

Nicholson, Ann

To: CHARLES THOMAS
Subject: RE: Testimony in email

From: CHARLES THOMAS <cet1933@gmail.com>
Sent: Wednesday, July 14, 2021 3:23 PM
To: Nicholson, Ann <anicholson@howardcountymd.gov>; Aguilar, Ashley <aaguilar@howardcountymd.gov>
Cc: Charles Thomas <cet1933@gmail.com>; Ginny Thomas <cgthomas65@verizon.net>
Subject: Testimony in email

Testimony of Virginia M Thomas

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July 14, 2021
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My testimony will cover 5 sections:

- 1) Legal requirements under the General Plan for Howard County 2030**
- 2) Criteria under the zoning section for Community Enhancement Floating (CEF) District**
- 3) Conditions that must be required by the Howard County Zoning Board**
- 4) Conclusion**
- 5) An Annex containing details and citations on the criteria that are central to the case**

1. LEGAL REQUIREMENTS PER GENERAL PLAN FOR HOWARD COUNTY 2030

You the Zoning Board are the victims of poor judgement and decisions by the Department of Planning and Zoning, the Planning Board and the previous County Council. Were some of those decisions influenced by campaign contributions from the petitioners? We still aren't certain of the identities of all the investors who will profit considerably from your decision. (The Rouse Company never, to my knowledge, contributed to the campaigns of the County Executive or County Council.)

At no time during this process has the petitioner even come close to meeting the goals of General Plan sections 9.4 and 9.6 or the zoning criteria for a CEF District. Instead, the petitioner and/or investors have done an excellent job of bait and switch.

- They misled the Zoning Board as to the number of Howard County seniors who would choose to live in this Continuing Care Retirement Community (CCRC). In fact the General Plan makes it clear that most seniors currently prefer to remain in their own homes and have the County assist with services and programs to help them age in place.

the required 10% will be okay. Also the County is ignoring the fact that the seniors qualifying for MIHUs will probably need long-term care services. Who will pay for that?

The County must require the developer to guarantee that they will pay for these services in the apartment or, if appropriate, have the resident only pay the same rent in the Health Center that he/she is paying for the apartment. Otherwise the person will pay market rate in the Health Center (skilled level nursing beds, assistive living beds, memory care beds) which could cost **\$10,000+ a month**. Really, why didn't the administration, the Planning Board, the advocates, show concern about that need and suggest that the 10% be applied to 1,440 units?

3. CONDITIONS THAT MUST BE REQUIRED BY THE ZONING BOARD BEFORE ANY CONSTRUCTION BEGINS

When a project within a CEF District is approved, it is critical that the Zoning Board set stringent conditions governing any subsequent sale of the property, including the following:

- A covenant stating that the land can only be used as a CCRC and only provide independent living units to seniors age 60+ and also provide long-term care services. You are giving the developer/investors considerable financial gain under the guise that it is a CCRC for Howard County seniors, but will it remain so? What guarantee does the County taxpayer really have from you?
- A covenant on the land and deed that reserves 10% of the 1,400 units for MIHU recipients and CANNOT be used by others.
- A requirement that Entrance Fees for MIHU recipients be affordable, along with a signed agreement that the developer will supply long-term care services for MIHU recipients in the independent apartments or the Health Center.
- Removal of the Gas Station from the petition.
- A requirement that any proposed community enhancements/benefits on the site be approved by the Zoning Board after a public hearing and must include final design plans so the public understands exactly what it is getting. Also this use and area must be on the deed that also requires the property owner to pay for construction, maintenance, and any other costs to comply with the community benefits section.
- A requirement that 50% of incoming residents be current Howard County residents and require an annual report to verify this to the County Housing Department and the County Council.

Finally, the petitioner must not be allowed to start building until AFTER they receive approval from the State as to need and permission to begin opening up to residents. Otherwise you risk a scenario where 1440 units are built but fail to receive state approval—at which point the developer might return with a proposal to market the units as rental apartments in Clarksville.

