FREDERICK COUNTY PLANNING COMMISSION
April 11, 2018 9:30 a.m.

TITLE:       Bill #18-10 Satellite Simulcast Betting Facility
FILE NUMBER: N/A
REQUEST:     Bill #18-10 Satellite Simulcast Betting Facility Public Hearing
PROJECT INFORMATION: N/A
APPLICANT/REPRESENTATIVES: Council Member Tony Chmelik
STAFF:

RECOMMENDATION: That the Planning Commission provide a recommendation to the Frederick County Council regarding the Text Amendment.

ATTACHMENTS:
Proposed Bill
Council Summary Memorandum
To: Frederick County Planning Commission
From: Steven C. Horn, Director, Planning & Permitting Division
Date: March 9, 2018
Subject: Bill #18-10 Satellite Simulcast Betting Facility (By: Council Member Tony Chmelik)

Attached, please find the proposed Bill and summary memorandum from Council Member Tony Chmelik.

Thank you for your attention to this matter.

Attachment
Proposed Bill
Council Summary Memorandum
AN ACT to: define Satellite Simulcast Betting, and provide for permitted location of a Satellite Simulcast Betting Facility in Frederick County.
Bill No. 18-10

The County Council of Frederick County, Maryland, finds it necessary and appropriate to amend the Frederick County Code to define Satellite Simulcast Betting, and provide for permitted location of a Satellite Simulcast Betting Facility in Frederick County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Code be, and it is hereby, amended as shown on the attached Exhibit 1.

Harold F. (Bud) Otis, President
County Council of Frederick County,
Maryland
§ 1-19-5.310. USE TABLE.
(A) Permitted uses and required development review.

P  Principal permitted use subject to design regulations

PS  Principal permitted use subject to site development plan approval. See §§ 1-19-2.160, and 1-19-3.300 through 1-19-3.300.4

E  Principal permitted use as a special exception with site development plan approval
See §§ 1-19-8.320 and following

T  Permitted as temporary use as a special exception. See § 1-19-8.300

X  Permitted as temporary use only. See § 1-19-8.700

SW  Solid Waste Floating Zone

A blank indicates that the use is not permitted under any situation

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ARTICLE XI: DEFINITIONS

§ 1-10-11.100  DEFINITIONS

SATELLITE SIMULCAST BETTING.

Pari-mutuel betting at a satellite simulcast facility on a race that is simulcast from a sending track by a mile thoroughbred racing licensee, a harness racing licensee, or the State Fair Society; and transmission of the pari-mutuel information regarding bets at the satellite simulcast facility to the sending track.

Underlining indicates matter added to existing law.
[S]ingle boldface brackets] indicates matter deleted from existing law.
*** indicates existing law unaffected by bill.
Bill No. 18-10
SATELLITE SIMULCAST BETTING FACILITY.

Construction, conversion, alteration and/or use of a building or portion of a building to become a venue for the purpose of conducting satellite simulcast betting in accordance with the Maryland Racing Commission.
To: County Council

From: Council Member Tony Chmelik

Date: February 27, 2017

Subject: Satellite Simulcast Betting (Off-Track Betting) Facility

Issue:

Should Frederick County allow, as a principal permitted use, a Satellite Simulcast Betting Facility (Off-Track Betting) in the Limited Industrial District?

Background:

A Satellite Simulcast Betting (Off-Track Betting a.k.a. OTB) Facility is governed under state law. The specific provisions are found in Md. Code Ann., Bus. Reg. § 11-101 through § 11-13.12. The relevant references and definitions are included at the end of this summary.

Frederick County currently does not have an OTB Facility. It had one, the “Cracked Claw,” but it was forced to close down in 2011 when the state’s racing industry struggled amidst declining betting and popularity. It was the first of the closing of all four OTB’s in the state. In 2010, Gov. O’Malley signed legislation that would divert millions of dollars of slots revenue to the Jockey Club. This has rejuvenated the industry, but unfortunately it was too late for the “Cracked Claw.”


