

Proposed Ord. 2021-16

Leslie Dickinson <dickinson1law@ [REDACTED]>

Sun 10/31/2021 9:11 PM

To: Jason Poirier <councilmemberpoirier@mountairymd.org>; Karl Munder <councilmembermunder@mountairymd.gov>; Pamela Reed <councilmemberreed@mountairymd.gov>; STEPHEN DOMOTOR <domotor@ [REDACTED]>; Lynne Galletti <councilmembergalletti@mountairymd.gov>

Cc: John Breeding <jbreeding@mountairymd.gov>; tmccarron@semmes.com <tmccarron@semmes.com>

Good evening, Councilmembers -

As I expressed in my comments at the October hearing, I urge you to vote against this proposed ordinance.

1) There is no reason at this point in the process to waive the open space requirement for the MXD zone, or for the Beck property to which it specifically applies. Neither the property owners, the developers nor the counsel person who proposed this ordinance has articulated the necessity of waiving open space requirements prior to any preliminary plans being submitted to the planning commission. Certainly no evidence of this necessity has been presented.

2) During numerous discussions and presentations before the planning commission, the KAZ Bros. never requested that the open space requirement be waived, nor indicated that they would be doing so.

3) In the Mayoral forum in response to a question regarding this topic, Councilperson Reed (despite not being involved in our discussions, and having no knowledge of our deliberations), asserted that the PC intended for its DTZ decision regarding open space be extended to MXD. To the contrary, interested parties at the time encouraged the PC to extend this **benefit** (the less open space required, the more housing can be built) to MXDCC, but the PC declined; at the time we didn't discuss extending this benefit to MXD, and certainly did not intend to do so.

4) By waiving the open space requirements for MXD, the Town would be giving up its right to require the developers to purchase open space in another part of town if it is unable to make its project viable while complying with open space requirements.

5) Similarly, if the Town prematurely waives open space requirements, it loses all leverage it has to bargain down the road for something the town may want or need - in exchange for waiving or reducing the requirements for open space. **It is unclear how losing both open space and such potential future opportunities could be in the best interest of the Town and its residents - your constituents.**

6) The ordinance is a special law which targets one landowner/property, which is frowned upon, and is likely unconstitutional. As I mentioned in my comments at the October bill hearing, a Howard County Circuit Court struck down a Howard County ordinance that was clearly meant to address one landowner/property. I provided you with a copy of the Court's Memorandum decision. Howard County appealed the decision to the Court of Special Appeals and oral argument was heard the first week in October. If the CSA upholds the circuit court, its decision will apply to Carroll County and Mt. Airy.

As an aside, no council person should ever text or contact in any manner a planning commission member during a commission meeting. Nor should council members discuss with PC members issues that are going to come before (or return to) the commission. Unlike council members who are permitted to act on behalf of constituents, PC members are not. We are required to be objective.

Best regards,

Leslie K Dickinson
Dickinson Law Firm, LLC
Tel: 301-639-9469
[Dickinson1law@\[REDACTED\]](mailto:Dickinson1law@[REDACTED])

RE: Ordinance 2021-16 APFO "cheat sheet"

John Breeding <jbreeding@mountairymd.gov>

Wed 10/20/2021 5:22 PM

To: Jason Poirier <councilmemberpoirier@mountairymd.org>; David Warrington <dwarrington@mountairymd.gov>

Jason,

This cheat sheet that Karl provided is an accurate description of where the code is currently. I would like to add to the discussion is that when Code section 25-5 was amended back in February 2020 The MXD zone was removed from the reduction of Open Space calculations Code section 25-5-G-3-2.

This would have allowed the developer to reduce their Open Space requirements by 1 person for every 200 sq. ft. of commercial space.

Example "If they provide 120,000 sq. ft. of total commercial space a reduction of 600 people, which would have reduce the Open Space requirements for the development by 18 acers. The current code, they would be required to provide 51 acres at the 3 acres per 100 people. Allowing the reduction of the commercial space they would still be required to provide 33 acres of Open Space".

