

Memorandum

TO: Mr. Pete Gutwald, Director, Department of Planning and Zoning

FROM: Jennifer M. Smith, Geosyntec Consultants, Inc.

DATE: May 13, 2008

SUBJECT: Zoning Code Update Meeting 19 – Meeting Summary
April 28, 2008, Second Floor Conference Room
Harford County Office Building

Attendees

Workgroup Members Present:

Ms. Susie Comer
Col. Charles Day
Ms. Carol Deibel
Mr. Samuel Fielder III
Mr. Rowan G. Glidden
Mr. Frank Hertsch
Ms. Susan B. Heselton
Mr. Jeffrey K. Hettleman
Mr. Tim Hopkins
Mr. Douglas Howard
Mr. Gil Jones
Mr. Gregory J. Kappler
Mr. Michael Leaf
Ms. Gloria Moon
Mr. Torrence Pierce
Mr. Frank Richardson
Mr. Lawrason Sayre
Mr. Chris Swain
Mr. Jim Turner
Mr. Bill Vanden Eynden
Ms. Marisa Willis
Mr. Jay Young

Workgroup Members Absent:

Mr. Craig Ward

Zoning Code Update Meeting 19 – Meeting Summary

13 May 2008

Page 2

County Representatives Present:

Mr. Pete Gutwald, Director, Department of Planning and Zoning

Mr. Tony McClune, Deputy Director, Department of Planning and Zoning

Ms. Janet Gleisner, Chief, Division of Land Use and Transportation

Ms. Theresa Raymond, Administrative Assistant, Director's Office

Facilitators:

Ms. Jennifer M Smith, Geosyntec

Ms. Christy Ciarametaro, Geosyntec

Geosyntec contact information:

Geosyntec Consultants Office: (410) 381-4333

Email: jsmith@geosyntec.com

Meeting Summary

The nineteenth meeting of the Harford County Zoning Code Update Workgroup was held at 2:00 pm in the second floor conference room at the offices of the Department of Planning and Zoning. A meeting agenda was distributed to each workgroup member. A sign-in sheet was distributed to the group. The Summaries from Meetings 17 and 18 were distributed to the workgroup for review and were approved.

Presentation on Pending Items from Prior Meetings

Mr. Pete Gutwald, Harford County's Director of the Department of Planning and Zoning (DPZ), summarized the topics from previous Workgroup meetings which needed further discussion. These issues are described below and include discussions on the following Zoning Code Sections: §267-42 Forest and Tree Conservation, §267-33 Signs, §267-31 Open Space, §267-32 Housing Bonus, Article VII District Regulations-Permitted Use Charts, §267-54 Rural Residential Regulations, §267-65 Edgewood Neighborhood Overlay District, §267-123 Growth Management, Subdivision Regulations Section 4.05 (Rights of Way).

Workgroup Discussion – Final Review of Pending Items

The workgroup discussion included the following topics and recommendations presented below:

1. Topic: Payment in Lieu of Afforestation and Reforestation

Discussion:

- DPZ discussed the results of their research on afforestation and reforestation fee-in-lieu rates. The rates charged by Counties in the region ranged from no fee in lieu charge for Carroll and Cecil Counties to \$0.90 per square foot in Montgomery County. Rates for local cities ranged from \$0.30 per square foot in Baltimore City to \$5.00 per square foot in the City of Rockville. Overall the Cities charged more than the Counties due to the higher densities found in the Cities. Harford County currently charges \$0.40 per sq foot for fee in lieu of afforestation or reforestation.
- A workgroup member suggested that Harford County's fee in lieu should be comparable to Howard County's. A suggestion was made to increase the fee-in-lieu to \$0.55 per square foot. Another member suggested keeping Harford County's fee at \$0.40 per square foot but adding a maintenance fee of \$0.10 - \$0.20 per square foot. This maintenance fee would be used for long term maintenance such as replacing deceased trees, mulching, etc. A workgroup member suggested that the increasing cost of transportation should be considered when deciding whether or not to increase the fee. Another workgroup member suggested that since other costs in the County's budget have increased, the fee-in-lieu should as well. A workgroup member reminded the Workgroup that the Chesapeake Bay Foundation recommended a fee in lieu of \$0.80 per square foot. A workgroup member suggested attaching the fee-in-lieu costs to the CPI, therefore the rate would increase as required by market demands.
- DPZ explained that the \$0.40 per square foot rate has been appropriate for meeting afforestation and reforestation requirements, to date. The County has been able to take advantage of bulk purchasing discounts and the use of volunteer labor for plantings. Also, the plantings have been located on schools and other public properties where land did not need to be purchased.
- A workgroup member questioned if DPZ is tracking the actual acreage of forests created from fee-in-lieu funds. DPZ stated that they maintain a list of fee in lieu funds received from specific projects and where that money was utilized for afforestation/reforestation.
- The Workgroup discussed how legislation could be amended, if necessary, in the future in order to raise the fee in lieu rate.