The growth of Maryland’s racing program due to cash infusions from new casinos has sparked resurgence in the state’s off-track betting network. There are four thoroughbred tracks, and two harness tracks in Maryland and there are currently five Satellite Simulcast Betting Facilities. They include Hollywood Casino Perryville, Horseshoe Casino, Riverboat on the Potomac, Pimlico Race Course, and Timonium Fair Grounds. Off-track wagers accounted for $39.3 million in 2016.


The Limited Industrial District

Per the Frederick County Code § 1-19-5.250(B) [t]he Limited Industrial District (LI) is intended to provide adequate area for development of industrial uses whose operations have a relatively minor nuisance value and provides a healthful operating environment secure from the encroachment of residential uses and protected from adverse effects of incompatible industries.
What will the new bill do?

The new bill will allow, as a principal permitted use, a Satellite Simulcast Betting Facility (Off-Track Betting) in the Limited Industrial District. The facility will be licensed by the State Racing Commission and held to strict standards including offering pari-mutuel betting facilities and amenities that it finds are comparable to those available in the sports palace facilities of the mile thoroughbred racing licensees, including high quality dining, lounge and seating areas that are of a manner generally found in fine restaurants and teletheatre screen capacity. Please note, the Maryland Racing Commission is not affiliated with Maryland Gaming or the Maryland State Lottery.

A business owner/permit applicant has to undergo a thorough investigation including a financial and character review. There are then several factors the state considers including the desires of the local political subdivision, and hearing from the public at a required local hearing.

A Satellite Simulcast Betting Facility is not one the Commission takes lightly and is highly regulated. It may simulcast races from different tracks and offer "pari-mutuel betting," defined in the state code, as the system of betting in which those who successfully bet on horses that finish in specified positions share the mutuel pool, less the takeout and the breakage.
§ 11-101. Definitions

(a) In this title the following words have the meanings indicated.

(b) "Breakage" means the odd cents that remain after all successful bettors are paid to the next lowest multiple of 10 cents.

(c) "Central Repository" means the Criminal Justice Information System Central Repository of the Department of Public Safety and Correctional Services.

(d) "Commission" means the State Racing Commission.

(e) "Handle" means the gross amount, less refunds, of money bet.

(f) "Harness racing" means the racing of horses that trot or pace in harness while pulling drivers in sulkies.

(g) "Intertrack betting" means:

(1) pari-mutuel betting at a receiving track in the State on a race that is:

   (i) held live or by interstate simulcast at a sending track in the State; and

   (ii) shown simultaneously by video signal at the receiving track; and

(2) transmission of the bets at the receiving track to the sending track.

(h) "License" means a license issued by the Commission to hold a race meeting.

(i) "Licensee" means a person who has been awarded racing days for the current calendar year.

(j) "Mile thoroughbred racing" means thoroughbred horse races at a track that is at least 1 mile long.

(k) "Multiple mutuel pool" means a separate pari-mutuel betting pool in which an interest is represented by a single bet on 2 or more horses.

(l) "Mutuel pool" includes a multiple mutuel pool and a regular mutuel pool.

(m) "Pari-mutuel betting" means the system of betting in which those who successfully bet on horses that finish in specified positions share the mutuel pool, less the takeout and the breakage.

(n) "Purse" means the prize money divided among the owners of horses that finish in specified positions in a race.

(o) "Race meeting" means a period of time to hold racing that extends between specific dates over a number of racing days at a single track.
(p) “Racing” includes:

(1) harness racing;

(2) mile thoroughbred racing;

(3) special thoroughbred racing;

(4) steeplechase or hurdle racing;

(5) flat racing; and

(6) quarter horse racing.

(q) “Receiving track” means a track where pari-mutuel betting is done on races held at another track.

(r) “Regular mutuel pool” means a separate pari-mutuel betting pool in which an interest is represented by a single bet on 1 horse.

(s) “Sending track” means a track where a race is held live or by interstate simulcast and is sent simultaneously by video signal to a receiving track or a satellite simulcast facility under Subtitle 8, Part III of this title.

(t) “Special thoroughbred racing” means thoroughbred horse racing held by the Maryland State Fair and Agricultural Society, Inc., or the Maryland-National Capital Park and Planning Commission.

(u) “Takeout” means the part of the handle that is not returned to successful bettors but is otherwise allocated under this title.

