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CB 61 – APFO – Support with amendments

I sat on the APFO task force. It was a long and contentious endeavor. I didn't miss any meetings. It was near the end of the almost year-long process before we even came close to starting to pass anything substantive. There were many stakeholders of every type, and a high quorum and voting requirement. Compromises had to be made to get anything meaningful done.

What has been referred to as "the grand deal" of lowering the capacity percentage that halts development in a school district to 110% from the current 115% in return for allowing to pay out of that with larger school charges of two and three times more, passed for a reason. APFO can only hold up development for 4 years. That may sound like a lot, but the Howard County development process takes up to three years already, for what I like to call compliant development, meaning no requests for a new use, or new zone, or waiver. Add those issues and it is even longer, and many have those issues. So, that amount of time is already planned and worked into projects. Thus, developers are waiting 1 extra year max, before proceeding regardless of how crowded a school district is.

The notion was, why not get more money, since it is going to proceed anyway? Many feel that the money put up for schools by developers is woefully small. It certainly is much less than surrounding counties. [See this link, page 59 for a chart:](#)

http://dls.state.md.us/data/polanasubare/polanasubare_intmatnpubadm/polanasubare_intmatnpubadm_annrep/2016-Overview-of-Maryland-Local-Governments.pdf

The link noted is a chart as of 2016 of MD Counties' impact fees. Discussing raising impact fees was a non-starter on the task force. We couldn't even get a voluntary fee increase, to shorten a wait, passed because of fear of precedent. The "grand deal" took, I believe, 7 hours to hammer out on one of our last meeting dates on the subject.

I support the task force recommendations; however, I do not think it is fair to wait until the State possibly allows the surcharge change, as is their jurisdiction, to get the lower capacity percentage. That should happen now for obvious reasons, and there's a big new one coming, redistricting.

When the APFO task force met, there was a known School System policy that no redistricting would occur unless a new school opened. Schools are so over-crowded now that the new Superintendent is faced with having to redistrict in a countywide way, which is going to be painful. It is necessary, but considering how many people are going to be affected, we really owe it to them to not have it be very temporary. Redistricting is going to lower school capacities and open many new districts to development immediately. We are just going to fill right back up again, unless we see 110% immediately, preferable 105%. So, please put that in there, now.

As for that 4 year max wait, in June of this year, the US Supreme Court issued a ruling on a "takings" case that started as a disagreement on how to define the relevant amount of land in question in a parcel; however, the issues at hand go beyond that initial case subject matter.

The Office of Law needs to review this ruling, as it appears to give local jurisdictions more rights regarding "takings" claims. I emailed you the case info.

The last paragraph of the opinion summary states

"They have not suffered a taking under Lucas, as they have not been deprived of all economically beneficial use of their property. See 505 U. S., at 1019. Nor have they suffered a taking under the more general test of Penn Central, supra, at 124. Pp. 17–20. 2015 WI App 13, 359 Wis. 2d 675, 859 N. W. 2d 628, affirmed."

Seems the argument that "more than 4 years is a taking" no longer applies, so that's something to consider.

One last comment, regarding allocations, the Growth and Revitalization area allows 1200 per year, and the trade-off was made there to reduce that to 1000, and increase Established Communities from the current 400 to 600. That area is extremely larger than Growth and Revitalization. If you feel Established Communities should not have an increase, I request you still reduce the 1200 to 1000.