Result:

- The majority of the workgroup agreed (with dissenting views) not to increase the fee in lieu of afforestation/reforestation in §267-42 to \$0.55 per square foot or to add a

maintenance fee The workgroup recommends keeping the fee in lieu rate at \$0.40 per square foot.

2. Topic: Signs

Discussion:

- The workgroup had a general discussion on whether the Zoning Code needs specific language regulating Electronic Message Boards attached to vehicles. The workgroup discussed how Electronic Message Boards attached to vehicles which are parked would be regulated as a temporary sign. The workgroup was specifically concerned about electronic message boards attached to vehicles which are moving. However, DPZ does not have the authority to regulate a moving vehicle.
- There was a workgroup discussion on Electronic Message Boards which are currently permitted but would become nonconforming if the proposed Zoning Code is approved. Existing signs would still be allowed, however if the sign is updated in the future, it will need to comply with the new Zoning Code requirements. For enforcement purposes, a workgroup member was concerned that it will be difficult for DPZ to distinguish between nonconforming signs which were permitted prior to the new Zoning Code requirements and noncompliant signs which were permitted under the new Zoning Code requirements. DPZ clarified that building permit data will be used to determine nonconforming status of signs.

Result:

- The workgroup agreed not to add specific language in §267-33 addressing Electronic Message Boards attached to vehicles.

3. Topic: Open Space

Discussion:

- The Workgroup briefly discussed whether the proposed 50% requirement for active open space in Section §267-31 is consistent with other Zoning Code requirements. The workgroup determined that the 50% active open space requirement is appropriate.

Result:

- No action taken.

4. Topic: Housing Bonus

Discussion:

- The Workgroup discussed whether §267-32, Low- and Moderate-Income Housing Bonus, should be kept, modified, or eliminated from the Zoning Code. The additional density provided in the Low- and Moderate-Income Housing Bonus is difficult to obtain with design standard requirements. Greater flexibility in meeting

setback requirements, etc. may be necessary in order for the Housing Bonus to be utilized.

- A workgroup member brought up the previously discussed suggestion of providing low and moderate income housing via a development option for approval of plans thru the County Council (legislatively). DPZ questioned procedural issues with adopting a plan via legislation such as the need to change individual property setbacks after approval. Since it would be approved as legislation, would you have to amend the legislation every time there was a request to an individual property within the project?

Result:

- The workgroup agreed to keep §267-32, Low- and Moderate-Income Housing Bonus in the Zoning Code.

5. Topic: District Regulations – Permitted Use Charts

Discussion:

- VB and BI Permitted Uses. In a previous workgroup meeting, the majority of the workgroup agreed to allow all uses permitted in the VB District to be permitted in the B1 district. A workgroup member stated that the uses permitted in the VB district should be similar to the uses permitted in the B3 District rather than the B1 District. The B1 District is intended to have more local, community oriented uses. If the uses permitted in the VB District are to be permitted in the B1 district, the two districts would be nearly identical. The workgroup questioned why there should be two separate zoning districts if the uses will be the same.
- LI Permitted Uses. In a previous workgroup meeting, the majority of the workgroup agreed to permit several retail trade uses “by right” in the LI District. The workgroup discussed how the LI District is intended to support more employment uses rather than commercial/retail uses and uses with an intensity in between the CI and GI districts. If the additional retail trade uses are permitted “by right” in the LI District, then the LI and GI districts will be allowing the same uses. A workgroup member suggested allowing the retail trade uses as accessory uses to an overall permitted project in the LI District.
- Mulch Processing. A workgroup member suggested that mulch processing, storage, and sales should be allowed in the CI and AG Districts, in addition to the GI District. In the proposed Zoning Code, mulch processing is only allowed in the GI District. The workgroup discussed how mulch processing is a more intense activity than firewood processing.

Result:

- Under Article VII, the workgroup agreed not to add the permitted uses from the VB District to the permitted uses in the B1 District.
- Under Article VII, the workgroup agreed to allow the retail trade uses as accessory uses to an overall permitted project in the LI District.

- The majority of the workgroup agreed (with a dissenting view) to allow mulch processing in the CI District as a permitted use and in the AG District as a special exception.

6. Topic: Rural Residential Regulations

Discussion:

- DPZ presented a recommendation which was presented after the Rural Residential Regulations were discussed with the Workgroup. The recommendation was to require underground cisterns in developments of 10 or more lots that could sustain 400 gallons per minute for 30 minutes. A workgroup member suggested that the County should be responsible for providing adequate fire fighting capabilities and that a developer or subdivider should not be responsible for installing fire fighting services. A workgroup member questioned whether a homeowners association would be responsible for maintaining the underground cisterns. A workgroup member suggested that a firefighting requirement should be brought to the County Council and should not be a requirement of the Zoning Code.