(v) “Track” means a place where racing is held.

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§ 11-302. License required

A person must have an appropriate license whenever the person holds a race meeting in the State where pari-mutuel betting is allowed or a purse, reward, or stake is offered.

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§ 11-804. Out of state races

(a) The intent of this section is similar to that of the Interstate Horseracing Act of 1978, 15 U.S.C. §§ 3001 through 3007.

(b) If the Commission approves, a licensee may contract to hold pari-mutuel betting on a race that is held at an out-of-state track where betting on racing is lawful.
(c) Pari-mutuel betting under this section may only occur:

(1) on a racing day when the Commission has authorized the licensee to hold racing; and

(2)(i) at the track of the licensee;

(ii) at any track where pari-mutuel betting on races on the racing program of the licensee for that day is authorized; or

(iii) at a satellite simulcast facility.

(d)(1) The breakage and takeout for pari-mutuel betting under this section shall be computed in the way normally applicable to pari-mutuel betting on racing the licensee holds.

(2) From the takeout the licensee shall deduct:

(i) the State tax on all mutuel pools;

(ii) the amount to be paid under the contract to the out-of-state track; and

(iii) the cost of transmission.

(3) The licensee shall then allocate the rest of the takeout in the way applicable to the racing that the licensee holds.

(c) A contract with an out-of-state track under this section is subject to the approval of the group that represents a majority of the owners and trainers who race horses at that track and the group that represents a majority of the applicable breeders in this State

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§ 11-804.1. Simulcast of races

(a) Subject to the Interstate Horseracing Act of 1978, 15 U.S.C. §§ 3001 through 3007, a licensee may simulcast races held in this State to another jurisdiction where betting on racing is lawful.

(b) All payments to the licensee under this section shall be allocated to the licensee, purses, and the applicable bred fund in the way agreed to by:

(1) the licensee;

(2) the group that represents a majority of the applicable owners and trainers licensed in the State; and

(3) the group that represents a majority of the applicable breeders in the State.

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PARI-MUTUEL BETTING

§ 11-811. Intertrack Betting; Harness tracks

(a)(1) In this section the following words have the meanings indicated.

(2) “Fair Hill” means the Cecil County Breeders' Fair, Inc., or its successor.

(3) “State Fair Society” means the Maryland State Fair and Agricultural Society, Inc.

(b) This section applies only to intertrack betting in which:

(1) the sending track is equipped to transmit simulcast races and is:

(i) a mile thoroughbred track;

(ii) a harness track;

(iii) a track where racing is conducted by Fair Hill; or

(iv) a track where racing is conducted by the State Fair Society; and

(2) the receiving track is:

(i) equipped to receive simulcast races and hold intertrack betting on those races; and

(ii) one of the tracks specified in item (1) of this subsection.

(c) The Commission may authorize intertrack betting involving tracks of:

(1) mile thoroughbred racing licensees;

(2) harness racing licensees;

(3) Fair Hill; or

(4) the State Fair Society.

(d) The Commission may authorize licensees, Fair Hill, or the State Fair Society to participate in intertrack betting by operating sending tracks and receiving tracks only if:

(1) the operators of the sending track and the receiving track submit a joint application to the Commission;

(2) the Commission holds a public hearing on the matter;

(3) the operator of the receiving track shows to the satisfaction of the Commission that the operator has held, is holding, or will hold regularly scheduled race meetings at the receiving track in accordance with a license and has complied with the terms of the license; and
(4) the receiving track meets the requirements of subsection (e) of this section, unless the Commission has waived them, and subsection (f) of this section.

(c)(1) Laurel Race Course, a track where racing is conducted by the State Fair Society or Rosecroft Raceway may be a receiving track only if live racing was held there in the previous calendar year on at least 75% of the racing days available to it.

(2) Ocean Downs may be a receiving track only if at least 40 days of live racing were held there in the previous calendar year.

(3) Pimlico Race Course may be a receiving track only if at least 90 days of live racing were held there in the previous calendar year.

(4) A track where racing is conducted by Fair Hill may be a sending track only on days when Fair Hill is licensed to conduct and actually conducts live racing.

