

NEWS



Lack of Trust Prompts Call for Pause in PUDs

by Michael Ruby

With a bold, unusual and calculated move, Baltimore County east side community leaders are seeking to usurp the ability and power of their elected officials to over-develop properties with a process they say violates good planning principles, overtaxes established communities and abuses the trust imbued in their public offices.

In an August 5 letter to Baltimore County John A. Olszewski, Jr., the Essex Middle River Civic Council is calling for a moratorium on planned unit developments (PUDs), a development process that originally was designed to facilitate large mixed-used projects featuring enhanced design and community benefits.

The requested pause on PUDs is a stinging rebuke of County Council members whom the community leaders say have corrupted the unique development procedure to enhance the power of their political office, to endear themselves to developers for campaign support, and to invalidate the publicly-debated zoning process.

Exploitation of the PUD process, which can't begin without an enabling resolution introduced and sponsored by a County Council member, "damages the fabric of our communities," said EMRCC President Robert Bendler in the correspondence to Olszewski seeking a moratorium on PUDs.

'Further damage'

The Essex Middle River Civic Council (EMRCC) letter goes on to say the PUD process "is being abused" as a way "to negate the limits of approved zoning designations" and subvert a property's underlying zoning which has been set through a public review process.

Because of "the serious concerns... about the current PUD process," the EMRCC leaders are calling for a "moratorium on all PUD development at this time," stated the letter signed by Bendler.

"The results of inappropriate over-development, due to abuses of the original purposes of the PUD process, cannot be reversed," continued the EMRCC president. "This must be stopped, until it is corrected, to avoid any further damage to the fabric of our communities."

In the letter, Bendler implored Olszewski to take specific actions and rein in the abuses.

"Protecting our communities from the potential current and future damages from inappropriate use of the PUD process is...a legitimate use of your exec-



This original Gerst Farm PUD plan called for 317 units on the 48-acre parcel.

utive powers," he added in the letter.

During this pause, Bendler says the county executive should create a task force "to identify and address, in a constructive manner, the shortcomings of the current PUD system and establish one that truly meets the proper intent and purpose of planned unit developments."

This type of review is "critical," said Bendler, to restore PUDs to "their proper intent and purpose" instead of being used as "a means to negate the limits of approved zoning."

A spokesperson for Olszewski said the EMRCC letter was "received...late this week," according to Sean Naron, of the Office of Communications. "We will carefully review the concerns raised," he added, in an emailed response.

Wrestling power

The umbrella organization, which represents 22 local community associations, also is calling for "a new system" to be implemented regarding proposed changes to the county's zoning regulations, again further wrestling power from the County Council members who have ignominiously earned the distrust of their constituents.

In a separate letter sent to the county executive, all seven council members, the Department of Planning director

and the deputy administrative officer, the group of east side civic leaders said proposed zoning changes initiated by council members and often voted on soon afterwards are not always clearly understood, may be controversial or are not in the best interests of the communities.

Instead, the EMRCC is suggesting that any zoning changes should once again be given the time and consideration afforded during a review by county planning staffers and the Planning Board before coming up for a vote by the council. Consideration by the Planning Board, an all volunteer group that advises the County Council on planning matters, would allow for public scrutiny and input.

"A new system should be implemented to better utilize the professional expertise that exists in the planning department and promote public understanding and meaningful input," said Bendler in the separate letter also dated August 5.

Bendler is a former Baltimore County employee who worked in what was then the Office of Planning in the late 1980s into the 1990s, not as a trained land use planner but manager of the agency's budget and other administrative duties, eventually becoming deputy director.

A growing unrest

The two letters are just the most recent and visible manifestations of a growing unrest and dissatisfaction by community leaders, homeowners and local environmental groups with their elected leaders, particularly those on the County Council, over the development approval process. And the council members have provided plenty of instances for blame and shame.

One such example is the so-called Magnolia PUD, enabled by Councilman David Marks (R-5), which calls for densely-packed townhouses on a 10-acre parcel, located at 8750 Magnolia Road in Perry Hall, that is surrounded by single-family detached houses. The townhouses not only are "incompatible," according to county planners, but the proposed density of 62 town homes is six times more units than allowed under the parcel's current zoning classification that was reaffirmed by Marks during the year-long 2020 comprehensive zoning maps process.

"This PUD is appalling and a travesty," said Pat Keller, who at the time was the vice president of the Perry Hall Improvement Association (PHIA) when the plan was submitted in April 2020. He now is president of the largest community association in northeastern Baltimore County.

Keller's assessment of development plans is considered to be rooted in sound planning principles based upon his serving as the director of what was then called the Baltimore County Office of Planning from 1994 to 2010. The agency has since become the Department of Planning.

