



FRIENDS of FREDERICK COUNTY

Preserving the unique character and quality of life in Frederick County, Maryland through public education, active civic engagement and government oversight

July 28, 2011

The Honorable Winslow F. Burhans, III
Mayor, New Market
P.O. Box 27
New Market, MD 21774-0027

Dear Mayor Burhans:

On July 26, 2010, Friends of Frederick County submitted comments on the Municipal Growth Element proposed by the Town of New Market. Thereafter, Friends submitted comments on the MGE that were prepared at its request by Mr. Reid Ewing, a nationally recognized land-use and transportation planner. Finally, comments on the proposed MGE were also submitted by The Audubon Society of Central Maryland. A copy of these three sets of comments are found attached to our email.

In our view, the Supplement to the Municipal Growth Element does not cure the deficiencies in the MGE set forth in these comments or otherwise comply with the requirements of Article 66B. We have therefore revised and reiterated our earlier comments on the MGE, as set forth below.

The Annexations

The Supplement to the MGE confirms the Town's proposal to annex the Delaplaine, Ganley and Smith/Cline farms. These annexations would more than double the size of the Town from about 434 acres to about 890 acres. The 925 residential units proposed

for Smith/Cline alone could almost triple the population of the Town by adding approximately 2,451 people and increasing the number of residents from 1443 residents (at full build-out of existing subdivisions) to 3,894 residents.

These proposed annexations are contiguous or very near to the Meadows, the Orchards, Brinkley Manor, Royal Oaks, Sponseller's Addition, New Market West and New Market Farms. They are also contiguous or very near to municipal recreational facilities, parks and open space; and an Audubon Bird Sanctuary.

Delaplaine (134 acres) and Ganley (56 acres)

The Town proposes that Delaplaine and Ganley be developed for commercial and industrial purposes which, under the Town's development regulations, include heavy manufacturing, heavy vehicle repair, truck stops, public heliports, recycling and storage, public works yard/garage, warehouses, fast food drive-thru restaurants, motels, commercial parking lots and gasoline stations, among other uses. (See New Market Land Development Ordinance, Article IV, § 2.0, Table of Uses.) The heavy traffic, air pollution, noise, dust, glare, smoke, toxic chemicals and visual impacts associated with these uses would severely impact the surrounding communities, recreational facilities, parks, open space, bird sanctuary as well as the rural and historic character of New Market.

Smith/Cline (266 acres)

The Town proposes to build 925 residential units on the Smith/Cline farms. The Town itself concedes, however, that 925 units would substantially exceed the number of homes required to accommodate the additional residents the Department of Planning projects for New Market in the next 20 years.

Additionally, the 925 residential units proposed for Smith/Cline would generate about 9,000 additional car trips per day, greatly worsen traffic on Boyers Mill Road, increase "cut-through" traffic in adjoining neighborhoods, and exacerbate traffic congestion and safety hazards on narrow, winding road segments and local intersections.

Finally, the Smith/Cline development would yield 583 pupils. As a result, Smith/Cline would severely exacerbate school overcrowding in the area and require the construction of at least one new elementary school, at a net capital cost of \$10 Million to county taxpayers. State and county taxpayers would also have to cover over \$7 Million in

annual operating costs, according to estimates by the Frederick County Public School System (i.e. \$12,093 per student per year.) For these and other reasons, in 2010 the Frederick County Board of County Commissioners classified and zoned these properties for agricultural use only and designated both of them as "NPS" (i.e. No Planned Service for Water and Sewer) in its 2010 Comprehensive Plan and Zoning Map.

The Commuter Expressway

The Supplement to the MGE confirms the Town's proposal to build a commuter expressway from Boyers Mill Road to Old New Market Road (Route 874) that would run nearby or alongside municipal parkland, the Audubon Bird Sanctuary and Royal Oaks. This commuter expressway would channel thousands of cars each day onto Old New Market Road (Route 874), just south of Brinkley Manor. It would also generate noise, pollution and traffic congestion.

The Town's own analysis indicates that this expressway would not reduce traffic or safety hazards on Main Street in future years. At most, it would only limit those traffic increases that will occur by a small amount, if at all. In addition, the Maryland Department of Transportation has raised important questions about the validity of New Market's Main Street analysis. Apart from Main Street, moreover, MDOT has stated that the expressway will likely accelerate development in the vicinity of New Market and worsen rather than relieve congestion in the area.

Requirements of HB1141

HB 1141 (amending Article 66B of the Maryland Code Annotated) requires that every municipality in Maryland adopt a municipal growth element which, among other things, depicts "anticipated future municipal growth areas outside the existing corporate limits of the municipal corporation." Section 3.05(a)(4)(x)(1). A municipality may not annex a property unless it is first included in the municipal growth area established under this requirement. See Article 23A, § 19 (o)(3)(iii).