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(f)(1) Intertrack betting may be held only if the organizations specified in this subsection approve the agreement between the receiving track and the sending track to simulcast races.

(2) If the sending track is a mile thoroughbred track or a track where racing is conducted by the State Fair Society or Fair Hill, approval shall be by an organization representing:

(i) a majority of the owners and trainers at the sending track; and

(ii) a majority of the thoroughbred breeders in the State.

(3) If the sending track is a harness track, approval shall be by an organization representing:

(i) a majority of the owners, trainers, and drivers of standardbred horses at the sending track; and

(ii) a majority of the standardbred breeders in the State.

(4) If the receiving track is a mile thoroughbred track or a track where racing is conducted by the State Fair Society, approval shall be by an organization representing:

(i) a majority of the owners and trainers at the receiving track; and

(ii) a majority of the thoroughbred breeders in the State.

(5) If the receiving track is a harness track, approval shall be by an organization representing:

(i) a majority of the owners, trainers, and drivers of standardbred horses at the harness track; and

(ii) a majority of the standardbred breeders in the State.

(g)(1) The simulcast signal shall be encoded.
(2) The licensee of the receiving track may not transmit the simulcast signal beyond the premises where pari-mutuel betting is allowed.

(h) Notwithstanding the provisions of subsection (f) of this section, if a track where racing is conducted by the State Fair Society is within the 35-mile radius of a mile thoroughbred track, it shall first obtain the concurrence of that mile thoroughbred track before it may be a receiving track during a period of time when the State Fair Society is not licensed to conduct live racing.

**SATELLITE SIMULCAST BETTING**

§ 11-815. Definitions

(a) In this part the following words have the meanings indicated.

(b) "Permit" means a permit granted under this part to hold satellite simulcast betting.

(c) "Satellite simulcast betting" means:

1. pari-mutuel betting at a satellite simulcast facility in the State on a race that is simulcast from a sending track by a mile thoroughbred racing licensee, a harness racing licensee, or the State Fair Society; and

2. transmission of the pari-mutuel information regarding bets at the satellite simulcast facility to the sending track.

§ 11-816. Satellite simulcast facilities

(a) The Commission may approve satellite simulcast facilities that may conduct satellite simulcast betting.

(b) This part does not authorize satellite simulcast betting at or through the direct use of lottery terminals in the State.

(c) The Commission has jurisdiction over all satellite simulcast betting and other activities at a satellite simulcast facility to the same extent as when live racing is held by a licensee.

§ 11-817. Scope of part

(a) A person must have a permit granted by the Commission whenever the person holds satellite simulcast betting.

(b) Nothing in this Part III of this subtitle may preempt local zoning laws or ordinances.

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§ 11-818. Permit applications (for Potential Satellite Simulcast facility owner)

(a) Any person may apply for a permit.
(b) An applicant for a permit shall submit to the executive director of the Commission an application in the form that the Commission requires.

(c) Except as provided in subsection (e) of this section, the Commission shall conduct a personal and financial background check of an applicant for a permit including:

(1) a review, by a certified public accountant, of the certified financial statements of the applicant, including contingent or pledged liabilities, sufficient to determine the ability of the applicant to purchase or lease, and develop and maintain the satellite simulcast facility for which the permit is sought;

(2) an income statement of the applicant for the most recent year;

(3) a statement of financial and related records of any person in which the applicant has at least a majority interest;

(4) a disclosure of all financial interests in horse racing and any other legalized betting activity;

(5) the disclosure of each person who is a beneficial owner of the applicant;

(6) with the assistance of federal, State, and local law enforcement authorities, a criminal background review; and

(7) a character review.

(d) The Commission shall adopt regulations establishing uniform procedures for conducting the personal and financial background check required by this section.

(e) The Commission may waive portions of the review that it determines to be appropriate for any applicant that is a licensee.

§ 11-819. Factors considered (when granting permit to venue)

(a) The factors that the Commission shall consider in deciding whether to grant a permit shall include:

(1) the needs and convenience of the public;

(2) whether the satellite simulcast facility:

(i) would be expected to interfere unreasonably with attendance at tracks; and

(ii) meets the requirements of § 11-825(a) of this subtitle;

(3) the desires of the political subdivision where the proposed satellite simulcast facility is to be located;

(4) the interests of the racing industry; and
(5) other matters that the Commission finds appropriate.

