

CB 19-2016 OPPOSITION BY GREATER HIGHLAND CROSSROADS ASSOCIATION.

Incorporation of this parcel into the Metropolitan District violates State funding requirements for Howard County. Not passing CB 19-2016 will preserve State funding, will avoid loss of limited Howard County revenues, will avoid unnecessary and counterproductive infrastructure expenses, and will sustain existing communities.

I am submitting this testimony representing the Greater Highland Crossroads Association. GHCA is a nonprofit civic organization. Its membership area includes this 91 acre parcel.

GHCA concurs with the testimony and documentation that this 91 acre parcel is improper to be considered for inclusion into the PSA. This parcel is not legally included in the PSA, and should not be included in the PSA.

GHCA concurs with the testimony of the many citizens who oppose the incorporation of this 91 acre parcel into the Planned Service Area (PSA), and any inclusion into the Metropolitan District.

Howard County must follow State Codes and regulations and regulations to maintain valuable state funding for water and sewer projects. Howard County already projects a shortfall in funding---funding needed for the proposed school budget, not to mention other important infrastructure needs. To protect critical state funding, Howard County must adhere to the letter and the spirit of State PSA codes.

This parcel and another parcel are not in compliance and shall be marked for State funding as “non qualified”. Requirements for funding are found in the attachments. Generally, the criteria are defined in the Annotated Code of Maryland, State Finance and Procurement Article (SF&P), §5-7B-02 and §5-7B-03 copies attached.

“Priority Funding Areas were established to meet three key goals:

- To preserve existing communities;
- To make the most efficient and effective use of taxpayer dollars for costly infrastructure by targeting State resources to build on past investments; and
- To reduce development pressure on critical farmland and natural resource areas by encouraging projects in already developed areas.”

Maryland Department of Planning in its publication at

http://planning.maryland.gov/pdf/ourproducts/publications/otherpublications/pfa_update_revise_09.pdf

This parcel does not meet criteria for State funding. These standards were designed to preserve limited State funds. The reasons why this parcel does not meet the criteria for inclusion in the PSA include:

1. Higher infrastructure costs by extending the Planned Service Area outside existing service areas.
2. Failure to conduct a comprehensive study including preservation of existing communities, natural resources and quality of life.
3. Failure to provide any analysis of other projects already served by water and sewer.
4. Environmental justice evaluation considering the denial of upgrades in existing communities.
5. Failure to encourage, to promote and to sustain projects in already developed areas.

Your assistance is requested to preserve limited County funds, and to insure that Howard County does not lose its qualification for State funding

Respectfully,

Greater Highland Crossroads Association

Alan Schneider
12598 Clarksville Pike
Clarksville, Md. 21029

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Md. STATE FINANCE AND PROCUREMENT Code Ann. § 5-7B-02 (Copy w/ Cite)

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*** Statutes current through Ch. 6 of the 2016 Regular Session ***

STATE FINANCE AND PROCUREMENT
DIVISION I. STATE FINANCE
TITLE 5. STATE PLANNING
SUBTITLE 7B. PRIORITY FUNDING AREAS

Md. STATE FINANCE AND PROCUREMENT Code Ann. § 5-7B-02 (2016)

✓ § 5-7B-02. Areas considered priority funding areas

The following areas shall be considered priority funding areas under this subtitle:

(1) a municipal corporation, including Baltimore City, except that:

(i) those areas annexed by a municipal corporation after January 1, 1997 but before October 1, 2006 shall satisfy requirements relating to density and service by water and sewer set forth in § 5-7B-03 of this subtitle; and

(ii) those areas annexed by a municipal corporation after September 30, 2006, shall satisfy all of the requirements set forth in § 5-7B-03 of this subtitle;

(2) an enterprise zone as designated under Title 5, Subtitle 7 of the Economic Development Article, or by the United States government;

(3) a certified heritage area as defined in §§ 13-1101 and 13-1111 of the Financial Institutions Article that is located within a locally designated growth area;

(4) those areas of the State located between Interstate Highway 495 and the District of Columbia;

(5) those areas of the State located between Interstate Highway 695 and Baltimore City; and

(6) an area designated by the governing body of a county or municipal corporation under § 5-7B-03 of this subtitle.

HISTORY: 1997, ch. 759; 2002, ch. 347; 2005, ch. 44, § 1; 2006, ch. 381; 2008, ch. 307, § 1; 2011, ch. 145.

