

IN THE CIRCUIT COURT
FOR FREDERICK COUNTY, MARYLAND

FRIENDS OF FREDERICK COUNTY, *et al.* :
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 Plaintiffs, :
 :
 :
 v. : **Civil Case No. 10-C-11-000410**
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 :
 TOWN OF NEW MARKET, :
 :
 :
 Defendant. :

PLAINTIFFS' ANSWERS TO INTERROGATORIES

Plaintiffs, pursuant to Rule 2-421 of the Maryland Rules, respond to Defendant's first set of Interrogatories as follows:

GENERAL EXPLANATION, OBJECTIONS AND LIMITATIONS

1. These interrogatories were addressed to all the Plaintiffs, of which there are fifteen. If each Plaintiff answered, the result would be fifteen identical responses. Instead, one response is provided.
2. The information supplied in these responses is not based solely upon the knowledge of the person executing these answers, but also includes the knowledge of all Plaintiffs, Plaintiffs' agents, representatives, and attorneys, unless privileged.
3. The word usage and sentence structure are that of the attorneys who, in fact, prepared these answers, and the language does not purport to be the exact language of the executing party.
4. These responses are based on present knowledge, facts, and information prior to any discovery, and prior to retaining any expert witness to testify at trial.

5. In providing the information requested in these Interrogatories, Plaintiffs expressly reserve any and all privileges and/or objections which may apply to the information or documents being sought by the Defendant. Plaintiffs reserve any and all objections as to the materiality, relevancy or admissibility of the information or documents being sought by the Defendant or being provided by the Plaintiffs.

ANSWERS

INTERROGATORY NO. 1: If you contend that any matter as to which the Defendant is required by Article 66B, §3.05 to include consideration in Defendant's adopted comprehensive plan is not given consideration in Defendant's adopted comprehensive plan, identify each such matter.

ANSWER: Objection. This interrogatory calls for legal conclusions. The knowledge to answer these questions is in the possession of the attorneys, and the answers involve attorney work product.

Notwithstanding and without waiving these objections, the following answer is provided. This answer is provided without the benefit of any discovery and prior to the retaining of any expert to testify in this matter. Plaintiffs reserve the right to supplement and revise this answer.

To date, Plaintiffs have identified the following matters not considered by the Town's Municipal Growth Element, although required to be considered under State law:

The Town's Municipal Growth Element does not address anticipated "future municipal growth area[s]" outside the existing corporate limits of the municipal corporation, as required by Art. 66B §3.05(a)(4)(x)1.

The Town's Municipal Growth Element does not address public schools services and infrastructure, as required by Art. 66B §3.05(a)(4)(x)5.A, relating to operating costs for schools for the Smith/Cline development and the impacts, e.g., costs and capacity, from the development of the Casey/Blentlinger property and other properties.

The Town's Municipal Growth Element does not address public safety services and infrastructure, as required by Art. 66B §3.05(a)(4)(x)5.C, relating to police service for the commercial and industrial areas, fire protection, and emergency medical services, nor does it address the operating costs or the anticipated capital costs for such services.

The Town's Municipal Growth Element does not address the need for water and sewerage facilities, as required by Art. 66B §3.05(a)(4)(x)5.D, relating to the need/capacity, operating costs, and capital costs for the commercial and industrial development's water and sewerage needs.

The Town's Municipal Growth Element does not address the traffic impact on the area's road network, as required by Art. 66B §3.05(a)(4)(x)5, relating to the impact on existing roads and their needed improvements, the need for and location of new roads, and the cost and financing for all such roads and improvements, with the exception of inadequately assessing a need for a bypass road, as discussed in the answer to Interrogatory number 2.

The Town's Municipal Growth Element does not address the financing mechanisms necessary to support services and infrastructure, as required by Art. 66B §3.05(a)(4)(x)6, relating to the capital and operating costs and the specifics of the financing mechanisms.

The Town's Municipal Growth Element does not address the protection of sensitive areas that could be impacted by development planned within the proposed municipal growth areas, as required by Art. 66B §3.05(a)(4)(x)9. This includes the failure to identify sensitive areas, as defined in Article 66B, § 1.00(j), and their protection.

