

**Greater Towson Council of
Community Associations, Inc.**

Response to Planning Department's
Report, "Establishing Local Open
Space Waiver Fees"

The Report's Purpose

First Sentence:

This report responds to County Council
Resolution 44-13, which asks the Planning
Board to study the current open space waiver
fee system ...

"Responds to" – not "satisfies"

County Council Resolution 44-13: *What Does it Require?*

- ▶ “identify the open space needs of the County with the goal of using waiver fees to meet those needs”
- ▶ “recommend a method to encourage the payment of waiver fees in cases involving small lot subdivisions”
- ▶ “recommend any needed modification to the procedure that permits a waiver of standards or fees by the Director of Recreation and Park”
- ▶ “study the current open space waiver fee system, including the relevant provisions of the Open Space Manual, and
- ▶ “recommend to the County Council a comprehensive, transparent formula for the manner of establishing local Open Space waiver fees.”

Does the Report...

Identify the open space needs of the County?

No.

And, it does not analyze how much it will cost the county to implement a plan that satisfies the County’s open space needs, including in areas where land is most expensive, like in Towson.

Does the Report...

Recommend a method to encourage the payment of waiver fees in cases involving small lot subdivisions?

No.

It does not address this topic.

Does the Report...

Recommend any needed modification to the procedure that permits a waiver of standards or fees by the Director of Recreation and Park?

No.

Modifications of waiver procedures are not mentioned.

Does the Report...

Study the current open space waiver fee system, including the Open Space Manual?

No.

It only explains what the current fee system is, and mentions only that the LOS Manual 's current requirements.

Does the Report...

Recommend to the County Council a comprehensive, transparent formula for the manner of establishing local Open Space waiver fees?

No.

*There is no "formula."
And, there is no recommendation, except to maintain the status quo that the Council believed was unacceptable when it passed Resolution 44-13 two years ago.*

The Report Accomplishes Nothing

- ▶ Concludes that the one idea Planning had for revising the fee structure would not work.
- ▶ Its “recommendation” is to stick with the current fee structure, including zero to meaningless open space fees in the CT Districts like Towson.
- ▶ There is no reasoning, data or evidence to support this recommendation.

Bottom Line

Resolution 44-13 requires the Planning Board to do something. Adopting this Report’s Recommendation does nothing (and it would violate the obligations imposed by the Resolution).



Transparency?



A lack of transparency in the *process* cannot assure a transparent *result*.

Transparency: Important Dates

- May, 23 2013: Resolution 44-13 passes.
- October 1, 2013: Report Due Date.
- Feb. 18, 2015: Draft Completed.
- Feb. 19, 2015: Planning Bd. Requests Copy.
- Feb. 24, 2015: *The MD Homebuilders Association somehow received an advanced copy. Developers and lawyers, commercial property owners and management companies got a chance to weigh in on the draft (not directly from the county).*
- March 11, 2015: Planning Bd. Receives copy.
- March 12, 2015: Report Made Public. It is substantially different than the draft. But what did happen in the 3 week period of silence was...

February 24, 2014 Email Within Development Community

[note: email addresses removed for privacy].

Baltimore County Chapter Members,

Attached is a report prepared by Baltimore County Planning Board Staff which responds to 2013 County Council legislation asking the Planning Board to examine Local Open Space (LOS) fees in lieu and report back with recommendations on how to reform the system if necessary. This legislation came as a result of the County lowering fees in 2013 in order to spur development with the intent of re-examining fees in a few years. A few years has come and gone and this is the first part of looking into changing fees as the County is concerned they do not have enough open space funds to purchase, develop and maintain open space.

Currently, this report contains only recommendations and there is no legislative proposal to adopt these or any other ideas by the County Council or County Executive.

The County Master Plan 2020 States...

“A significant key to the success of any proposal is the involvement of all stakeholders.”

“It is very important to instill a sense of stewardship: ... the citizens will have an integral role in the creation of sustainable developments through collaborative efforts. At the very genesis of any proposals, the County will facilitate meetings with all stakeholders, soliciting comments and suggestions from all who will contribute.”

Clearly, this did not happen during the creation of the Report. Communities requested to be involved but were shut out.

The Report's Recommendations for the CT District Do Not Comply with the ...



How Much LOS Is Required by Law?

- Report: “a minimum of 1,000 square feet of Local Open Space (LOS) per dwelling unit.” (p.2)
 - 100 apartments x 1,000 sf. = 100,000 sf.
 - 100,000 sf. = **2.29 acres.**
 - Thus, 100 apartments must provide for 2.29 acres of open space. This is the law.

Waivers of LOS Requirements:

County Law permits a developer to apply for paying a fee in lieu of satisfying the open space requirements, but the law requires that:

- “the fees shall be reasonably proportionate to offset the increased cost to the county for acquiring recreational land”
- The fees shall be used in the same councilmanic district as the property for which the waiver was granted” (the “Towson Row bill” requires fees from Towson Row Development to be spent within three miles of Towson); and
- In setting the fees, the County must consider, “at a minimum, establishing the fees based on the zoning classification of the land (being developed).”



Field Conditions >>

Towson High School

Towson CT District

The fee-in-lieu “exemptions” passed by County Council resolution 15 years ago, and which the Report recommends renewing are:

- In the Towson CT, fees for the first 100 units constructed are \$0. The fee is \$5,000 for each 25 units thereafter; and
- Dormitories with more than 50 students are completely exempt.