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SUBTITLE 7B. PRIORITY FUNDING AREAS

Md. STATE FINANCE AND PROCUREMENT Code Ann. § 5-7B-03 (2016)

✓ § 5-7B-03. Designating priority funding areas

(a) In general. --

(1) The governing body of a county or of a municipal corporation may designate priority funding areas as provided in this section.

(2) The governing bodies of two or more adjoining counties, two or more municipal corporations, or any combination of adjoining counties and municipal corporations may designate, as provided in this section and in accordance with the regulations adopted by the Department of Planning, a priority funding area that combines two or more contiguous areas located in each of the local governments.

(b) Area zoned for industrial use. --

(1) An area zoned or, if applicable, classified by January 1, 1997 principally for industrial use may be designated as a priority funding area.

(2) An area zoned or, if applicable, classified after January 1, 1997, as industrial may be designated as a priority funding area if the area is served by a public or community sewer system.

(c) Principal use of area for employment. --

(1) An area where the principal uses of the area are for employment may be designated as a priority funding area if:

(i) the area is served by public or community sewer systems; or

(ii) public or community sewer systems are planned in the approved 10-year water and sewer plan.

(2) An area zoned or, if applicable, classified after January 1, 1997 as industrial, or where the

principal uses are for employment, in addition to meeting the criteria set forth in paragraph (1) of this subsection, shall be located within a locally designated growth area.

(d) Communities within locally designated growth areas prior to January 1, 1997. --

(1) A community in existence prior to January 1, 1997 that is within a locally designated growth area may be designated as a priority funding area if the community:

(i) is served by a public or community sewer system and in that part of the community designated by the local government for residential use or development:

1. there is an average density of at least 2.0 units per acre; or

2. if a portion of the community is undeveloped, the permitted average density is not less than 2.0 units per acre; or

(ii) except as provided in paragraph (2) of this subsection, is served by a public or community water system and in that part of the community designated by the local government for residential use or development there is an average density of at least 2.0 units per acre.

(2) (i) The provisions of paragraph (1)(ii) of this subsection do not apply to mobile home parks or communities with less than 10 units.

(ii) Funding for a growth-related project under paragraph (1)(ii) of this subsection is to be provided only if the project serves to maintain the character of the community and does not serve to increase the growth capacity of the community except for limited peripheral or in-fill development.

(3) (i) If an existing community receives a public or community sewer system, an area beyond the periphery of the developed portion of the existing community may be designated as a priority funding area if the development of the area beyond the periphery:

1. has a permitted average density of at least 3.5 units per acre; and

2. the area is served by a public or community sewer system.

(ii) The Department of the Environment may provide funding for a sewer system in an existing community beyond the periphery of the developed portion of the community if the expansion has a permitted average density of at least 3.5 units per acre.

(e) Areas other than communities within locally designated growth areas. -- An area, other than an existing community under subsection (d) of this section, may be designated as a priority funding area if:

(1) the area:

(i) is within a locally designated growth area of the local government; and

(ii) is planned to be served under the approved 10-year water and sewer plan;

(2) the designation represents a long-term development policy for promoting an orderly expansion of growth and an efficient use of land and public services; and

(3) in that part of the area designated by the local government for residential use or development, there is permitted an average density of not less than 3.5 units per acre.

(f) Rural villages. --

(1) A rural village may be designated as a priority funding area under this section if:

(i) the village is designated in the county comprehensive plan as of July 1, 1998; and

(ii) the boundary of the priority funding area is the periphery of the developed portion of the village as of July 1, 1998.

(2) Funding for a growth-related project under this subtitle is to be provided only if the project serves to maintain the character of the community and does not serve to increase the growth capacity of the village except for limited peripheral or in-fill development.

(g) Designation by county, municipal corporation, or multiple local governments. -- The designation by a county, municipal corporation, or multiple local governments as provided in subsection (a)(2) of this section, of a priority funding area under this section shall be based on:

(1) an analysis of the capacity of land areas available for development, including in-fill and redevelopment; and

(2) an analysis of the land area needed to satisfy demand for development at densities consistent with the master plan.

(h) Calculating average density. -- For the purposes of this section, average density shall be calculated based on the total acreage of all parcels in the area for which the principal permitted use is residential, excluding land:

(1) (i) dedicated for public use by easement in perpetuity or fee acquisition; or

(ii) dedicated recreational use;

(2) subject to an agricultural easement under § 2-508 of the Agriculture Article;

(3) subject to an agricultural easement under a county agricultural land preservation program certified under § 5-408 of this title;

(4) used for cemetery purposes;

(5) identified by a local government as:

(i) 1. streams and their buffers;

2. 100-year flood plains;

3. habitats of threatened and endangered species; and

4. steep slopes; and

(ii) on which development is prohibited by local law or ordinance; or

(6) identified by a local government as delineated nontidal wetlands on which development is prohibited by State or local law or ordinance.

