

TRAPPE EAST SET NEW PRECEDENT FOR BAD ANNEXATION DEAL

Why The Town Council Should Negotiate A Better Deal for Trappe Taxpayers Now

On November 7th the Town Council of Trappe will have an opportunity to rectify a poor deal they made in 2003 when they approved the annexation of 924 acres for the development of the Trappe East (a.k.a. Lakeside) project. At the time the Council was led to believe the project would have a positive effect on taxes and quality of life. However, the Town Council released a fiscal impact study in 2004 which showed instead that Trappe East would lead to a tripling of taxes paid by the 1,146 existing residents of Trappe. Eben Fodor, a nationally recognized expert, believes the tax increase could be even higher. Additionally, Trappe taxpayers will lose \$1,292,213 to \$4,158,980¹ in property tax abatements and impact fee waivers granted by the Town Council. Research commissioned by the Friends of Trappe indicates that few (perhaps none) of Maryland's 155 other municipalities offer similar tax and fee giveaways for annexations involving new residential development. Next Wednesday the Town Council will consider extending previously approved bond legislation for Trappe East. The Friends of Trappe are calling upon the Town Council to condition the extension on a truly fair deal for Trappe taxpayers.

Trappe East background

The 924-acre Trappe East site is located east of US Route 50, north of Barber Road, south of Backtown Road, and west of a tributary to the Miles Creek. As of November, 2006, site development would consist of:

- 336 rental apartments;
- 342 attached (age-targeted) units;
- 326 townhouses; and
- 1,497 single family houses.²

These 2,501 units would accommodate 5,384 residents.³ The population of Trappe was 1,146 in the year 2000. The Trappe East residents would increase the Town population by a factor of 5.7.

When Trappe residents were asked to vote on whether to approve the Trappe East annexation, they were promised that the project would include a grocery store and other retail businesses. In fact, the promise of a local grocery store motivated many Town residents to vote in favor of the annexation. However, during a February, 2007 hearing, Trappe East agent Robert Rauch stated that the grocery store and other commercial uses would probably never be built.

Taxes paid by current Trappe residents to triple

The residents of Trappe were assured that annexation would bring with it lower taxes. The Friends of Trappe retained Eben Fodor who is the author of *Better, Not Bigger* and a nationally recognized expert on land use. The Friends asked Mr. Fodor to critique a fiscal impact analysis prepared for the Town in 2004⁴. Mr. Fodor produced a report entitled *Review of the Fiscal*

*Impact Analysis for Proposed Trappe East Development*⁵. In his report, Mr. Fodor presented the following analysis showing that the taxes paid by Trappe residents will (at least) triple:

*The analysis showed that revenues from town taxes and fees will increase from the current \$174 per capita to \$501. This represents a \$327 per year average cost to each resident of Trappe, amounting to \$376,050 per year in additional cost to the 1,150 existing residents of Trappe (see Table 3). Including \$47,995 in higher taxes on commercial uses, the total cost to existing residents and businesses would be \$424,045 per year. Since the costs for the Trappe East development have been understated (as discussed above), the costs to local taxpayers are likely to be significantly higher than shown in Table 3.*⁶

Taxes average 35% higher in annexing Maryland municipalities

The increase in taxes documented in Mr. Fodor's report appear to hold true for the Maryland municipalities which have annexed land over the past decade. Preliminary data from another study commissioned by the Friends of Trappe indicates that current real property tax rates are 35% higher in the 82 municipalities which annexed land between 1997 and 2005 compared to the 75 municipalities which did not annex during this period.⁷

Benefits to town residents a fraction of Town Council giveaways

The agents for the Trappe East project committed to providing the Town with the following benefits:

- a new town hall (\$250,000 est);
- one police officer for three years ending in 2009 (\$200,000);
- a town planner (\$325,000 - 5 years est);
- fire house improvements (\$250,000);
- a 900-square foot pad (\$1,000 est.); and
- a street sweeper and a backhoe (\$100,000).

The Friends of Trappe estimate that these benefits have a total value of \$1,226,000.⁸

In exchange for these benefits, the Town agreed to waive a \$2,761 per unit impact fee for the first 500 Trappe East units.⁹ This impact fee waiver has a value of \$1,380,500, which exceeds the value of the benefits.

Additionally, the Town Council agreed to abate municipal property taxes for up to ten years while the Trappe East site remains undeveloped.¹⁰ The Friends of Trappe estimate that the tax abatement will cost the people of Trappe another \$1,292,213 to \$4,158,980.¹¹

Combined the loss of revenue to the Town from the property tax abatement and the impact fee waiver totals \$2,672,713 to \$5,539,480 or **2.2- to 4.5-times the value of the benefits!**

Few municipalities are as generous as Trappe

A study commissioned by the Friends of Trappe revealed that it is very unusual for a municipality to abate property taxes for an annexation involving proposed residential development.¹² It is also highly unusual for a Town to waive impact fees.