INTERROGATORY NO. 2: If you contend that any matter as to which the Defendant is required by Article 66B, §3.05 to include consideration in Defendant's adopted comprehensive plan is considered, but not given adequate consideration in Defendant's adopted comprehensive plan, identify the matter, explain how you contend the consideration of the matter in the Defendants' adopted comprehensive plan is inadequate, and state the facts upon which your contention is based.

ANSWER: Objection. This interrogatory calls for legal conclusions. The knowledge to answer these questions is in the possession of the attorneys, and the answers involve attorney work product.

Notwithstanding and without waiving these objections, the following answer is provided. This answer is provided without the benefit of any discovery and prior to the retaining of any expert to testify in this matter. Plaintiffs reserve the right to supplement and revise this answer.

The following matters are required to be considered under state law, but the Town's Municipal Growth Element does not give them adequate consideration:

The Town's Municipal Growth Element does not give adequate consideration to the public schools services and infrastructure, as required by Art. 66B §3.05(a)(4)(x)5.A. The information relied upon is outdated and incomplete, and the need and cost for school facilities were not adequately considered, as the Municipal Growth Element failed to take into account that the middle school may not be built and funded by the County.

The Town's Municipal Growth Element does not give adequate consideration to the water and sewerage facilities, as required by Art. 66B §3.05(a)(4)(x)5.D, regarding plans for alternate sources of water, and the capacity of certain water and sewer plants.

The Town's Municipal Growth Element does not give adequate consideration to stormwater management, as required by Art. 66B §3.05(a)(4)(x)5.E, as there is no specification of the number and location of needed stormwater facilities, or their capital and operating costs, or the effects on the County stormwater system.

The Town's Municipal Growth Element does not give adequate consideration to roads, as required by Art. 66B §3.05(a)(4)(x)5, as the analysis used to assess needed roads relies upon outdated, erroneous, incomplete and otherwise invalid data and methodology. The consideration

of a bypass road is inadequate, not only because it was based upon invalid data and methodology, but also because it fails to specify the exact location, the costs, and the financing mechanisms. Also not taken into consideration were the impacts of the bypass road on sensitive areas and other environmental impacts.

INTERROGATORY NO. 3: Other than as provided in your responses to Interrogatories 1 and 2, if you contend that the Defendant's Comprehensive Plan does not conform to the requirements of Article 66B, §3.05, state the facts upon which your contention is based.

ANSWER: At this time, Plaintiffs have no such additional contentions.

INTERROGATORY NO. 4: Other than as provided in your responses to Interrogatories 1, 2 and 3, if you contend that the Defendant's Comprehensive Plan is invalid, state the facts upon which your contention is based.

ANSWER: At this time, Plaintiffs have no such additional contentions.

INTERROGATORY NO. 5: Identify each person, other than a person intended to be called as an expert witness at trial, having discoverable information that tends to support a position that you have taken or intend to take in this action, and state in detail the relevant facts known to each person so identified.

ANSWER: At this time, the following people are identified, as they have provided written comments on the Town's draft Municipal Growth Element, and these comments support positions that the Plaintiffs have taken or intend to take in this action. We understand the Town has these written comments, which contain the addresses and telephone numbers of the writers, unless noted in these answers. These comments detail the facts known to the writers.

Peter G. Conrad, Director, Local Government Assistance, Maryland Department of Planning provided comments dated August 11, 2010.

Eric E. Soter, Director, Division of Planning, Frederick County Department of Planning provided comments dated September 2, 2010.

Keith Bounds, Regional Planner, Office of Planning and Capital Programming, Maryland Department of Transportation provided comments dated July 20, 2010.

Reid Ewing, Department of City & Metropolitan Planning, University of Utah provided comments dated October 13, 2010. See response to Interrogatory No. 12.

Robert Schaefer of the Audubon Society of Central Maryland, Inc., c/o Fred Archibald Audubon Sanctuary, 6011 Boyers Mill Road, New Market, Maryland 21774, 410-795-6546, provided comments. See response to Interrogatory No. 12.

INTERROGATORY NO. 6: Identify each person whom you expect to call as an expert witness at trial, state the subject matter on which the expert is expected to testify, state the substance of the findings and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion, and attach to your answers any written report made by the expert concerning those findings and opinions.

ANSWER: At this time, Plaintiffs have not yet identified anyone the plaintiffs expect to call as an expert.

