 'general observation', the town should be commended for interjecting objectives that, if fulfilled, will enhance New Market's character, namely the statement indicating that..." *We choose to accept orderly, compact, phased, and compatible growth in or Planning Area as our alternative to the suburban sprawl, automobile-dependent development...*" That is encouraging as I am sure the Town does not want to build new developments that are isolated from the existing community with limited accessibility options and designs that are not in keeping with the town character.

Lastly, I mentioned to Bruce Galloway when Jim Gugel, Tim Goodfellow and I met that we are willing to assist in developing a zoning and land use plan map product for the Town. Our Planning/GIS staff will be in contact with Bruce shortly after we start to put the information that is depicted on the maps in the MGE into our GIS. This may be a map product that due to timing we cannot complete in time for your submittal to the state, nonetheless when it is done it will be a useful map for everyone's use going forward. You have the existing maps that appear to have been prepared by Rodgers Consulting to utilize for the submittal. It should be noted our intention is to simply take your information and put it into GIS so that everyone can have a more useful map product, it is not meant for the county to dictate any land use or zoning. I just wanted that be clear, that these will be your (Town) maps. However, having it in GIS will allow you to update it easier and overlay with other GIS data and perform calculations as needed.

I. Introduction

Page 4, B. The Town's Visions

In the section with the heading 'CHANGE MUST FIX' on page 4, the reference to the historic National Pike should be replaced with 'Historic National Road'.

II. The Growth of New Market

Page 7

In reference to the statement indicating that 'Current County zoning, promotes a land consumptive, low-density residential settlement pattern in the vicinity of New Market'. It would be helpful to expand on this statement, as the majority of land surrounding the Town is zoned agricultural or if zoned for residential is already built out. The areas to the south of Town are generally zoned for employment uses and/or would permit mixed use that would certainly not be low-density. Does this statement refer to other areas beyond the periphery of the Town (i.e. Lake Linganore, Greenview PUD? Or perhaps the reference is to the current 'Town zoning', as I am not sure that any recent town subdivisions are any more 'dense' than that of any other County subdivision in proximity.

III. New Market's Land Needs

Page 11, B. County Growth Assumptions

The words "is contained" are duplicated in the first sentence. It appears this section is pulled directly from the 2010 County Comprehensive Plan (CWCP). Somehow that should clearly be indicated either with boxing the text and/or citing the chapter/page(s) of the CWCP, or both.

Page 14, C. Development Beyond Present Town Limits

This section includes a vague description of a "Planning Area" the Town acknowledges deviates from the 2005 adopted Town Master Plan and attempts to distinguish this "Planning Area" from a formal Growth Area.

Page 14, Table 4 is not very clear regarding the method for deriving the population numbers.

Page 15, First Paragraph (Land Needs Section)

In reference to the statement that "the Town recommends that the County redistribute some of its growth to Smith Cline..." It would be helpful to expand on this statement. Does the Town want the County to further downzone properties within the vicinity of the Town? I imagine the Town is aware that the BOCC did downzone considerable portions of Lake Linganore between the 2008 New Market Region Plan and the recent 2010 CWCP, essentially all land bays north of the Lake that did not already have some level of site plan approval were down zoned and their PUD zoning was removed.

The Town acknowledges that the Smith Cline properties alone, if annexed, would provide a far greater amount of housing capacity that is needed. Other than the desire for a northern bypass what is the rationale to pursue that amount of development in a 20-year plan, noting that it could be seen as counter to some of the objectives laid out in the MGE regarding preserving the character, enhancing compact design, in-fill, etc... Further, as stated above, the Town should identify where in the County those additional properties should be down zoned in the County to redistribute to the Town.

In the same section, how does the recommendation that the County “rescind its APFO within municipalities” comport with the following sentence on Page 9, 2nd paragraph: “In addition, no new development will be allowed unless it can be determined that adequate public facilities and infrastructure are in place or are planned and funded for construction within a reasonable time period.....” At one time the Town discussed proceeding with an APFO, an update on the status and the status of its progress would be appropriate to note in this MGE.

Page 15, Third Paragraph

Of the 333 lots approved by the Town for the new subdivisions of Brinkley Manor, Orchard and Royal Oaks, 223 are currently undeveloped (Pg. 7, MGE). Are the 233 vacant lots in these subdivisions being characterized as “small infill-type lots?” What is the development potential inside the historic district with true infill lots? Is this the “50% of New Market’s development capacity that is being referenced?”

Page 15, Last Paragraph

The description of the annexation area in the MGE is confusing when compared to the annexation area on the map, which should clearly identify all properties targeted for annexation and those that are part of the town ‘Planning Area’.

Page 16, Second Paragraph

In reference to replacing farmland with development—impervious surfaces—hardly “provides a unique opportunity to repair and restore essential functions of the natural resource base and enhance water quality over the long term.” Regardless of the land use, buffering and plantings will provide far greater benefits to stream corridors and conversion of the land use does not need to occur for these things to happen.