Ordinance 2021-16 – Code section 25-5-G-3-C proposed would allow any MXD development to only provide that 10% of Open Space for the total gross area of the development.

Here is another Example "Let's say that we were adequate with open space, with no extra 0.0 acreage. The new development would still need to provide open space if they are bringing new residential units into the Town unless they can provide it on site.

Final note with Karl's Cheat sheet 4-C, we have been working with the Beck and the Kaz brothers for the development of those parcels and the Center Street connection for over 10 years. I understand we have not received a DARRA or an Pre-Application or a shovel is in the ground. ???

I hope this helps with your position on Ordinance 2021-16, if I can provide any additional let me know.

John,

John Breeding

Director of Planning and Zoning

Town of Mount Airy

Office 301-829-1424 / [REDACTED]

From: Jason Poirier <councilmemberpoirier@mountairymd.org>

Sent: Tuesday, October 19, 2021 5:48 PM

To: David Warrington <dwarrington@mountairymd.gov>; John Breeding <jbreeding@mountairymd.gov>

Subject: Fwd: Ordinance 2021-16 APFO "cheat sheet"

Karl sent me this as a shortcut way to explain 2021-16. Can you review this for accuracy? Please and thank you.

Jason Poirier
Acting Mayor and Council President
202-854-0782

Begin forwarded message:

From: Karl Munder <councilmembermunder@mountairymd.gov>
Date: October 19, 2021 at 5:39:09 PM EDT
To: Jason Poirier <councilmemberpoirier@mountairymd.org>
Subject: Ordinance 2021-16 APFO "cheat sheet"

Jason,

Attached is a "cheat sheet" for this ordinance. It may help explain the convoluted mess the planning code is and how we got here, and the potential damage if it is approved. There is also a section at the end for the next steps. Hope it helps.

Karl

Ordinance 2021-16 APFO "cheat sheet"

Karl Munder <councilmembermunder@mountairymd.gov>

Tue 10/19/2021 5:39 PM

To: Jason Poirier <councilmemberpoirier@mountairymd.org>

 1 attachments (27 KB)

Ordinance 2021-16 cheat sheet.docx;

Jason,

Attached is a "cheat sheet" for this ordinance. It may help explain the convoluted mess the planning code is and how we got here, and the potential damage if it is approved. There is also a section at the end for the next steps. Hope it helps.

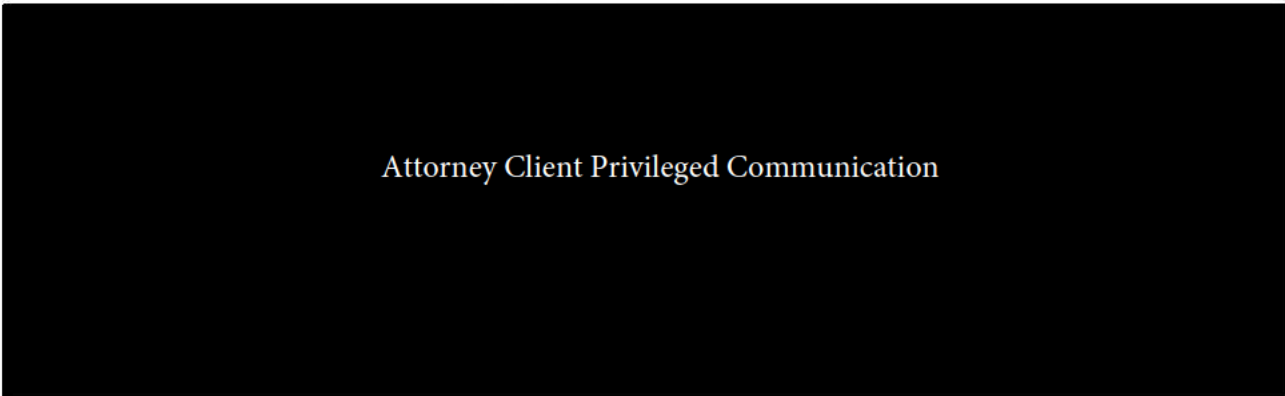
Karl

APFO question when you get a chance...