HISTORY: 1997, ch. 759; 1998, ch. 21, § 1; 2001, ch. 29, § 6; 2003, ch. 415; 2006, ch. 381.

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Md. STATE FINANCE AND PROCUREMENT Code Ann. § 5-7B-04

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SUBTITLE 7B. PRIORITY FUNDING AREAS

Md. STATE FINANCE AND PROCUREMENT Code Ann. § 5-7B-04 (2016)

✓ § 5-7B-04. No funding of projects not located within priority funding area

✓ (a) In general. -- Except as otherwise provided in this subtitle, beginning October 1, 1998, the State may not provide funding for a growth-related project if the project is not located within a priority funding area.

(b) Water and sewer service planned. -- In a priority funding area established under § 5-7B-03(c) or (e) of this subtitle in which water and sewer service is planned, a commitment for funding for a growth-related project shall be contingent upon nonstate funding for planned water and sewer service moving forward in advance of or concurrent with the State funding.

(c) Municipal corporations. --

(1) A growth-related project may not be funded by the State in a municipal corporation exercising zoning authority unless the municipal corporation has first adopted residential development standards relating to public school adequacy. These standards shall be substantially similar to:

(i) the State rated capacity standards established by the public school interagency committee on school construction; or

(ii) the school capacity standards established in its county's adequate public facilities ordinance.

(2) The requirement contained in paragraph (1) of this subsection does not apply:

(i) in a municipal corporation exercising zoning authority located in a county in which no adequate school capacity standards have been established by the county governing body; or

(ii) to a residential development project where an impact fee has been paid or other monetary or nonmonetary contributions have been provided that defray the local cost of school construction attributable to the project.

(3) After October 1, 1997, prior to establishing or changing the school capacity standards in a county's adequate public facilities ordinance, the county shall confer with the governing bodies of the municipal corporations that exercise zoning authority located within the county.

(4) For planning purposes, each county board of education shall annually provide to the county and each municipal corporation exercising zoning authority in the county:

(i) a list of projected student enrollments for a 5-year period for each school serving students in or near that municipal corporation; and

(ii) information relating to the student capacity of each school.

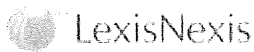
HISTORY: 1997, ch. 759.

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5-7B-04** ([Copy w/ Cite](#))



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SUBTITLE 7B. PRIORITY FUNDING AREAS

Md. STATE FINANCE AND PROCUREMENT Code Ann. § 5-7B-05 (2016)

✓ § 5-7B-05. Funding for growth-related projects not within priority funding area

(a) In general. --

(1) The State may provide funding for a growth-related project not in a priority funding area if:

(i) the Board of Public Works determines that extraordinary circumstances exist in accordance with the requirements of paragraph (2) of this subsection; or

(ii) the Board of Public Works approves the project as a transportation project that meets the requirements of paragraph (3) of this subsection.

(2) In order to determine that extraordinary circumstances exist under paragraph (1) of this subsection, the Board shall determine by a majority vote that:

(i) the failure to fund the project in question creates an extreme inequity, hardship, or disadvantage that clearly outweighs the benefits from locating a project in a priority funding area; and

(ii) there is no reasonable alternative for the project in a priority funding area in another location within the county or an adjacent county.

(3) The Board of Public Works may approve a transportation project under paragraph (1)(ii) of this subsection if the transportation project:

(i) maintains the existing transportation system, if the Department of Transportation and the Department of Planning determine the project does not serve to significantly increase highway capacity;

(ii) serves to connect priority funding areas, if:

1. the Department of Transportation and the Department of Planning determine that

adequate access control or other measures are in place to:

A. prevent development that is inconsistent with § 5-7A-01(1), (2), and (3) of this title; and

B. maintain the viability of the project while concomitantly constraining development which potentially detracts from main street business areas; and

2. the Department of Transportation and the Department of Planning have first determined whether alternative transportation modes, such as mass transit and transportation demand management, provide a reasonable alternative to the project and that no reasonable alternative exists;

(iii) has the sole purpose of providing control of access by the Department of Transportation along an existing highway corridor; or

(iv) due to its operational or physical characteristics, must be located away from other development.