The study was conducted by Community & Environmental Defense Services (CEDS), which was retained by the Friends of Trappe. CEDS contacted the 60 Maryland municipalities which annexed three or more properties between 1997 and 2005. The planning director or administrator of these 60 municipalities was asked if they ever abated property taxes or waived impact fees for annexation involving new residential development. Thus far 27 (45%) municipalities have responded.

Of these 27 municipalities, 81% reported that they never abate property taxes when an annexation involves new residential development. Only 2% stated that property taxes are routinely abated. However, none of the municipalities reported abating property taxes as long as the ten years granted by the Trappe Town Council for Trappe East.

Of the 27 respondents, 70% charge a municipal impact fee. None of these municipalities will waive the impact fee for an annexation involving new residential development.

Given these results, the Trappe Town Council has awarded the developers of the Trappe East project with revenue giveaways that few, if any, developers receive in any of Maryland's other 155 municipalities.

Trappe leads Maryland municipalities in fiscally draining annexations

Since 1997, the Town of Trappe has increased its land area by 225% (or 1,105 acres) through annexation. Of Maryland's 156 municipalities, only Port Deposit has grown more rapidly than Trappe.¹³ But it appears that Port Deposit got a much better deal with the annexation accounting for its 238% expansion: the 1,200-acre former Bainbridge Naval Base. A third of the base will be developed as a commercial and technical center, a use which generates more tax revenue than is consumed in government services. Most of the 1,105 acres of land annexed by Trappe will be developed solely for residences, a use which consumes more in municipal, county, and state services than it generates in tax revenue. Thus, Trappe has the dubious distinction of being the first among Maryland municipalities with respect to percent expansion through fiscally-draining residential annexation.

Trappe will become the indebtedness leader

The Maryland Department of Legislative Services publishes an annual report entitled *Local Government Finances in Maryland*¹⁴. One of the statistics presented in this report is the ratio of public debt to assessable tax base for each municipality.

According to the most recent report, for fiscal year 2005, the Town of Trappe had an Assessable Base of \$39,041,496. The Town's debt at that time was \$3,607,460 or 9.2% of its assessable base. To put this in perspective, the debt of the three other towns in Talbot County ranged from

0.6% to 2.0%. Of the 156 municipalities in Maryland, only 3 (2%) have a percent indebtedness higher than that of Trappe. The highest has a debt which equals 23.7% of Assessable Base.

However, Trappe East will make the Town of Trappe a leader among Maryland's 155 other municipalities when it comes to indebtedness. The Trappe East developers initially asked the Town to support \$39 million in municipal bonds to pay for the water and sewer lines, roads, treatment facilities, and other infrastructure needed to develop the project. Now \$60 million in bonds are needed. If approved by the Town Council, Trappe's indebtedness would increase to 163%. This would give Trappe the distinction of becoming the most indebted of Maryland 156 municipalities.

While it does not appear that the Town would be liable for the \$60 million debt should the Trappe East project fail, neither has the Town Council taken every reasonable step it can to protect itself. For example, Friends of Trappe attorney Thomas T. Alspach suggests that the Town Council ask Miles & Stockbridge, the law firm representing Trappe East, to provide the Town with a letter documenting that the taxpayers of Trappe will in no way become liable for repaying the \$60 million bond if the project fails.

In 2006, Trappe East submitted the following to the Town Council: *Lakeside Special Taxing District Special Tax Report Town of Trappe, Maryland: Report on the Reasonable Basis of the Special Tax*.¹⁵ This report set forth how the Trappe East special tax district would generate the funds needed to repay the bonds. However, a number of the assumptions presented in the report are no longer valid, such as interest rates. The Town Council should direct Trappe East to revise the report before giving further consideration to extending the bond legislation.

Recommendations To The Trappe Town Council

In December, 2006, the Council approved Resolution 11-2006 which allows the Town to offer the bonds needed to develop the Trappe East project. The Resolution will expire on December 6th of this year unless extended by the Town Council. Without an extension those who will profit from the Trappe East project would need to secure their own financing, as most other developers do. Therefore, the Town Council has an excellent opportunity to begin turning this very bad deal for the people of Trappe into less of a disaster. The Town Council will consider the extension next Wednesday, November 7th.