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RE: [EXTERNAL] Re: MXD APFO proposed ordinance change



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Thomas V. McCarron

Principal

25 South Charles Street, Ste 1400, Baltimore, MD 21201

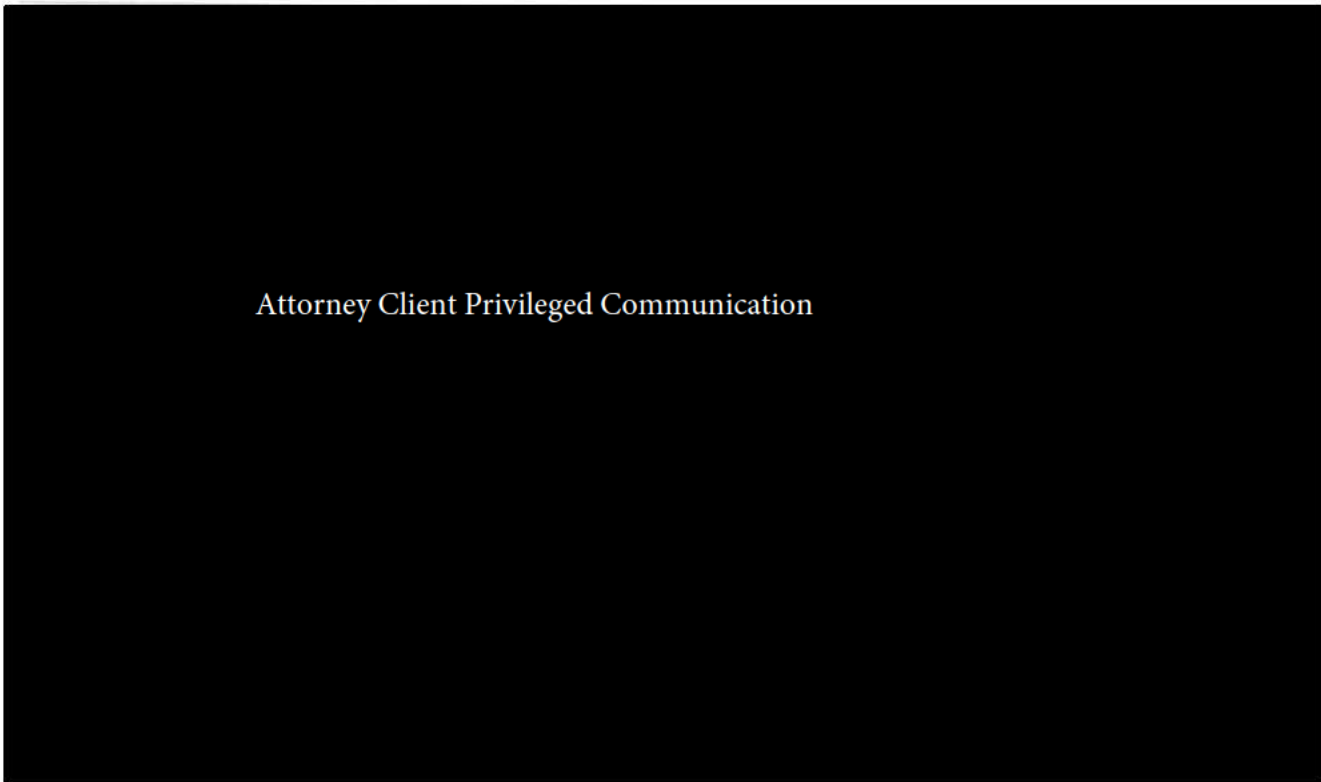
Tel: 410-576-4854 | Fax: 410-539-5223 | Mobile: 410-960-6743