A primary purpose of the municipal growth element is to fully disclose the potential impacts of proposed annexations on public services and facilities, such as roads, schools, water and sewerage facilities, and public safety (including emergency medical response). Section 3.05(a)(4)(x)(5).

In the past, these impacts of municipal annexations have largely been ignored and resulted in both a severe decline in the adequacy of public services and facilities and dramatic increases in the tax burden on county residents. To ensure that these "hidden costs" of annexations are no longer overlooked, state law now requires "a far more

detailed and quantitative analysis of future growth” and an “examination of the effects of growth on infrastructure [both] within and adjacent to the present municipality and on future growth areas that may be annexed.” (Maryland Department of Planning, “Managing Maryland’s Growth: Writing the Municipal Growth Element to the Comprehensive Plan”, May 2007, p.1.) It also requires municipalities to “identify the infrastructure needed to serve future growth” and the “costs associated” with providing it. (Id. at p.18 and “MDP Municipal Growth Element Checklist”). The municipal growth element must also describe the “financing mechanisms” that will be employed to pay for these costs. See Section 3.05(a)(4)(x)(6).

Finally, the municipal growth element must provide for the “protection of sensitive areas” that could be “impacted by development within the proposed municipal growth area”. Section 3.05(a)(4)(x)(6).

Comments on the Municipal Growth Element, As Supplemented

The Municipal Growth Element, Even as Supplemented, Fails Adequately to Assess Public Service and Facility Impacts, "Associated Costs" and "Financing Mechanisms", as Required by Section 3.05(a)(4)(x).

Roads

As noted, the 925 residential units proposed for Smith/Cline would generate approximately 9,000 car trips per day. Similarly, commercial and industrial development on Ganley and Delaplaine would generate thousands of additional vehicle trips per day, many of which may involve heavy trucks and manufacturing equipment. Neither the MGE nor its Supplement make any effort to assess the impacts of this additional traffic on the streets, roads, highways and intersections in the area. Nor do these documents address the costs of mitigating these impacts or what financial mechanisms might be employed to cover these costs.

We would note, moreover, that a municipality may not avoid a thorough assessment of mitigation costs and financing mechanisms by simply asserting that developers or state and local agencies will cover these costs, whatever they may be. For one thing, no developer or agency is in a position to assume financial responsibility for mitigation until it knows how much it will cost. Equally important, under HB 1141, the MGE is required to inform the public of those costs for which the taxpayer will ultimately be responsible.

Schools

The MGE, as supplemented, recognizes the school capacity issues in the area and concedes that the pupil yield from Smith/Cline will make matters much worse. It further concedes that the pupil yield from Smith/Cline will require the construction of at least one additional public school whose cost would exceed by \$10 Million the revenues generated by developer impact fees. Finally, based on cost estimates employed by the Frederick County Public School System, the total cost to the state and county of educating these pupils would be nearly \$7 Million per year.

It is apparent that Frederick County does not have the resources to cover these costs. We question whether a proposed annexation and development can be included in a municipal growth area in these circumstances.

Water and Sewerage Facilities

The Town of New Market has no capability to provide water and sewerage facilities. In its 2010 Comprehensive Plan and Zoning Map, the Board of County Commissioners classified and zoned Delaplaine and Ganley as "agricultural" and designated both properties as "No Planned Service for Water and Sewer." We question whether properties may be included in a municipal growth area in these circumstances.

Furthermore, the MGE would also not meet State requirements, because it does not include nonresidential water and sewer demand at build-out in its analysis.

The Municipal Growth Element, as Supplemented, Fails to Assess the Impacts of Its Proposed Annexations and Developments on "Sensitive Areas," as Required by Section 3.05(a)(4)(x)(6).

The entrance to the Audubon Bird Sanctuary on Boyers Mill Road is across the street from Smith/Cline. Delaplaine is immediately to the east of, and at points contiguous to, the Sanctuary. The proposed commuter expressway would run nearby the Sanctuary.

Taken together, these massive annexations and developments would severely impair the environment of the Bird Sanctuary and threaten its viability as a sanctuary for bird life. Yet, neither the MGE or its Supplement make any effort to assess the impacts of these developments on the Bird Sanctuary or the many other sensitive areas within and nearby the proposed annexations.

Conclusion

In conclusion, and for the reasons set forth above, we believe that the Supplement to the New Market MGE does not cure the deficiencies of the MGE , as reflected in prior comments, or otherwise meet the requirements of HB 1141.

Thank you for your consideration.

Sincerely,

Janice Wiles
Executive Director
Friends of Frederick
County