Page 16, Second Paragraph

In reference to the County not identifying a planning policy to encourage municipal annexation, as part of the 2010 CWCP a number of properties were down zoned around many of the municipalities to effectively do just that, encourage the annexation. It is recognized that not all the down zoning that occurred were as a result of that policy, and that the current BOCC did not completely agree with every municipal plan, the fact remains that the intent of those annexations that were adjacent to the municipalities and especially those within a municipal growth plan were down zoned to facilitate a future municipal annexation.

A specific Policy is provided for in the CWCP that reads:

‘MG-P-11 In order to provide a disincentive to development occurring without municipal annexation, land within Municipal Growth Areas, but outside of current municipal boundaries, should remain – or be rezoned to – ‘Agricultural’.

Page 17, Second Paragraph

In support of the Town desire to encourage a balanced mix of residential and non-residential development, the County’s New Market Community Growth Area includes the following land use designations and zoning classifications: LDR, GC, LI, GI, ORI, and VC. Page 11-70 of the County Comprehensive Plan states, “The majority of employment designated land uses within the entire New Market Planning Region are located in the New Market Community Growth Area.”

IV. Growth’s Impact on Public Services and Facilities

Pages 18/19

We question use of traffic data based on projected land uses that are no longer valid as the land use assumptions have changed since 2008 with additional reduction in development potential within Lake Linganore, at a minimum, the Table 5 should clearly indicate the source and date of the source being information from 2008.

Page 20

In reference to the bicycle/pedestrian provisions in future town plans/activities, this is a positive step forward and we fully support those efforts.

Page 20, Public Schools

Provide the description of the acronyms NMES, NMMS and LHS (and any other acronyms) the first time they are used. The words ‘this feeder’ in the second sentence of the Second Paragraph should be replaced with ‘these schools.’

Table 6 and Table 7, Linganore and Oakdale Feeder Patterns, should use updated school enrollment information either from June 30, 2010 or if available when you finalize the MGE, the September 2010 enrollment from this current school year as provided by Frederick County Public Schools. In addition, the 2016 projected enrollments should be verified with FCPS as well, our information from last year's Educational Facility Master Plan indicates slightly lower projected enrollment in 2014 for both the Deer Crossing and New Market ES.

Page 21, First Paragraph, Fourth Sentence

Consider changing the word(s) capacity for 'enrollment', as I believe that is what you are trying to convey in this statement. The numbers should be recalculated with the updated enrollment from 2010.

Page 21, Table 8, Smith/Cline Pupil Yields

Our information indicates that the Deer Crossing ES has a Single Family Detached Pupil Yield factor of (.34) and not (.27) as shown in the table. This should be reflected and the pupil generation adjusted accordingly.

Page 21, Final Paragraph

Second sentence needs revision as follows: "However, closer examination shows that adding 194 students to Oakdale High School only raises its enrollment to 87% of State-rated capacity in 2014."

Third sentence correction and comment:

The Smith/Cline student yield of 130 students would put Oakdale Middle School at 131% of State-rated capacity in 2014. It is important to note that the June 2010 Frederick County Educational Facilities Master Plan includes a 300-seat addition to Oakdale Middle School, with scheduled opening in 2018. However, this is dependent upon county and state funding and the adopted County FY 2011-2016 Capital Improvement Program does not include this project.

The second to last sentence indicates that a new Elementary School on the Greenview site would cost \$23M, this should be noted as an estimate or the source of the estimate should be included as to my knowledge no detailed plans for this site are underway and no cost has been attributed to a school at this location

Page 22, Second Full Paragraph

The statement that is being attributed to the "County" regarding annexation and down zoning and reads (i.e. uses the words) "takes the gun from the municipalities head". This language is not appropriate in a planning document. This is a statement that one County Commissioner uses but is hardly the statement or policy that other Board members use. A better reference would be to the County Policy MG-P-11 as previously stated in our comments. To that end, I am not sure what value this statement brings to this section of the MGE anyway.

The Town's Planning Area includes Planned Residential Development (PRD) in the southeast quadrant of I-70 and MD 75. The school students generated by this future development are assigned to the Green Valley ES, Windsor Knolls MS, and Linganore HS. These impacts are not addressed. Likewise, the school impacts from the large-lot (3-5 acres as noted on page 30 of the MGE) residential development proposed for the Casey/Blentlinger tracts are not evaluated.

Page 23, Water and Sewerage Facilities

First paragraph, final sentence states, "Existing subdivisions and undeveloped land outside the municipal borders of New Market have the opportunity to connect to public water and sewer service." This situation can only occur if: Identified in a Community Growth Area on the County's Comprehensive Plan; Annexed into the Town; Declaration by Health Department of a health emergency; and Approval of a Water and Sewerage Plan amendment. Furthermore, a formal amendment to the WSAA is required to serve any land that is annexed into the Town, per paragraph 13 (Projected Usage) of the WSAA.