tmccarron@semmes.com

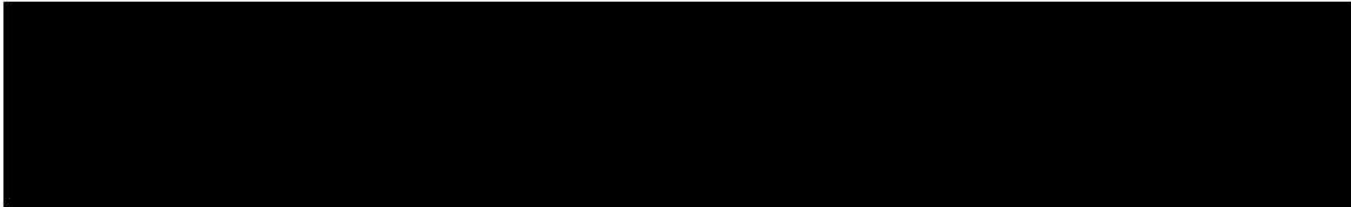
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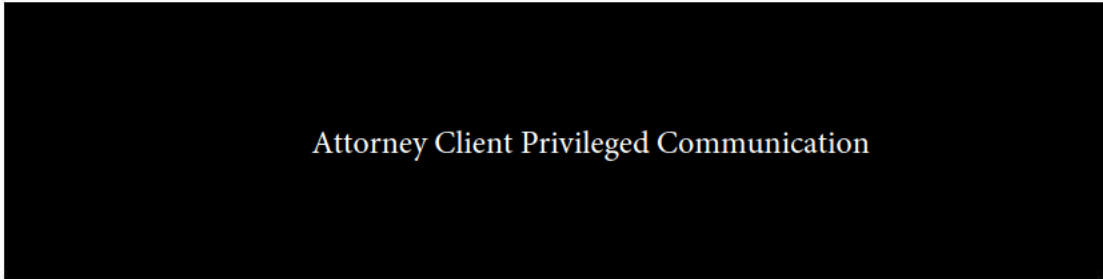
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<Mt. Airy - Ordinance 2021-17 (TVM0164x7ACC3).rtf>

Re: Ordinance 2021-17

Roxanne Hemphill <roxmtairypandz@[REDACTED]>

Tue 7/27/2021 3:10 PM

To: Jason Poirier <councilmemberpoirier@mountairymd.org>

OK tak to you then!!

On Tue, Jul 27, 2021 at 3:06 PM Jason Poirier <councilmemberpoirier@mountairymd.org> wrote:
Yes please. My wife is busy tonight and I have all 3 kiddos. Thank you!

Council President Jason Poirier

On Jul 27, 2021, at 2:48 PM, Roxanne Hemphill <[roxmtairypanz@\[REDACTED\]](mailto:roxmtairypanz@[REDACTED])> wrote:

Can we do it tonight at 9:15. Are we chatting over the phone? If so my number is 703-732-4440.

On Tue, Jul 27, 2021 at 1:56 PM Jason Poirier <councilmemberpoirier@mountairymd.org> wrote:

I can chat tonight 9:15pm or tomorrow at 9pm. Let me know what works for you.