(b) Before granting a permit, the Commission shall:

(1) hold a public hearing within 10 miles of the proposed satellite simulcast facility;

(2) advertise the date, time, and location of the public hearing in a local publication at least 30 days before the public hearing;

(3) provide written notice of the date, time, and location of the public hearing to each of the Senators, Delegates, and county-elected officials that represent the jurisdiction within which the proposed satellite simulcast betting facility is to be located;

(4) post notice of the public hearing on the Commission's Web site at least 30 days before the public hearing;

(5) require the applicant, at least 30 days before the public hearing, to post a sign in a conspicuous location at the facility for which the application for the permit was submitted stating that an application is pending for use of the facility for satellite simulcast betting and specifying the date, time, and location of the public hearing; and

(6) request from the applicant a list of community associations that were notified of the public hearing.

§ 11-820. Grant of permit

(a) The Commission shall grant a permit to each applicant whose application the Commission approves after the applicant pays the permit fee that the Commission requires.

(b) A permit shall state the specific location where the permit applies.

(c) If the Commission approves, an applicant for a permit may change the location for which a satellite simulcast facility is being applied.

§ 11-825. Satellite simulcast facilities

(a) A satellite simulcast facility:

(1) shall be in premises owned or leased by a permit holder;

(2) may not be within a 35-mile radius of any mile thoroughbred track or harness track unless approved by the track licensee, the group that represents a majority of the applicable owners and trainers licensed in the State and the group that represents a majority of the applicable breeders in the State, considered separately;
(3) unless the track agrees otherwise, may not operate during hours on those days that racing with pari-mutuel betting is permitted at a racetrack located in this State within a 35-mile radius of the satellite simulcast facility; and

(4) shall offer pari-mutuel betting facilities and amenities that the Commission finds are:

(i) comparable to those available in the sports palace facilities of the mile thoroughbred racing licensees including:

1. high quality dining, lounge, and seating areas that are of a manner generally found in fine restaurants; and

2. teletheatre screen capacity; and

(ii) appropriate for the area where the satellite simulcast facility is located.

(b) A mile thoroughbred racing licensee or a harness racing licensee shall own or lease the pari-mutuel betting equipment at a satellite simulcast facility and shall, with its employees, operate the equipment.

(c) A mile thoroughbred racing licensee or a harness racing licensee shall submit to the Commission all contracts and agreements relating to satellite simulcast betting under this subtitle.

(d)(1) The Commission shall periodically be assured by permit holders that facilities continue to meet the requirements of this section.

(2)(i) The Commission shall inspect satellite simulcast facilities at least four times each year to determine if the permit holders are continuing to comply with the provisions of this section.

(ii) The inspections under this subsection shall include evaluations of the financial and physical conditions of each satellite simulcast facility.

(3) If the Commission finds that a permit holder is not complying with the provisions of this section, the Commission may impose a penalty on the permit holder similar to those penalties levied on licensees as provided under § 11-308 of this title.

§ 11-826. Satellite simulcast betting

(a) All money bet at a satellite simulcast facility shall be included in the applicable mutuel pools at the sending track (where race is held live).

(b) Except as provided in § 11-827 of this part, the breakage, State tax, and takeout on all satellite simulcast betting shall be computed in the way normally applicable to pari-mutuel betting on a race at the sending track.
§ 11-827. Allocation of costs

After the respective portions have been retained by each person listed below, those persons may allocate, from the takeout at the satellite simulcast facility, the costs of operating a satellite simulcast facility and holding satellite simulcast betting:

(1) the licensee of the sending track, from the licensee's share;

(2) the group that represents a majority of the applicable owners and trainers licensed in the State, from the purse share; and

(3) the group that represents a majority of the applicable breeders in the State, from the bred fund share.

§ 11-828. Transmission of pari-mutuel information

(a) A satellite simulcast facility shall transmit directly to the sending track all pari-mutuel information about the money bet at the satellite simulcast facility.

(b) A sending track shall incorporate this information with information on pari-mutuel betting at the sending track.

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