

Testimony by Steven McKay on behalf of Residents Against Landsdale Expansion (RALE) In Opposition to the Combined Preliminary Subdivision/Site Development Plan for Monrovia Town Center, before the Frederick County Planning Commission, on or about November 19, 2014

My name is Steve McKay, I live on Shakespeare Way in Monrovia, I am the president of RALE, and I am here in opposition to the Phase 2 plan review for Monrovia Town Center.

Why are we here today? This review could have easily waited another few weeks until the new County leadership took office. This review should have waited until it could be held in the evening so that the residents who will be so severely impacted by this development, could have their opportunities to express their concerns, ask their questions – and finally get them answered. But of course, that request was asked and answered and here we are – at least a relative few of us that could make it. Personally, I suspect that the timing of this hearing is being driven by considerations that have nothing to do with proper planning. We are here today because Mr. Young wants to get a lot of business done while he still can. And so, Staff has been driving hard – and I’m sure being driven hard – to rush these actions to completion and review.

Why are you here today? We’ve been told that as long as the Applicant has accomplished certain proscribed things that you have no choice but to approve. If that’s the case, then really – why are you here? If this is just a checklist, then somebody – not me, of course – could just write a computer program that receives some inputs, and spits out an approval. After all, that would save us all a lot of time and money. In fact, I’m surprised that Mr. Young didn’t think about it during his supposed downsizing of government.

Well, there’s a reason you’re here, and there’s a reason we’re all here. This isn’t just about checking a box and making a decision. These decisions require judgment. There are many qualitative decisions that must be made, gray areas to be sorted through. Concepts like “adequacy” can be in the eye of the beholder, and are not simply a matter of writing a check. And that’s why you’re here. And I hope that’s why you’ve elected to be here. I recognize that you are – effectively – volunteering your time and efforts – and yes, your judgment, too – to serve Frederick County. So today, I sincerely hope that you exercise your judgment. Question what you are told. Question every facet of this plan, and why it is being put forth here and now today. Question whether you are actually being used to serve someone else’s agenda. Because in the end, this is your responsibility – for good, bad, or worse.

Let’s start with an issue that continues to bother me a great deal. Mr. Young’s presence in this proceeding offends me because I believe it is in direct violation of Title XV, the State Code of Ethics for Frederick County. I have documented \$32,000 in campaign donations from entities controlled by the Applicant, and from close relations to the Applicant, several of whom are here now. These donations were given and received in July and October 2014, during the pendency of this application and, as such, violate the Ethics Code. Such laws are there to remove the appearance if not the fact of a conflict of interest between a decision maker and an applicant. Mr. Young’s presence in this hearing represents a blatant conflict of interest, just as his role in overseeing the County staff during this application period has also represented a conflict of interest. I have included a record of the campaign contributions taken from the Maryland Campaign Information Reporting System. This also includes an additional donation from Mr. Wilcom’s 75-80 Dragway, Inc, which was received during the pendency of the Phase 1

application. I formally request that Mr. Young remove himself from these proceedings. Failing to do so will irrevocably taint this record and the decision of this Commission.

Blaine Young			\$32,500	
2/27/2014	75-80 Dragway, Inc	11508C Fingerboard Rd., Monrovia, MD 21770	\$500	Controlled by Mr. Wilcom, the current property owner
7/28/2014	Capone, Tricia	27211 Long Corner Road, Mount Airy, MD 21771	\$4,000	Same address as Kevin Stanley
7/28/2014	Country View FFB, LLC	P. O Box 577, Damascus, MD 20872	\$4,000	LLC controlled by Roy Stanley and registered to same address as Roy Stanley's businesses
7/28/2014	Newman, Tiffany	26109 Woodfield Road, Damascus, MD 20872	\$4,000	Administrative assistant at Stanley Grain & Fertilizer
7/28/2014	Stanley, Kevin	27211 Long Corner Road, Mt. Airy, MD 21771	\$4,000	Roy Stanley's son
7/28/2014	Stanley-Willis, Lisa	9428 Damascus Road, Damascus, MD 20872	\$4,000	Roy Stanley's daughter
7/28/2014	Willis, Randal	9428 Damascus Road, Damascus, MD 20872	\$4,000	Roy Stanley's son-in-law
10/6/2014	Stanley, Bertha	26431 Mullinix Mill Road, Mount Airy, MD 21771	\$4,000	Roy Stanley family members
10/6/2014	Stanley, Charles	26431 Mullinix Mill Road, Mount Airy, MD 21771	\$4,000	Roy Stanley family members

Source: <https://campaignfinancemd.us/Public/ViewReceipts?theme=vista>

OK, now let's address MD 75. At the first set of Phase 1 hearings before this Commission, Mr. Lawrence, Mr. Robbins, and Mr. Hall each voiced your concern over MD 75, and pointed to that concern when voting against a recommendation to approve the zoning request. In March, however, those concerns seemed to vanish after the County raised the priority of MD 75 in the Annual Transportation Priorities Review. As a result, this Commission voted unanimously to approve the rezoning. Then in April, the BoCC approved the rezoning, pointing to both that same prioritization decision, and holding up a letter endorsing the development from the Frederick Area Committee on Transportation.

