

Charles County Board of Commissioners  
President: Reuben Collins  
Re: Public Testimony ZTA #19-155  
05/25/2020



The Planning Commission Report to the BOC includes the false statement: *On February 3, 2020, the Planning Commission held a Work-Session to consider ZTA #19-155 and the public comments.* The Planning Commission failed in its obligation to consider public comments prior to issuing its recommendation, transferring the burden to you to address public concerns during the work session prior to your vote.

I urge the Charles County Board of Commissioners to deny the approval of Zoning Text Amendment # 19-155 because the amendment has not been shown to be in the best interest of the County and it is not consistent with the 2016 Charles County Comprehensive Plan.

1: The Application for ZTA #19-155 presented to the Planning Commission by the County Attorney was incomplete and inadequate. At the request of the Planning Commission, the text of the proposed amendment was adjusted, after the public hearing, to comply with code requirements. However, *the specific reasons why such a text amendment is necessary and should be approved by the County Commissioners*<sup>i</sup> has never been documented in writing and made publically available.

2: The justification offered for the ZTA is that it *would allow a project to be exempt from the development constraints imposed by the WCD Zone*<sup>ii</sup>, yet it appears that the development constraints of the subdivision regulations preclude those of the ZTA. The projects identified as suffering from the unintended consequences of the WCD grandfathering provisions had failed to receive an extension of time required by Section 25 of the Subdivision Regulations. Both Subdivision Plans had expiration dates that preceded the enactment of the WCD. It is unclear why the County Subdivision Activity GIS Maps currently include Brookwood Section II (expiration Date 6/06/2017) but does not include Falcon's Ridge (expiration Date 06/06/2017)

3: The Subdivision Regulations were amended with SRA #12-17 and took effect in 2013. The developers for both Falcon's Ridge and Brookwood Estates II had more than three years between the enactment of the regulations regarding time extensions and the expiration date for the subdivisions, to complete substantial improvements and reach 25% completion of the projects.  
Falcon's Ridge had over 18 years to reach 25% completion.

4: A ZTA for the benefit of only two projects is spot or piecemeal zoning.

5: SRA #12-17 was enacted to address concerns raised by the development community, Planning Staff and County citizens. Falcon's Ridge, with a PC approval date of 2/1/1999 is prime example of Citizen concerns about how long some preliminary plans were kept active, some dating back to the 1990's.<sup>iii</sup>

6: ZTA#19-155 is inconsistent with the 2016 Comprehensive Plan. The plan reduced the Development District from previous plans in part to limit sprawl development and further protect the Mattawoman Creek from runoff from development.<sup>iv</sup>

7: The Charles County Planning Commission meeting agenda of February 3, 2020 included a Work Session to discuss and vote on a recommendation to the County Commissioners on ZTA#19-155. Prior to the Work Session the Planning Commission voted to enter into Closed Session.

When the Planning Commission resumed the Open Session, The Planning Director gave a brief overview of the proposed ZTA. Instead of holding the Work Session, the Planning Commission voted to recommend approval of the text amendment to the Board of County Commissioner without question or comment.

The failure of the Planning Commission to hold a Work Session to address public comments denied the public an understanding of how the Commission arrived at their vote, or why this amendment is necessary. Given the justification for going into closed session was to consult about pending or potential litigation, the public is left to speculate on the nature of the litigation, and the effect, if any, that litigation had on the ZTA itself, and/or the Planning Commission's recommendation.

Maryland Judiciary Case Search shows that Court Case 08-C-16-002422 Wetherburn Associates LLC, and Brookwood II LLC vs Charles County Commissioners was filed on 09/15/2016, with a hearing scheduled for 04/15/2020. Whether or not this case was the topic of the closed session, the fact is the developer of one of the two subdivisions that suffered the "unintended consequences" of the grandfathering criteria of the WCD is involved in ongoing litigation with the County.

8: In these times of crisis, it is vitally important that citizens trust our government. Transparency is essential to earn that trust.

9: The "great recession" officially ended in 2009; the WCD did not become effective until July 21, 2017. It is grossly unfair to blame the Watershed Conservation District for a builder's failure to meet their obligations. If a builder designs a subdivision dependent on a large number of units to support the planned amenities and fails to build those units in a timely manner, that is the fault of the developer, not a development constraint imposed by the grandfathering provisions of the WCD.

10: When the County Attorney presented this application to the Planning Commission, he advised that one of the issues the proposed amendment will address is public outcry about the lack of growth inside the WCD. Additionally, he said it will allow time for the Commissioners to take a complete comprehensive review the entire amendment (WCD). This is very disturbing. The WCD codified Comprehensive Plan policies to protect the sensitive natural resources of the Mattawoman Stream Valley and the headwaters of the Port Tobacco River. The intent of the WCD, based on science, is to limit growth, and it is working to control sprawl development, limit impervious surfaces, and protect our natural resources. The fear that the WCD would have a devastating

effect on property values is simply not supported by the facts. Limiting growth is the intent of the WCD, not an unintended consequence.

Why are our County leaders considering this political decision to roll back provisions of the WCD that are working to protect our natural resources and mitigate climate change?

Respectfully submitted,



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<sup>i</sup> Charles County Zoning Ordinance Article XXVII §297-447C.(2)

<sup>ii</sup> Board Docs Planning Commission December 2, 2019

<sup>iii</sup> Report To The County Commissioners Subdivision Regulation #12-17 Preliminary Plan Time Extensions July 8, 2013

<sup>iv</sup> 2016 Comprehensive Plan Chapter 3 Land Use 1. Development Districts page 3-5