Thank you,
Council President Jason Poirier

From: Roxanne Hemphill <[roxmtairypanz@\[REDACTED\]](mailto:roxmtairypanz@[REDACTED])>
Sent: Tuesday, July 27, 2021 6:27 AM
To: Jason Poirier <councilmemberpoirier@mountairymd.org>
Subject: Ordinance 2021-17

I would like to talk to you before the council meeting concerning this issue. Do you have anytime available?--

Roxanne Hemphill
Chairperson, Mt. Airy Planning & Zoning Commission
Secretary MPCA
email: [roxmtairypanz@\[REDACTED\]](mailto:roxmtairypanz@[REDACTED])
phone: 703-732-4440

--

Roxanne Hemphill
Chairperson, Mt. Airy Planning & Zoning Commission
Secretary MPCA
email: [roxmtairypanz@\[REDACTED\]](mailto:roxmtairypanz@[REDACTED])
phone: 703-732-4440

--

Roxanne Hemphill
Chairperson, Mt. Airy Planning & Zoning Commission

Secretary MPCA

email: roxmtairybandz@ [REDACTED]

phone: 703-732-4440



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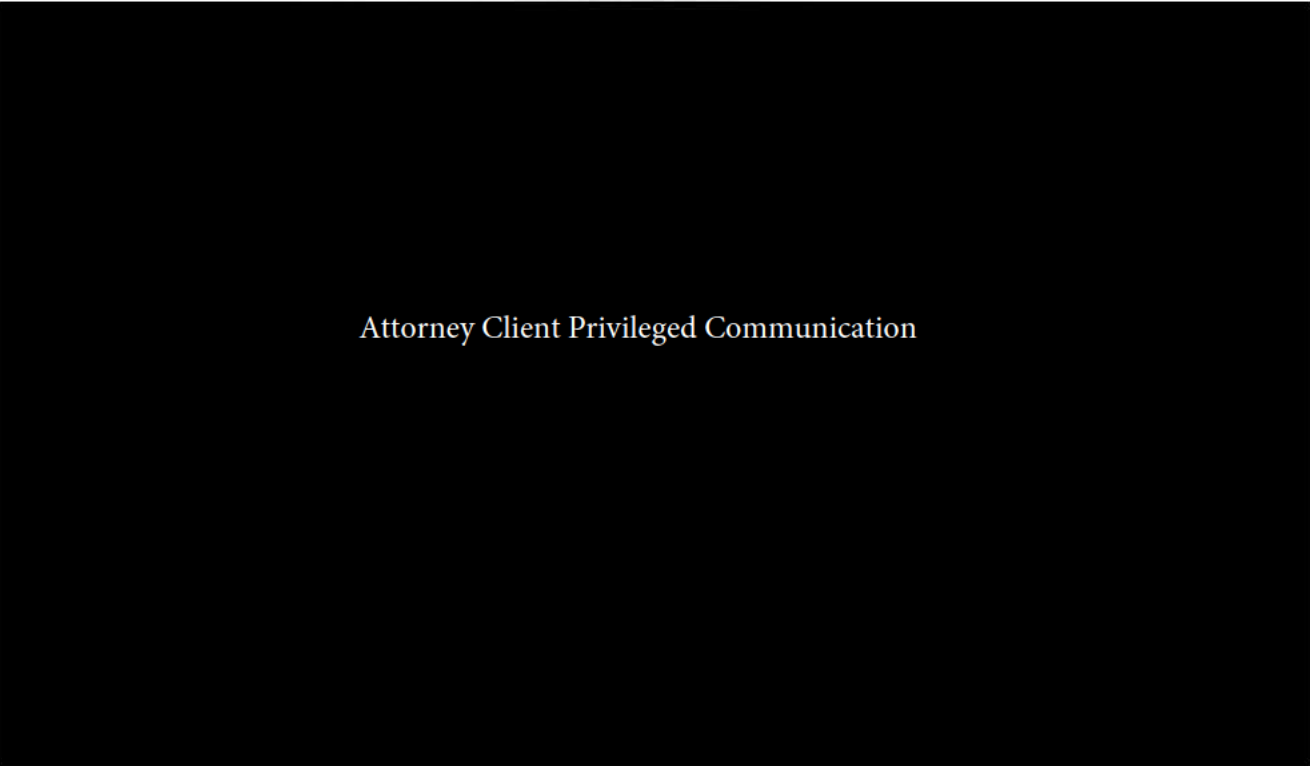
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