So where are we now? The FACT letter turned out to be a sham, written by a relative of someone on the Applicant's team. Then in September, the Maryland Department of Transportation told the County that not only are they NOT providing funds for MD 75, they also said that the County hadn't gotten enough money from developers. Interestingly, they also seemed to say that there are Smart Growth issues along the MD 75 corridor. That's an understatement!

So again, if you continue to approve the planning of this development, you do so with no knowledge about when – or IF – the significant safety and congestion issues to be created by this development will every be remedied. Continuation of this development without a definitive commitment and plan to improve MD 75 represents a certain threat to the health, safety, and welfare of both the residents that live along the road, and everyone that drives it.

Let's talk about Ed McLain Road. It was ignored in the traffic study based on an assumption of MD75 road improvements that are nowhere near on the horizon. Mr. Burns acknowledged that fact, as well as his mistaken understanding of the current level of traffic. We have been told there would be one entrance to the development onto the road, and now there are two. We have been told that the connections would not open to Ed McLain until the entire East-West Collector is complete, and yet we see nothing that stipulates that condition. We have been told that drivers would be inhibited from turning north on the road, and yet we have seen nothing in this record showing us how, and there has never been an answer for vehicles coming south onto the road. All of these were supposedly Phase 2 issues. Here we are and there are still many unanswered questions. In the end, each and every one of us – I suspect yourselves included – know that Ed McLain will experience a dramatic increase in usage. This will create severe safety problems for the homeowners on that poor quality road. And there is NOTHING in this development plan to mitigate that issue.

The high school site remains an issue. It was removed from the PUD application because they knew we were right about the contiguity issue. Although it's not part of the development, it keeps popping up in all the documentation. It's a bad site for a school. The threat of EMF exposure to our children is a horrible risk to just assume away. The shape and slope of the geography is problematic, and earlier promises to grade the site are nowhere to be seen in the current documentation.

Just like the contiguity issue, we caught them making another big mistake. That narrow diagonal space, cut out of the PUD zoning is there because we found their error. And it wasn't just a simple mapping error. No, it was more than that. In 2012, the Applicant failed to request a zoning change for those parcels. Look it up. I did. There was no request made. I don't know why – and I don't care why. The fact is, it wasn't made and but for Staff coloring in the Community Growth Area, it would still be zoned Agriculture. That was the precursor to those parcels not getting the proper water & sewer classification, which is why they were not eligible to be included in the PUD. That is all a matter of zoning law.

But look at it now. Those parcels have been completely integrated into the development plan. We see roads, walkways, water & sewer connections, and even part of the storm water management system. This plan is making a mockery of the ordinance and of the law. If you approve this plan, so are you.

Let's shift gears and discuss schools. Not the horrible high school site. Let's discuss elementary schools. I've previously spoken about the dire need being created by these new development in our part of the County. In May 2013, County staff briefed the Board of Education about the development pipeline and new school construction requirements. They indicated that four new elementary schools will be needed in our corner of the County. A year and a half later, we still only have one new school in the CIP – the East County Elementary School – and it won't seat a student for another 7 or 8 years. I call this the “magic elementary school” because it appears that each and every one of the major developments in this area claim it as their primary elementary school mitigation. I've attached a short summary documenting how six of the big new developments all list that same new school. I know that this isn't specifically a Phase 2 issue, but really – you have to be continually concerned about the adequacy of public facilities and the school issue is a big one.

I will restate for the record a few arguments that we made during Phase 1. The PUD still fails to meet the contiguity requirement because it is bisected by MD 75. The PUD is specifically incompatible with the Comprehensive Plan, the text of which contains language that

is antithetical to this development. Finally, the Applicant has forever created an atmosphere of doubt and mistrust within the community after his utter failure to engage us before this development application – as required in the ordinance – and then in making up a story about a supposed community meeting in a shed at the racetrack. We hold that all of these arguments are enduring reasons to stop this development.

Now let's just talk about the state of this planning document. You have significant roadway improvements for MD 80 depicted in a diagram. It paints a wonderful picture. But there is no documented foundation in the APFO LOU detailing the Applicants responsibilities. You have vague references to specific zoning conditions from the ordinance that haven't been met. You have a Forest Resource Ordinance plan that hasn't even been approved at the preliminary stage. There are issues with historic site preservation. And at the end of the staff report, you have a summary table that is almost completely filled with references to "conditional approval" because nothing has really been finalized yet.

This Phase 2 plan should not have been brought before you. It is premature. There are far too many conditions that haven't been met. It is being driven by factors that have nothing to do with proper planning. I'm not asking you to make it all go away – as much as I would love to do that. I'm merely suggesting that you remand it back to Staff and the Applicant. Tell them to come back when they are actually ready. Remind them in no uncertain terms that the Frederick County Planning Commission is an independent, non-political body that has final authority in approving site plans, subdivision plats, modifications to the subdivision regulations, and determination for Adequate Public Facilities (APFO).

Use your good judgment because history will judge you. Thank you for your time and consideration on these matters.