(b) Request for approval. --

(1) A request for approval by the Board under subsection (a) of this section may be made at the request of the governing body of the local jurisdiction in which the project is located or the Secretary with approval authority over the project.

(2) When making a request to the Board of Public Works, the applicant shall:

(i) identify the extraordinary circumstances that require State funds for the project; and

(ii) demonstrate that no feasible alternatives exist to making an exception to the requirements of this subtitle.

(3) The Board of Public Works, at its discretion, may require remedial actions to mitigate any negative impacts of the proposed project.

(c) Advisory opinion. --

(1) When a request is made to the Board of Public Works for an exception under this section, the Board of Public Works may request from the Department of Planning an advisory opinion on the request for the exception.

(2) Upon receiving a request for an advisory opinion under this subsection, the Department, if requested by a member of the public, shall hold a public meeting to gather information relevant to the advisory opinion.

HISTORY: 1997, ch. 759; 2000, ch. 209, § 2; 2004, ch. 18.

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Md. STATE FINANCE AND PROCUREMENT Code Ann. § 5-7B-05 *(Copy w/ Cit)*

Legal or illegal, does it matter to you?
Testimony against CB19-2016

Dear Howard County Council Members,

Legal or illegal, does it matter to you? This is a question we are asking in reviewing this case: the inclusion of the parcels in Maple Lawn, Fulton, and Hoddinott in Clarksville, and others in the public water and sewer plan possibly through illegal means unknown to the public in 2012 and later.

My neighbors and I believe it is important to draw a line between developments that follow the regulations, and the ones that are achieved through fraud, and lack of transparency. We rely on you, our elected representatives to help draw this important line, uphold truth, and correct the wrong doings. The letter from the Fulton residents to you raise a serious issue: about possible fraud involved in the Gneral Plan in 2012 when these parcels were mysteriously placed into the planned service area without the public's awareness.

Please let me share with you a personal experience on June 18, 2012, the day the County Council held a public hearing on the new General Plan. Before the hearing, I tried to find out if Hoddinott in Clarksville was placed in the map from well to public water. I sent an email to DPZ Public Service and Zoning Administration that day, specifically asking "Is Parcel 88, the Hudnutes (Hoddinott) Property included in the PSA in 2030 Plan?" I received a reply: "According to the planning maps, that property is not located in the Planned Service Area, and therefore is not eligible for public water and/or sewer."

The DPZ employee did his duty truthfully and diligently. Even they didn't know about the map change on the day the County Council held a public hearing. You can tell how difficult it is for the public to participate in this process without correct information. We hope the lack of transparency sheds some light on the mysterious placement of the parcels into the PSA area. We also hope you take a close look at the facts presented by the Fulton residents about the possible fraud and deny bill CB19-2016 if you find this placement of the Maple Lawn farms, Hoddinott farm, and others into PSA was indeed through fraud and illegal means. The email with DPZ on June 18, 2012 is attached.

Thank you!

Shun Lu
12852 Macbeth Farm Lane
Clarksville, 21029

Our opportunity to testify in opposition to the zoning map change in 2012 General plan process was taken away. This is contrary to the state law and Howard County Charter.

From: "Lalush, Bob" <blalush@howardcountymd.gov>
To: Shun Lu <shunlu88@yahoo.com>
Sent: Monday, June 18, 2012 1:21 PM
Subject: RE: Is Parcel 88, the Hudnutes Property included in the PSA in 2030 Plan?

According to the planning maps, that property is not located in the Planned Service Area, and therefore is not eligible for public water and/or sewer.

J Robert Lalush

Division of Public Service and Zoning Administration
Howard County Department of Planning and Zoning
410-313-4344
blalush@howardcountymd.gov



From: Shun Lu [mailto:shunlu88@yahoo.com]
Sent: Monday, June 18, 2012 1:09 PM
To: Lalush, Bob
Subject: Is Parcel 88, the Hudnutes Property included in the PSA in 2030 Plan?

Dear Bob,

My neighbors and I have looked at the map trying to figure out if this parcel of about 86 acres of farm field is included in the Public Service Area in the 2030 General Plan.

Parcel 88 has about 86 acres farmland. It is named Hudnutes property and located south of Guiford Rd and East of Md 108. It is zoned rural residential. We want to check and know if there is any change in its zoning status, and if it's changed from private well and septic system to public water and sewer.

Your help is greatly appreciated!

Thank you!

Shun Lu

12852 Macbeth Farm Ln