4. CONCLUSION

I understand that some Howard County seniors have expressed the desire to live in an "Erickson" community. But they do have many other choices in surrounding counties of thousands of units managed by Erickson. It does not justify creating serious problems for the current 900+ residents in CCRCs in Howard County, their families, and the other seniors and individuals with disabilities in the community to serve the desire of a maybe 100+ seniors who desire this. You don't even know if they will qualify financially, physically, or mentally to live in the facility when built. This solution is way out of proportion to the desire of a few.

If you don't fully understand the CCRC industry, then you should vote NO rather than risk harming our current residents.

Their needs should be important to you and the County.

Finally on the issue of the government shouldn't control competition well you do it now. The State controls the number of Hospital beds, nursing home beds, who can or cannot sell liquor and where. You passed legislation to control fueling stations. But this decision directly affects the lives of people who have invested their life savings to assure that their long-

term care needs will be met. Don't play Russian roulette with their lives. It is clear that you have little understanding of the CCRC industry.

So don't make a mistake please. VOTE NO

ANNEX

I. PROJECT FAILS CEF CRITERIA BECAUSE IT IS COUNTERPRODUCTIVE TO HOWARD COUNTY GENERAL PLAN 2030. IT FAILS CEF SECTION 121.0.J.5C (2).

In seeking approval for a Community Enhancement Floating (CEF) District, the petitioner must demonstrate: "How the proposed CEF District will promote the policies established in the General Plan."

Sections 9.4 and 9.6 of the General Plan 2030 prescribe how Howard County could best meet the needs of two groups: the senior population, most of whom wish to Age in Place, and people with disabilities who want to remain in their own homes.

This project will **not meet that need**; in fact, **it could take money away** from existing programs and services for these two groups and their caregivers. In addition, it will exacerbate the acute shortage of home health-care workers in Howard County. The Proponent's financial analysis does not include the IMPACT on Howard County's budget; which is a very important financial element which must be evaluated by the Zoning Board in deciding this case. The County will also be on the hook for future maintenance of some of the developer's proposed amenities such as a playground, dog park, bocce and pickle ball courts, amphitheater, and meeting building.

A. Petitioner Overstates Need for Continuing Care Retirement Communities (CCRCs)

While the 2030 General Plan projects an increase in the age 82+ population in Howard County, it is not enough to justify a project of this magnitude. The fact is that only 10% of that age group will even consider a CCRC; most will instead prefer to age in place. Within that 10%, only some will qualify financially and be physically and mentally able to live independently. Thus Howard County lacks the population to support an additional 1200 units of CCRC housing and 240-unit Health Care Center, as proposed by the petitioner. (This would require a population of 2,040 as some units will have two people.)

It is incumbent on the petitioner to prove that Howard County--which is already served by two CCRCs and other Assisted Living facilities--both needs and can support this massive project. So far, he has relied on the existence of waiting lists for other CCRCs in other counties, not formal market studies.

In evaluating his claims, it is important to note that CCRCs maintain several categories of wait lists, reflecting widely varying degrees of interest. A priority wait list is for people who have made a substantial down payment, generally a 10% deposit on a specific type of unit. This person usually wants to ensure that when they are ready to move in, sometimes in 5 years, that they will be at or near the top of the list. A second type of wait list merely indicates mild interest and requires a \$1,000 deposit, which entitles the applicants to be invited to community activities at the facility; this is NOT a strong indicator of demand.

The petitioner also ignored the fact that a facility budgets for annual attrition of 10-15 percent in the Independent Living apartments. This is due to residents dying, moving out, or moving to the Health Center. In a CCRC the size of The Residences at Vantage Point, this translates to 20 units becoming available every year to people on the priority waiting list. In the size of Miller's Grant this would mean 25 units becoming available every year.

B. Oversupply of CCRCs Will Make It Harder to Serve Needs of Seniors and Disabled Persons

- **Existing CCRCs might no longer be viable.** CCRCs need 92-95% occupancy to meet their expenses. If the supply of independent units exceeds demand, the facility has three unpalatable options: to raise the resident's monthly rate, cut services, or do both. Raising rates for seniors on fixed incomes can be a severe burden, while cutting services could result in problems with the State regulators.