Towson CT District

Example: A developer builds 100 residential units in Towson. The law would require that developer to provide 2.29 acres of open space.

Question: is a \$0.00 “fee in lieu” reasonably proportionate to the cost of acquiring 2.29 acres close to Towson? Or, anywhere in the Fifth District, where the fees must be spent?

Of Course Not!

Towson CT District

Example 2: A developer builds 500 dwelling units in Towson. The law requires 11.49 acres of open space.

Question: is a fee in lieu totaling \$80,000 reasonably proportionate to offset the cost of buying 11.49 acres somewhere close to Towson?

Anywhere in the 5th District?

Anywhere in this County?

Of Course Not!

Local Open Space Manual

- It is a legally binding document.
- P. 4 of the Manual requires that:

Developers must provide for open spaces “in order to offer recreational opportunities close to home; to enhance the appearance of neighborhoods through the preservation of natural green spaces; to counteract the effects of urban congestion and monotony; and to encourage participation by all age groups in the use and care of LOS tracts.”

Rhetorical Questions based upon the LOS Manual:

- ▶ Do the proposed CT District fees provide sufficient funding to “counteract the effects of urban congestion” in Towson?
- ▶ Are the proposed fees reasonably proportionate to providing any open space “close to home” for residents who live in or near Towson?
- ▶ Does the complete waiver of all fees for dormitories encourage use of LOS by all age groups? And, why wouldn’t residents of off-campus dormitories want or need to use open space? Especially hundreds of students living in a dorm tower in the center of town?

The Report Offers No Answers.

- ▶ Instead, it recommends that developers in Towson continue to get a free pass, without considering or explaining how, why and whether that makes sense, given the current and ever-increasing *need* for open space in and around the Towson area.
- ▶ Yet, the Report acknowledges the following:
 - the importance of “the goal of maintaining sufficient funding for land acquisition and open space development (including renovations)” (p. 1);

The Report Also Acknowledges...

- that “it is not feasible to create a fee structure based on varying degrees of demand generated by different housing types, lot sizes, or other factors” (p.16);
 - *Isn't this what the Report recommends for Towson? Dorms?*
- “It has not been clearly demonstrated that differences in household size or children per household actually affect the relative use of open space by the residents, nor is there a demonstrated relationship between lot size and open space use” (p.17);
 - *Yet, isn't this what the recommendations assume to be true?*
- “both the state and the county seek to provide open space and recreational facilities in the locations where they are most needed.” (p.17).
 - *How could the recommendations possibly advance this goal?*

LPPRP

- ▶ The Report does not mention the recently-updated LPPRP (Land Preservation, Parks and Recreation Plan) adopted by the County Council.
- ▶ The LPPRP is the “master plan” for Rec. & Parks.
- ▶ It urges the County to, “employ the Baltimore County development process to provide quality local open space, obtain fees-in-lieu where appropriate (to help fund park acquisition and development), and to secure vital greenway connections.”
- ▶ It also warns that the amount of new Program Open Space funding from the state is nearly non-existent.
- ▶ Why would the Administration want to continue giving a near complete break on open space fees, when the state funding is non-existent?

The Report's Data Proves That Change is Needed.

- ▶ Chart on p.18 shows the zoning areas where the county has purchased open space land within the past 10 years.
- ▶ It reveals that the County has not purchased any open space in the CT District or in higher density zones, like DR 10.5 and 16.
- ▶ During this entire period (and before), the exemptions for the CT District have been in place.
- ▶ Yet, consider how the unavailability of open space has plagued the Towson area more than any other part of the County, and that families continue to move into this area at increasing rates.
- ▶ It makes no sense to continue this funding shortage, so that developers make a larger profit.

The Right Result (for now)

- ◆ The current fee schedule should remain as-is until a meaningful report can be created, but without exemptions for Towson or dorms.
- ◆ The fees for the CT of Towson and off-campus dorms in this district should be equivalent to the County's per square foot LOS waiver fee for DR 16, which is \$5.74 psf.
 - DR 16 is the most dense zoning classification that the County's existing fee schedule includes.
 - Last month, a County Administrative Law judge ruled that this fee amount was an appropriate to impose on a CT District dormitory project.
- ◆ Also, the County Dept. of Rec. & Parks should take the lead in creating a new Report because that department is in the best position to determine area and County open space needs, and the cost of meeting those needs.
- ◆ "Planning" had its opportunity, and did not deliver.

Not on Our Backs

- ▶ The Original Draft Report sent to the developers stated, “When the LOS requirement is waived at the developers’ request, the county must make up the difference by providing open space elsewhere at a cost to taxpayers.”
- ▶ We are the taxpayers, and we are not interested in “making up the difference” between what developers pay and what the county must spend, which is exactly what this Report suggests.
- ▶ We are the stakeholders who were not consulted, and who never have been. We will live in Towson for generations to come, long after these projects are built and developers move on.

The Wrong Direction

A recommendation that assumes adults of all ages, children and pets do not need true open space is short-sighted and will exacerbate the problems we already face.

Concrete jungles do not attract people and do not assure a long-term, sustainable community. The County law, the LOS Manual and our own experiences teach us that.

The Wrong Direction

It also is the wrong direction to let the development community have the only meaningful voice in the administration when it comes to the open space fee decisions.

We are not against development.
We are not against developers.
But we want open government.
And we want open space.

**Greater Towson Council of
Community Associations, Inc.**

Thank you.