INTERROGATORY NO. 7: State the facts upon which you contend that Friends of Frederick County has standing to participate in this action.

ANSWER: Objection. The interrogatory seeks information that is irrelevant. It seeks information regarding the standing of Friends of Frederick County. Since this interrogatory was written, the Court has denied the Town's Motion to Dismiss for lack of standing and has stated that "this Court will not inquire further as to Friends' standing." Opinion and Order filed August 8, 2011 at 3.

INTERROGATORY NO. 8: State the facts upon which you contend that the Plaintiffs are entitled to recover attorney's fees from Defendant in this action.

ANSWER: Objection. The interrogatory seeks information that is irrelevant. It seeks information related to Plaintiffs' request, in the Complaint, for attorney's fees. Since this

interrogatory was written, the Court has dismissed this request for attorney's fees without prejudice. Opinion and Order filed August 8, 2011 at 4.

INTERROGATORY NO. 9: State the amount of attorney's fees you claim in this action, and describe in detail each service provided for which a fee is claimed, including in your response the date, time, nature and duration of each legal service provided, and identify the attorney or other person who has provided each such service.

ANSWER: Objection. The interrogatory seeks information that is irrelevant. It seeks information related to Plaintiffs' request, in the Complaint, for attorney's fees. Since this interrogatory was written, the Court has dismissed this request for attorney's fees without prejudice. Opinion and Order filed August 8, 2011 at 4.

INTERROGATORY NO. 10: State the hourly rate for the attorney's fee or other non-attorney fee applicable to the services described in your response to Interrogatory 9, with respect to each attorney or other person identified in your response to Interrogatory 9.

ANSWER: Objection. The interrogatory seeks information that is irrelevant. It seeks information related to Plaintiffs' request, in the Complaint, for attorney's fees. Since this interrogatory was written, the Court has dismissed this request for attorney's fees without prejudice. Opinion and Order filed August 8, 2011 at 4.

INTERROGATORY NO. 11: Identify each person or member comprising the association or membership of Friends of Frederick County, Plaintiff, as of the time of filing of the Complaint in this action.

ANSWER: Objection. The interrogatory seeks information that is irrelevant and not reasonably calculated to lead to discovery of admissible evidence, for the reasons stated in response to Interrogatory No. 7. Further, the identity of members is privileged and confidential.

INTERROGATORY NO. 12: Identify all Documents which support or pertain to any of your responses to Interrogatories 1 through 11 above.

ANSWER: As of this time:

The Town's Municipal Growth Element cited in these responses is dated November 17, 2010.

The Maryland Department of Planning ("MDP") provided the Town with comments on the Town's draft Municipal Growth Element by letter dated August 11, 2010.

The Division of Planning of Frederick County, Maryland provided the Town with comments on the Town's draft Municipal Growth Element by letter dated September 2, 2010.

The Maryland Department of Transportation provided Jenny King of the Maryland Department of Planning comments on the Town's draft Municipal Growth Element by letter dated July 20, 2010.

Friends of Frederick County submitted a letter dated July 28, 2011 to the Town addressing a draft Supplement to the Town's Municipal Growth Element, which letter included comments pertaining to deficiencies in the Municipal Growth Element. Accompanying the letter are the comments of Reid Ewing of the Department of City and Metropolitan Planning of the University of Utah written on October 13, 2010; the comments of Robert Schaefer of the Audubon Society of Central Maryland, Inc.; and comments by Friends of Frederick County on the Town's Municipal Growth Element written on July 26, 2010.

I, Janice Wiles, Executive Director, Friends of Frederick County, do solemnly affirm under the penalties of perjury that the contents of the foregoing Answers to Interrogatories are true, to the best of my knowledge, information, and belief.

Janice Wiles, Executive Director
Friends of Frederick County

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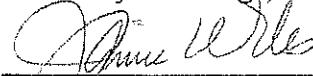
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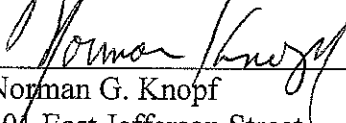


Janice Wiles, Executive Director
Friends of Frederick County

As to objections.

Respectfully submitted,

KNOFF & BROWN



Norman G. Knopf
401 East Jefferson Street
Suite 206
Rockville, MD 20850
(301) 545-6100

August 19, 2011