Rare admonition

The Magnolia PUD plan is so egregious that the planning department issued a rare admonishment of the PUD process which historically has permitted densities significantly higher than allowed by the property's underlying zoning. By invoking the county's zoning regulations, the planners asked "to what limit" can densities be modified and concluded "that the density for this [Magnolia] PUD is not appropriate."

The not-so-thinly-disguised complaint of how County Council members have allowed the PUD process to be highjacked by builders is viewed by many to be the beginning of a more discerning role by planners, under the guidance of Director Stephen Lafferty, to enforce design principles instead of allowing council members to kowtow to developers. And may be why community leaders are more willing to put their faith in the expertise of the Department of Planning when deciding what development is appropriate than with their elected officials.

Keller and his Perry Hall neighbors also have been battling and negotiating other development projects foisted on the community such as the Gerst Farm PUD (which originally called for 317 units on a 47-acre parcel zoned for one unit per acre) and the Shops at Perry Hall (which required special legislation from Councilman Marks to allow residential units on the commercially-zoned property).

Not confined

Naturally, PHIA's Board of Directors discussed at its August 12 monthly meeting EMRCC's call for a moratorium on PUDs and for a review by the Planning Board of all proposed zoning changes. Though supportive of both requests, the PHIA board will present the issues at its September 9 general membership meeting and decide then to sign on with EMRCC or pen its own missive to the elected officials, according to Keller.

But the dissatisfaction of elected officials is not confined to just the east side. Community leaders from other parts of the county say they, too, have suffered from PUD projects that, at the least, are not compatible with the surrounding community and, at the worst, unduly exacerbate existing conditions such as congested roadways and overcrowded schools.

The Greater Timonium Community Council, an umbrella organization of more than 50 area community associations representing some 60,000 residents, also supports both the proposed study group on PUDs and the review with a longer vetting period for changes to zoning regulations. The central Baltimore County organization, however, does not back imposing a moratorium on PUDs at this time, according to GTCC President Eric Rockel, because the group, along with one of its member communities, is in negotiations with a developer on a proposed PUD in the area.

"It would look like we are not negotiating in good faith," said Rockel.

'Be undone - poof'

However, Rockel said he agreed that "there needs to be some guardrails put in place," when implementing the PUD process, such as setting a minimum lot size, types of uses permitted and maximum density allowed.

"I'm in favor of any work group taking a look at this issue," he added.

Rockel also was an employee with Baltimore County, retiring as a supervisor in the Bureau of Land Acquisition

Private attorney Alan Zuckerberg, president of Pikesville Communities Corporation (PCC), says he, too, supports calls for a PUD moratorium and study group.

"I'm not sure the PUD process should exist," said Zuckerberg who heads the coalition of 15 community associations representing about 2,400 households in the northwestern area of the county. "It's just a way to get around what we worked for and completed during the 2020 comprehensive zoning process. That's a grueling process that takes a lot of time and effort by citizens every four years and it can all be undone — poof — like that with a PUD."

Zuckerberg is more blunt about what the growing rallying cry for a PUD moratorium signifies.

"It's an erosion of trust in our elected officials," he said. "And if they don't get it, then we should vote 'em out."

'Serious concerns'

Comments by Keller, Rockel and Zuckerberg are just some of the "serious concerns...about the PUD process" that are being raised by "many community associations throughout the county," said EMRCC President Bendler in the group's correspondence to Olszewski.

Why? Currently, the Baltimore County Council's web page lists five PUDs under consideration by the legislative body. Those proposals are:

- In the First Councilmanic Dis-

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tract, the 1231 South Rolling Road PUD called for a 165-unit luxury multi-family complex on a 5.5-acre parcel which abuts the Patapsco Valley State Park. The property's current zoning allows for 10 single-family detached houses. The community benefit listed were "enhancements of the nearby Soapstone trailhead" including a possible kiosk, comfort station and bicycle fixit station. But Councilman Tom Quirk (D-1) last summer declined to introduce the resolution that would have begun the review and approval process, citing the lack of broad community support.

- In the Second Councilmanic District, the Chase Bank at Woodholme Avenue PUD calls for a bank facility to be erected on a two-acre parcel carved out of the Woodhome Country Club's 200-acre property on Reisterstown Road in Pikesville. The zoning classification on the proposed bank lot does not permit commercial use. The site was part of a much larger rezoning request during the 2020 comprehensive zoning maps process which was denied by Councilman Izzy Patoka (D-2), who on April 5 introduced the PUD enabling resolution that includes a community benefit of \$500,000 for "recreational opportunities."