Result:

- No action taken.

7. Topic: Edgewood Neighborhood Overlay District (ENOD)

Discussion:

- There was a general workgroup discussion on a variety of changes to the ENOD regulations aimed at increasing flexibility. A workgroup member provided several specific recommendations for Main Street development standards in §267-65(G)(1) after speaking with the Edgewood Community Council:
 - Shared access drives along Edgewood Road are encouraged. Required side buffer yards are waived in areas of shared drives.
 - Landscaped parking lots are to be located in the front of the buildings. A 5 foot landscaped strip shall be located between the sidewalk and the parking area along the property frontage. Interconnection between parking areas on adjacent properties is encouraged.
 - A minimum 5 foot sidewalk is to be constructed adjacent to the street along the property frontage. DPZ stated that some projects have already been required to adhere to the 10 foot sidewalk requirement.
 - Clear pedestrian linkages are to be provided from street sidewalks to buildings, and between buildings on the same or adjacent properties. DPZ clarified that this requirement is existing in the draft Zoning Code.
 - Side yard setbacks in the ENOD Main Street area are to be one half of those specified for other areas in the same zoning category in the Code.
 - Outdoor storage of equipment and vehicles is permitted in the ENOD Main Street area as long as these areas are located in the side and rear yards and are screened from view with a solid fence or other screening

method at least 8 feet high. A workgroup member who disagreed with the recommendation stated that there should not be outside storage in the B2 zoning district. When the ENOD section of the Code was created, that was a specific issue and members of the current Edgewood Community Council are not the same as those who helped create the regulations.

- Architecturally harmonium materials, colors, textures, treatments and details shall be used on all exterior walls. Contrasting colors that accent architectural details and entrances are encouraged. Preference shall be given to brick or frame buildings. Rear facades shall be of finished quality and shall be consistent in color with the rest of the building. DPZ clarified that this requirement is existing in the draft Zoning Code.
- Live/work units are permitted provided that no more than 50% of the gross square footage of the structure is in residential use. Location of residential uses to the second floor above the commercial uses is encouraged. DPZ clarified that this requirement is existing in the draft Zoning Code.
- All uses permitted in B3 should be permitted within the B2 zoning district in the ENOD Main Street area. A workgroup member stated that while more flexibility is needed in the ENOD, the B2 and B3 zoning districts should not have the same permitted uses.

Result:

- The majority of the workgroup agreed (with a dissenting view) to change §267-65(G)(1) to include language encouraging shared access drives along Edgewood Road and that required side buffer yards are waived in areas of shared drives.
- The majority of the workgroup agreed (with dissenting views) to change §267-65(G)(1) to include language that landscaped parking lots are to be located in the front of the buildings; a 5 foot landscaped strip shall be located between the sidewalk and the parking area along the property frontage; and encouraging interconnection between parking areas on adjacent properties.
- The majority of the workgroup agreed (with dissenting views) to change the requirement of sidewalk width from 10 feet to 5 feet in §267-65G(1)(a)[7].
- The majority of the workgroup agreed (with a dissenting view) to change §267-65(G)(1)(a)[4] to state that side yard setbacks in the ENOD Main Street area shall be one half of those specified for other areas on the same zoning category in the Zoning Code.
- The majority of the workgroup did not agree (with an equally split vote) to allow outdoor storage of equipment and vehicles.
- The majority of the workgroup did not agree (with dissenting views) to allow all B3 permitted uses in the B2 district.

8. Topic: Growth Management - APF

Discussion:

- There was a general workgroup discussion on the sharing of roadway improvement costs amongst developers. DPZ proposed adding wording in Article XV, Growth

- Management, regarding mitigating roadway impacts and a paragraph to the TIA guidelines under “Recommendations”.
- One workgroup member did not think it is fair for a small project to have to split the cost of a highway improvement equally with larger project that has a larger impact on traffic. The workgroup member desired for DPZ to identify “equivalent units” for traffic studies. The workgroup discussed the difficulties in quantifying the traffic served by an improvement because traffic patterns are always changing. A Traffic Impact Analysis (TIA) cannot be performed after a traffic improvement has been done to quantify the additional impact of the second developer because driving patterns change. The workgroup expressed a strong interest in having DPZ ‘facilitate’ the recoupment of traffic improvement costs instead of leaving it up to developers to agree on their own.
 - A workgroup member thought that the waiting game played by developers in funding a required traffic improvement is a short game because approved Site Plans are only valid for 2 years. One workgroup member thought that most developers would not choose to let their Site Plan expire solely for the purpose of avoiding a road improvement.
 - A workgroup member was concerned that some highway improvements required by the State Highway Administration require roadways to be brought up to current standards, in addition to mitigating the traffic impact. The excess road capacity paid for by the developer may be an unfair burden on the developer.
 - A workgroup member suggested that the reimbursement process work such that the second person to proceed with development would reimburse the first developer 50%. The third developer would then reimburse the second developer 50%. Therefore, the first developer knows that if any developers with concurrent plan approvals decide to develop, he will receive 50% reimbursement. If a second developer decides not to develop, the first developer would simply pay the full cost of the traffic improvement.