Page 26, Second Paragraph, Water Demands Created by Projected Growth

Proposed development in the Town will be served by the County's Potomac River supply—not groundwater in and around the Town, so local water table impacts are negligible. The paragraph mentions a Town water system; there is no existing or planned Town water system. All existing and planned development will be served by Potomac River.

Page 26, 3. Water Demands

There is no discussion of the fact that Smith/Cline and Delaplaine properties are outside the County's Community Growth Area and are designated NPS on the County's Water and Sewerage Plan. This section should also reference the required amendment to the WSAA for any annexation and subsequent development in the Town.

Page 27, G. Recreation, Fifth Paragraph

Frederick County depicts the Town's forest park as an existing Community Park on the 2010 County Comprehensive Plan and includes a Regional Park floating symbol in the vicinity of the Smith/Cline properties. This paragraph contains out-dated information. For example, "Frederick County has selected a location east of New Market for a District Park." The County opened Old National Pike District Park east of New Market near Jesse Smith Road in September 2005.

Page 27, Final paragraph

Frederick County and its municipalities currently provide 11,957 acres of parkland (table 7-7, pg. 7-11, County Comprehensive Plan. The Neighborhood, Community, and Regional parkland needs for 2020 is 7,198 acres (table 7-11, pg. 7-13, County Comprehensive Plan)

Page 28, I. Infrastructure Summary: Schools

This paragraph contains out-dated information. It states, "Construction of East County High will be necessary to solve capacity problems....." "The Frederick County Planning Commission should investigate expediting the proposed construction of the Casey/Blentlinger Elementary School for the purpose of overflow capacity while Linganore High renovations take place." The east county high school referenced in the Town's MGE is Oakdale High School, which opened to students in fall 2008, while reconstruction of Linganore High School was underway. Linganore High School has opened for the 2010/2011 school year. Furthermore, it is not the Frederick County Planning Commission that has authority or ability to expedite the proposed construction of school, which would be the BOE and BOCC.

Page 29, Third Paragraph: Parkland

The MGE includes an odd statement that the County is "currently funding Grove Stadium Improvements and the Thomas Pool renovation in Baker Park." According to the Frederick County Budget Office, \$500,000 was included in the FY2007 CIP for Grove Stadium Improvements. No 'request for payment' was made for these funds and the FY 2008 CIP defunded Grove Stadium Improvements. Funds for the Thomas Pool in Baker Park were included in the FY 2010 CIP, but the BOCC defunded this project on September 25, 2009. No funds were spent on the pool project.

Page 29 Fourth Paragraph: Water and Sewer

Nothing precludes the Town from initiating an amendment to the WSAA prior to municipal annexation to deal with issues raised in this section. Paragraph 13 of the WSAA reads: *The Town shall keep the County informed with regard to proposed subdivision, development and further annexation which will require a request to increase the allocation by amendment to this Agreement.*

V. Protection of Sensitive Areas in and near New Market

Page 30, C. The Town will Consider the Following in Additional Land Use Designations to Thoroughly Address Open Space Issues

Casey/Blentlinger are identified as Agricultural Reserve in the Town's "Planning Area," which is purported not to be a growth area. The MGE states that land in the Ag. Reserve is intended for future development at a density of 3—5 acre lots. Is this area contemplated for public water and sewer service or development with private wells and individual septic systems? The WRE describes Casey/Blentlinger for 'long term conservation with minimal development opportunities' and does not discuss future water or sewer capacity or service for these parcels. It is not clear whether these are areas the Town would consider for future annexation and in doing so place in an Ag/Conservation land use. The County's Ag zoning does not permit 3-5 acre estate type lots that appear to be anticipated in the Town's definition of Ag Reserve.

Page 31, Third Paragraph

The Town's Open Space, Agricultural Reserve, and Conservation designations may form a current 'greenbelt' around the Town, but large-lot (3—5 acres), sprawl development envisioned for the Ag. Reserve area on the Casey/Blentlinger tracts, negates all concept of a greenbelt or "permanent buffers in the landscape."

Page 31, Last Paragraph

Neither the Town (to our knowledge) nor the County has a TDR program. Current programs (MALPF, County IPP, MET, etc...) from potential future programs (TDR) should be distinguished.

Page 32, Second Paragraph

This paragraph appears to promote development on properties "in an area subject to flooding" (most likely the 100-yr floodplain, historical or annual floodplain where, the Town states in the preceding first paragraph, development shall not be allowed). Clarification as to the intent/limits of the consideration to modify zoning regulations should be included.

VI. Financing of Infrastructure Expansion

Staff concurs with the comments by the Maryland Department of Planning, noting that additional information should be provided with regards to the analysis of the costs.

VII. Relationship of New Market's Long Term Development Policy to the Vision of its Future Character

Page 35 #2 Immediate Target

As noted in a prior comment the 2010 CWCP include a specific Policy that reads;

'MG-P-11 In order to provide a disincentive to development occurring without municipal annexation, land within Municipal Growth Areas, but outside of current municipal boundaries, should remain – or be rezoned to – 'Agricultural'