- In the Third Councilmanic District, the proposed Sparks Senior Care PUD calls for a 182-bed senior care facility on a seven-acre lot in an industrial park along York Road, north of Shawan Road. The property's current zoning does not allow residential uses. A \$15,000 payment would be made as the community benefit with the money to be used for "recreational opportunities." Councilman Wade Kach (R-3) introduced the PUD resolution on December 21, 2020, but the pandemic has prevented any buyer from stepping forward. So Kach, who agreed to force a residential project that no one wants on industrial-zoned land, then had to extend the time when a development plan must be filed from 90 days after the resolution was introduced to 180 days after the end of the state-of-emergency is lifted.

- In the Fourth Councilmanic District, the proposed Dogwood Village PUD calls for 27 townhouses on a 3.3-acre parcel along Dogwood Road. The property's current zoning allows for 18 single-family dwellings. No specific community benefit was detailed in the PUD application which was submitted on June 11, 2021. Councilman Julian E. Jones, Jr. (D-4) has not introduced the

enabling legislation.

- In the Fifth Councilmanic District, the Gerst Farm PUD enabling resolution was approved on August 2, 2021, allowing 233 age-restricted townhomes or villas on 48 acres at 9328 Gerst Road, five times the number of units allowed by the current zoning. For the community benefit, the developer has agreed, after intense talks with PHIA, to dedicate eight acres toward a passive park, two acres of land for a community amphitheater and \$50,000 towards the construction of the amphitheater

Process altered

No wonder the EMRCC letter to Olszewski says the PUD "is being abused" as a way "to negate the limits of approved zoning designations" and subvert a property's underlying zoning which has been set through a public review process.

That wasn't the reason for establishing the PUD process when it was created in the 1970s and has been evolving ever since.

As described currently by the Department of Planning's web site, a PUD is "a mixed-use development that may combine residential, recreational, industrial and commercial elements." Also, a PUD is expected to "achieve substantially higher-quality development than a conventional development or provide a public benefit that would otherwise not be obtained."

Originally, it was conceived as a tool for large-scale projects with residential and retail uses complementing each other. County development regulations allow for extra density and other uses with a PUD project in exchange for substantially higher-quality design and a community benefit.

An example of an early PUD project is the Mays Chapel community in Timonium which includes a residential mix of various housing units clustered around a commercial/retail core.

But the PUD process has been altered through legislation and devolved through practice into small, single use projects without any "higher-quality development" other than increased density for the project's sponsor. And that's what has riled citizens, especially east side community leaders who are calling upon the county executive to impose a moratorium on PUDs until some so-called "guardrails" can be installed to help guide elected officials from veering off course.

'Recognize...a problem'

"I believe the county executive and council members recognize there is a problem," said Bendler in an interview after the letter was released, "and will be willing to address them. How, I don't know.



“This is not just a [Councilmanic] Sixth District issue; it’s across the county. So they need to coordinate their efforts and say, ‘We are going to do the right thing.’”

But placing a pause on PUDs and giving up the power to turn an undeveloped parcel into a luxury housing community may be difficult for the council members. Or to no longer be able to respond decisively and effectively when a developer runs into a snag.

However, the recent groundswell of discontent by community leaders may be too much even for the elected officials to ignore, especially barely a year away from re-election.

“I think a pause might be a good idea,” said Councilman David Marks (R-5), who represents the Fifth Councilmanic District that stretches from Perry Hall to Towson, in an email statement. “I certainly have no plans to introduce any more planned unit developments for the foreseeable future.

“I do think the Council needs to explore the creation of a zoning designation that allows for age-restricted housing, which right now can be accomplished through the conditions of a planned unit development.”

‘An elevated role’

Councilman Izzy Patoka (D-2), who represents the Pikesville/Owings Mills area, said he supports giving the De-

partment of Planning and the Planning Board “an elevated role” when considering changes to zoning regulations and increasing public input into the process.

“There should be greater community input into everything we do with regard to development,” he added in an interview.

Patoka said he had not seen the letter calling for a moratorium on PUDs but welcomed the discussion on what he called “a legacy issue that may not be in the best interests of the county.”

“I have a great deal of respect for Bob Bendler and Pat Keller,” said Patoka, who worked with both while an employee in the county’s planning office, “and I don’t think it is wise to disregard the concerns from thoughtful people.”

Third District Councilman Wade Kach said in an emailed response that “any planned unit development process must be open, transparent and responsive to community concerns.”

“In my time as a council member, I have only approved one PUD in the Third District which included significant community engagement and ultimately, consensus,” continued Kach, in the emailed reply. “That is the standard I have concerning PUDs. I would encourage all council members to do the same.”

Councilwoman Cathy Bevins (D-6) did not respond to the invitation to comment on the EMRCC letters.

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