- **The shortage of health care workers countywide will exacerbate a crisis.** A project of 1200 units will result in as many as 2,040 residents: 1800 people in Independent Living and 240 in the Health Center. This will require significant staffing. Yet we already face a crisis caused by the shortage of health care workers to assist seniors and individuals with disabilities, both in their homes and in care facilities. Direct services workers in Maryland earn a median hourly wage of \$13.03 for a median annual income of \$22,700. This makes even rental housing in Howard County completely out of reach. If you think we have a shortage in affordable housing now, ask yourself how we can accommodate a large influx of minimum wage workers. (For details, see Exhibit 2, which links to an article in the Maryland Reporter. <https://marylandreporter.com/2020/2/17/maryland-faces-crisis-in-getting-direct-service-workers-for-health-care>)
 - **Project will place a strain on Howard County General Hospital.** Since the petitioner has to attract people from outside Howard County in order to achieve a viable occupancy rate, the project could overburden Howard County Hospital. This age group generates far more hospital admissions and Emergency Room Visits than the rest of the population. The petitioner may say that they will take care of the medical needs of their residents and staff. However, there are specific medical situations where a facility must call 911 to transport the resident to the Emergency Room. These transportation expenses are additional expenses borne by Howard County taxpayers.

II. PROPOSAL DOES NOT MEET CRITERIA FOR A CEF DISTRICT

Per Section 121.0.J 8.b, in evaluating a proposed CEF District, the Zoning Board must make findings on:

- Whether the petition complies with the criteria for a CEF District in Section 121.0.I;
- Whether the petition meets the Moderate Income Housing Unit requirements of Section 121.0.E.

A. Enhancements

Per Section 121.0.G, Enhancements: "The CEF development must contain one or more design features or enhancements which are beneficial to the community as delineated in accordance with Section 121.0.J.2.A and that exceed minimum standards required by County Regulations, excluding bulk regulations. Such features or enhancements must be proportionate to the increase in development intensity and impacts associated with the CEF rezoning compared to the previously existing zoning. Enhancements shall be free and open to the general public, as opposed to a commercial use. Features or enhancements may be provided on a vicinal site within the delineated community pursuant to evaluation on a case by case basis. Enhancements may include:

1. Community parks or gathering spaces, playgrounds, dog parks, or recreation facilities that are open to the general public;"

Let's face it: the amenities proposed by the developer aren't just for the River Hill Community. The dog park will be a selling point for prospective buyers who are dog owners or have grandchildren who might use the playground when visiting. To reach these amenities, the seniors will probably drive over and occupy many of the public parking spaces. There is no indication of the size and composition of the playground and dog park.

Moreover, why does the developer get credit for creating amenities that County taxpayers must ultimately pay to maintain and be liable for? The cost is not inconsiderable. It is your obligation to obtain all the future costs to Howard County for all the taxpayers. Especially since the developer has told you that the County may wish to take over all the amenities in this "park." It is your obligation to obtain all the future costs, including liability, to the County for all the taxpayers. Before you make your decision this needs to be released to the public. If the County takes over this Park, then it cannot be counted as a community benefit meeting the criteria for the CEF DISTRICT.

B. Moderate Income Housing Units (MIHUs)

Section 121.0 E states that the petition SHALL meet the following requirement: "10% of the total number of dwelling units SHALL be Moderate Income Housing Units." You can't simply reduce that number as the Howard County Department of Housing and Community Development is allegedly willing to do. Of course you, the Zoning Board members, weren't permitted to ask questions, as you requested of the Director, in order to clarify this very important point. Thus you simply don't have all the facts required to make your decision. Until these facts are fully obtained you cannot make a decision on this aspect of the petition. Without these facts you cannot approve the petition.

Before any approvals are granted by any county department, the developer should be required to place a covenant on the land to guarantee the 120/144 MIHUs. This is the only way to guarantee that the MIHU units are actually built. Note that the 120 MIHU figure is not actually 10% of the entire project because it omits the 240 health care units. Including 10% of those units would raise the MIHU requirement to 144 units.

In addition, you need to enforce the MIHU requirement with EACH Phase of development that the state may approve. For example, if the state approves a Phase One development of 400 units, then the developer must be required to provide 40 units for MIHU qualified people during Phase One. If you allow the developer to defer the MIHU to subsequent phases, you may never see any MIHUs at all.