At a minimum, the Town Council should demand the following before approving an extension of Resolution 11-2006:

1. a correction of the inaccuracies in the 2006 *Report on the Reasonable Basis of the Special Tax*;
2. a letter from Miles & Stockbridge, the law firm representing Trappe East, provide a letter documenting that the taxpayers of Trappe will in no way become liable for repaying the \$60 million bond if the project fails;

3. the termination of the \$1,292,213 to \$4,158,980 in property tax abatements and \$1,380,500 in impact fee waivers;
4. that the Trappe East project include commercial and other uses which generate a net surplus in tax revenue;
5. a deadline for work to begin so that there is a limit to the 2006 Development Rights & Responsibilities Agreement; and
6. termination of the 2.5-year capitalized interest now included in the bond authorization.

The interest of the Friends of Trappe in the annexation

In cases of annexation in Maryland, the democratic process fails those not living within the boundaries of the annexing municipality, even though they may live only a few hundred yards away. They are not permitted to vote on any issues arising from the annexation even though they are directly impacted by them. In the case of Trappe, only 246 people voted to approve the annexation which has direct consequences for many of the 35,000+ residents of Talbot County. Explosive growth such as this produces a profound, long-term negative impact on the economic, environmental and social structure of a community. Perhaps worst of all, it strips citizens of one of the unalienable rights at the core of this nation, the right to participate in the democratic process.

Endnotes

1. This estimate was developed by Community & Environment Defense Services (CEDs), which was retained by Friends of Trappe. An Excel file supporting the estimate can be viewed at: <http://www.ceds.org/Trappe/Property Tax Loss.xls>
2. See Table A, in *Lakeside Special Taxing District Special Tax Report Town of Trappe, Maryland: Report on the Reasonable Basis of the Special Tax*, November 2006, available at: <http://www.ceds.org/Trappe/Lakeside Special Taxing District Reasonable Basis Report.pdf>
3. See page 9 of *The Fiscal, Economic and Capital Asset Impact of the Proposed Trappe East Project on the Town of Trappe, Maryland* available at: <http://www.ceds.org/Trappe/Fiscal Impact Study.pdf>
4. *The Fiscal, Economic and Capital Asset Impact of the Proposed Trappe East Project on the Town of Trappe, Maryland* available at: <http://www.ceds.org/Trappe/Fiscal Impact Study.pdf>
5. The report *Review of the Fiscal Impact Analysis for Proposed Trappe East Development* can be viewed online at: <http://www.ceds.org/Trappe/Review of Trappe East FIA Final.pdf>
6. See Table 3, in *Review of the Fiscal Impact Analysis for Proposed Trappe East Development*, Prepared for Friends of Trappe, June 12, 2007, By Eben Fodor, FODOR & ASSOCIATES

7. This estimate was developed by Community & Environment Defense Services (CEDS), which was retained by Friends of Trappe. An Excel file supporting the estimate can be viewed at: <http://www.ceds.org/Trappe/Tax Rates.xls>
8. The figure of \$1,226,000 is based upon the dollar value listed under *What Trappe Gets*, in the Friends of Trappe *Trappe East Talking Points*.
9. See Section 11.2, of the *Development Rights and Responsibilities Agreement By and Between the Town of Trappe and Trappe East LLC, Luthy Properties LLC, Lyons Trappe Llc, Whitemarsh Farm LLC, Trappe Ocean Gateway LLC, Barber Road Addition LLC, Trappe Wise LLC and Slaughter Land LLC*.
10. See Section 8. Special Provisions, page 15 and 16, of Annexation Agreement and Public Facilities Agreement, available online at: <http://www.ceds.org/Trappe/Annexation%20Agreement%20&%20PWA.pdf>
11. This estimate was developed by Community & Environment Defense Services (CEDS), which was retained by Friends of Trappe. An Excel file supporting the estimate can be viewed at: <http://www.ceds.org/Trappe/Property Tax Loss.xls>
12. The results of this study can be viewed at: <http://www.ceds.org/Trappe/Waivers.xls>
13. The Town of Port Deposit grew at a rate of 238% vs. 225% for Trappe according to the Maryland Department of Planning report *MDP Annexation Summary 1997 to Present* available online at: <http://www.mdp.state.md.us/pdf/annex/MunicipalInventory.pdf>
14. Local Government Finances in Maryland is published by Maryland Department of Legislative Services. For ordering information visit: http://dls.state.md.us/side_pgs/documents/pub/documents_local_govt.html
15. in *Lakeside Special Taxing District Special Tax Report Town of Trappe, Maryland: Report on the Reasonable Basis of the Special Tax*, November 2006, is available online at: <http://www.ceds.org/Trappe/Lakeside Special Taxing District Reasonable Basis Report.pdf>