

CORRESPONDENCE RECEIVED
FOR THE RECORD

JUNE 29, 2010 JOINT PUBLIC HEARING
RE: AMENDMENTS TO THE CALVERT COUNTY
ZONING ORDINANCE

NAME	DATE RECEIVED	CASE NO.
Ronald J. Ross, M.D.	July 6, 2010	09-2B
William R. Pittman, Jr. & Bobbie Hutchison	July 12, 2010	09-4B

8c

RONALD J. ROSS, M.D.

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Via E- mail and Regular mail

6 July 2010

Planning Commission
County Services Plaza 150 Main Street
Prince Frederick, Maryland 20678

Calvert County Commissioners
Calvert County Court House
Prince Frederick, Maryland 20678

RE: Text Amendment Case No. 09-2b
Development Agreements in Town Centers
Article 2 – Page 9
2-8.08 Town Center District (TC)

It has been brought to my attention that the following proposed text amendment is being considered:

D. Within the Town Centers, a property may be developed under Ordinance No. 10-97, entitled "Development Rights and Responsibility Agreements", adopted by the Board of County Commissioners March 11, 1997.

A use that is not permitted on the subject property by the current TCZO may be permitted under a development agreement if: (a) the use is permitted elsewhere within the same TC; and (b) the Board of County Commissioners determines that the proposed use does not conflict with the TC Master Plan.

The first sentence in the text amendment should be adopted. The second sentence should be eliminated from the amendment.

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Maryland Code, Article 66B § 13.01, authorizes counties and municipalities to enter into Development Rights and Responsibilities Agreements (DRRA) with developers as a means to "vest" the developers' rights to develop property under the zoning enjoyed at the time of execution of the agreement, in return for acceptance by the developers of responsibilities and conditions in the manner in which the property is developed.

The second sentence of the proposed amendment appears to be directly in conflict with Article 66B cited above. The amendment appears to be "conditional zoning". Conditional zoning is zoning reclassification, subject to conditions not generally applicable to similarly zoned land. The Maryland appellate courts have consistently found conditional zoning invalid in Maryland.

Additionally, this amendment eviscerates citizen's greater than two year effort to rewrite the Solomons Zoning Ordinance – and have the citizens determine what zoning was appropriate in their town centers. Why bother with citizen participation in creation of the Town Center Zoning Ordinances when three County Commissioners can decide the zoning that is appropriate in each zoning area subarea by simply deciding if the use is compatible with the Master Plan?

Please delete the second sentence of this amendment.

Sincerely,


A handwritten signature in black ink, appearing to read 'RJRoss', with a long, sweeping horizontal stroke extending to the right.

RJRoss

CC: Greg Bowen, Director of Planning & Zoning



**PLANNING COMMISSION
MEMORANDUM**

TO: Planning Commission
FROM: William R. Pittman, Jr., Acting Planning Commission Administrator
Bobbie Hutchison, Planner 
DATE: July 12, 2010
SUBJECT: Zoning Ordinance Text Amendment No. 09-4B
Expiration and Vesting of Site Plans

Following the joint public hearing held 6/29/10, the record was held open on the subject text amendment until July 13, 2010.

Recommendation: The site plan review staff to the Planning Commission recommend the following action: Adopt the zoning text amendment No. 09-4B in its entirety, but adjust the vesting dates to coincide with the expiration dates. Do not eliminate the text portion containing expirations.

Explanation: If the new vesting regulations are adopted without the expiration of site plan approval amendments, there would be at least two unintended results.

- There would be no provisions for extensions, even though 4.d mentions “vesting extensions.”
- There would be no clear expiration date at all *during any phase*. It would be necessary to conduct a complete “conformity review” again (over and over) prior to issuing *each next phase* of approval, up to and including the time of construction permit(s) issuance.

WRP/blh

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July 9, 2010

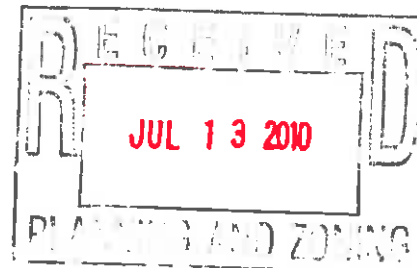
13236 Trenton Avenue

Lusby, MD 20657

Calvert County Planning Commission

Calvert County Court House

Prince Frederick, MD 20678



Dear Planning Commissioners:

I am sending this letter to oppose Text Amendment, Case Number 09-2B, regarding Development Agreements in the town centers. I apologize for not being able to attend the public hearing on June 29, 2010, and I do appreciate your keeping the record open for public response. I did contact the Department of Planning and Zoning about the purpose for the amendment and was advised that there was not a prepared statement. Additionally, the county web page supplied no rationale for the purposed change.

My reasons for opposing this text amendment are as follows:

- (1) This text would allow a majority of County Commissioners (3) to approve a zoning change in any of the town centers and possibly do so without a Planning Commission hearing.
- (2) Each town center is different, and all of the centers had considerable citizen participation in developing the basic parameters. If approved, this text amendment would disregard the original wishes and efforts of the residents.
- (3) This text could also amount to "Spot Zoning," and could allow only three County Commissioners to change a zoning use without public notification and public testimony.

Thus, my concern is how this text could negatively affect the Lusby Town Center where twenty-five percent of the county residents live. An illustration for the potential for negative effect by the passing of Text Amendment, 09-2B, requires the following brief history lesson.

In the summer of 2001, Developer Henry Resnicopf contracted with Lusby residents and property owners Michael and Daniel Barrett to purchase their land and build a Safeway anchored shopping center. The property was Parcel 90, located in the Lusby Town Center, adjacent to the existing Snead's Hardware store. In late fall of 2001, the Planning and Zoning Department presented the Lusby Town Center Comprehensive Plan that did not permit a grocery anchored shopping center on that site. During the holiday season of that year, a lavish Christmas party was held at a Lusby residence. County

Commissioners and Planning Commission members were invited. Very soon after the party, in January 2002, the County Commissioners adopted the Lusby Town Center Comprehensive plan that did not permit a grocery store to locate on the Barrett property. Two Calvert County Commissioners who sit on the board today were in office when the Comprehensive Plan for Lusby was adopted.

Many Lusby residents, including myself, spent considerable time attending meetings and working in concert with the Department of Planning and Zoning in order to develop a viable concept for the Lusby Town Center. One of the basic premises proposed by the citizens was to not permit "drive through uses" in the Town Center Core. The idea was that the main street of the Lusby Town Center would not be lined with crowded, noisy "drive through uses." Rather, a pleasant thoroughfare with a bike lane and buildings with trees would front the main street and highlight the town center. This was to be complimented by the "Village Green," a gathering place for public events.

When the original developer of the Lusby Center, which was anchored by Food Lion, was permitted to violate the Town Center Ordinance and gain additional property zoned for Town Center Commercial use, thereby, creating "a useless road to nowhere," we involved citizens were shocked. Further, when our proposed "Village Green" did not happen, and instead, a mountain of dirt appeared and remains the embarrassing eye sore it is today, we were not only discouraged but also dismayed to realize that we must continually live with this humiliating injustice.

Therefore, you can understand why I am opposed to this Text Amendment that could allow just three County Commissioners to make a judgment decision that could benefit only a few and have a negative impact on the entire population for years into the future.

Respectfully,


Art Carson