By the time the developer gets around to building the final phase of the project, the County might have changed the law to no longer require MIHUs. Or the developer could come back to the County and say it is no longer financially feasible to have 120 MIH units in the last 400 apartments. Then they would ask to reduce the number or decide to develop small studio apartments for the 120 residents in the last phase even though they have testified that they will have only 2 and 3-bedroom apartments.

The developer's offer of \$2 million to help residents in need with the deposit is not sufficient for all 120 units. They didn't tell you how much they will charge for a 2 or 3-bedroom apartment. It could be \$300,000 or higher along with other entrance fees. This offer doesn't meet the CEF criteria. The Zoning Code language would have to be amended to permit such an alternative CEF compliance.

The \$2 million subsidy is in the hands of the Owner. Who knows how it will be used. This gives the unknown Owner discretion of MIHU money. (Petitioner refused to disclose the owners of the LLC when I asked.)

And if the developer ultimately decides that a senior living project of this magnitude is not financially feasible, he could even come back to the County and say, "We can't tear down all those buildings so you have to allow us to convert it to an apartment complex open to all ages." Ironically, that would achieve something that the greater Clarksville area has been opposed to even in the Columbia Village of River Hill: RENTAL APARTMENTS.

C. Petition Fails Because It Contains Excluded Uses

The following uses, included in the proposal, are specifically excluded from the CEF District and are not permitted, per Section 121.0 C:

- 9. Gasoline, fuel oil, liquefied petroleum, and compressed natural gas, bulk storage of.
- 20. Retail and commercial services uses which include more than a single drive-through lane.
- 24. Wholesale sales

How can the Zoning Board justify approving the petitioner's proposal to include a gas/fueling station, market, and car wash when such uses are specifically excluded by the criteria for inclusion in a CEF District?

III. CONCLUSION

We currently have a situation where we don't even know who will actually own the project and benefit financially from this re-zoning. Will this be a profit or non-profit undertaking? Will it pay taxes? Will the owners decide to keep it as a CCRC or, if it isn't profitable, will they ask the County to convert it to another use, like rental apartments. Will the developer really provide the 144 MIHU's? Will they

develop any of the vaguely suggested community benefits? It has been difficult trying to get answers from the petitioner's witness as to specifics regarding many issues.

I think this is an attempt to get more density by misrepresenting the housing desires of the growing population of seniors in Howard County and ignoring the reality that most seniors prefer to age in place. The petitioner has not presented the data needed to establish the need for his project.

Remember that if you approve this and 1200 units plus 240 other units are built, then what can the County do; ask them to tear it down if it doesn't succeed as a CCRC? I doubt it; some future Council/zoning board will be asked to change the use to rental apartments. Frankly, at that point you may not have a choice.

In conclusion, the project should be rejected because it is detrimental to Howard County:

This project is not in compliance with the Howard County General Plan for 2030, specifically sections 9.4 and 9.6 regarding senior and individuals with disabilities and their need for services and their desire for housing. Petitioner is ignoring the reality that most seniors and individuals with disabilities prefer to age in place. The petitioner has not presented the data required to establish the need for this project.

The number of eligible and interested 82+ population of Howard County does not support a project of this magnitude. The petitioner was presenting data on the 60+ population increase which is irrelevant to the CCRC population. So that was misleading to the zoning board.

The project will drastically increase the critical shortage of health care workers for Howard County seniors, individuals with disabilities, and their caregivers. We need to take care of our vulnerable populations and not bring in 2,040 + seniors from other areas to compete for long-term care workers and services.

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The project will drastically increase the need for affordable housing, especially low-income housing, in Howard County.

This project does not meet the criteria for a Community Enhancement Floating District (CEF) Section 121. In fact, it includes features that are explicitly excluded.

In closing, if all Zoning Board Members enforce the CEF criteria, you have no alternative but to vote NO. You must abide by the law as written. If you uphold the General Plan 2030 and the CEF criteria, then your only choice is Denial of this Petition. There can be no other verdict.

Thank you for your consideration.

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