Result:

- The workgroup recommended that DPZ consult with traffic engineers in order to determine the most equitable way for cost sharing of required traffic improvements. DPZ will also research the best way for the County to facilitate the reimbursement process.
- The majority of the workgroup agreed (with a dissenting view) to add language in the Growth Management Section §267-123B(3)(c)[1] “The traffic study *and procedures to be utilized for mitigating roadway* impacts shall conform to the requirements outlined in the Harford County TIA Guidelines, including:” and to add the following to the TIA guidelines under “Recommendations”: “A subdivider shall be permitted to share the costs of road improvements if it has been determined that more than one development project is required to provide identical improvements in order to mitigate the projects impact. The allocation of costs will be based on the number of projects required to provide the improvement.”

9. Topic: Subdivision Regulations

Discussion:

- DPZ proposed a clarification to Section 4.05, Rights of Ways. In Section 4.05A, the first sentence would be modified to state that right of way improvements will be paid for by the developer. The second sentence in Section 4.05A will be deleted to eliminate the implication that the County will incur the cost of the right of way improvement. In Section 4.05B, in the first sentence, "... Harford County shall, at its sole expense,..." will be changed to "... Harford County *may*, at its sole expense, ..."
- DPZ stated that for legal reasons, the County cannot enter into any agreements with property owners for rights of ways unless it demonstrates "public necessity." Therefore, it only allows an option for the county to participate with the Developer in situations where the County has a Capital Improvement Project for other beneficial reasons.
- A workgroup member recommended changing Section 1.03, Purpose, to match wording in the current Purpose section of the Subdivision Regulations.

Result:

- The workgroup agreed to modify Section 4.05A, to state that right of way improvements will be paid for by the developer. The second sentence in Section 4.05A will be deleted and in the first sentence in Section 4.05B, the word "shall" will be changed to "may".
- The workgroup agreed to add language in Section 1.03, Purpose, from the existing Subdivision Regulations, "... and for the distribution of population and traffic in a manner that will avoid congestion and over-crowding and will create conditions compatible with protection of the public health, safety and the general welfare, water quality and areas of significant/special natural features....".

10. Topic: Buffer Yards

Discussion:

- A workgroup member recommended reducing the buffer between AG to AG parcels for residential development from 50 feet to 40 feet. The buffer would then be consistent with side yard setbacks.

Result:

- The majority of the workgroup agreed (with dissenting views) to reduce the buffer between AG to AG parcels for residential development from 50 feet to 40 feet.

11. Topic: Condo/Townhouse Setbacks

Discussion:

- Condo/Townhouse Setbacks from the Lot Line. A workgroup member suggested that setbacks from lot lines should not vary depending on ownership (i.e. condominium or

townhouse). They should be treated the same because they look the same. The issue revolves around whether units in a building should each be considered individual lots or whether all units in a building should be considered one lot. For example, side lots would not apply to individual condo units but would apply to the building as a whole.

Result:

- No action was taken regarding condo/townhouse setbacks from the lot line.

Administrative Issues:

Mr. Pete Gutwald, Harford County's Director of the Department of Planning and Zoning (DPZ), summarized the next steps with the proposed Zoning Code update. The draft Workgroup Meeting Summary Report will be sent to Workgroup members to check for errors or omissions. Workgroup concurrence on the Meeting Summary Report will be by email, after which a final ZCU report with errors and omissions will be sent out to the workgroup. The Final Workgroup Meeting Summary Report will be finalized prior to the Countywide Public Communication Meetings scheduled for June 25th and 26th, and July 10th.

After the public meetings, advisory group, ZCU and public comments will be incorporated into a new code and sent to the County Council the first week in September. The proposed code will not show any of the changes made to the existing Zoning Code. The proposed zoning code will be presented to the Harford County Council as a legislative proposal for approval.

The meeting was adjourned at 4:00 pm.

The Harford County Zoning Code website can be accessed at:
<http://www.harfordcountymd.gov/ZCUupdate/index.cfm>.

Meeting Handouts

1. Meeting Agenda
2. Handout on Final Review of Pending Items