

## Memorandum

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

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

**DATE:** April 25, 2008

**SUBJECT:** Zoning Code Update Meeting 17 – Meeting Summary  
April 7, 2008, Second Floor Conference Room  
Harford County Office Building

---

### Attendees

#### Workgroup Members Present:

Col. Charles Day  
Ms. Carol Deibel  
Mr. Rowan G. Glidden  
Mr. Frank Hertsch  
Ms. Susan B. Heselton  
Mr. Jeffrey K. Hettleman  
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  
Mr. Craig Ward  
Ms. Marisa Willis  
Mr. Jay Young

#### Workgroup Members Absent:

Ms. Susie Comer  
Mr. Samuel Fielder III  
Mr. Tim Hopkins

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 seventeenth 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 Meeting 16 Summary was distributed for review and approved by the workgroup with one revision: on page 10, the spelling of the word, “ford” will be corrected in the discussion under Topic 1.

Presentation on Growth Management

Mr. Pete Gutwald, Harford County's Director of the Department of Planning and Zoning (DPZ), explained the revisions to the Growth Management section of the proposed Zoning Code. This section focuses on creating an Annual Growth Report and providing Adequate Public Facilities, specifically schools, water, sewer, and roads. The section was revised based on recently passed legislation. Changes include how and when rated capacities may be calculated. In addition, it was pointed out that on page 351, §267-123B(2)(a)[1][a], there is a typographical error. The section quotes 155%; the correct percentage is 105%.

Workgroup Discussion – Growth Management

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

**1. Topic: Adequate Public Facilities (APF) – General Discussion**

**Discussion:**

- One workgroup member stated that the phrase “as contained in Annual Growth Report” in §267-123A(3)[d][2] and [3] is redundant because §267-123(A) is already referring to the Annual Growth Report.

- Grandfathering – Schools. A workgroup member questioned why a grandfathering provision applies to preliminary plans approved prior to Council Bill 93-26 for road, sewer, and water facilities, but not for schools. DPZ clarified that the provisions for grandfathering for schools were not applicable since the provisions for the extension of preliminary plans were subsequently modified.

**Result:**

- DPZ will remove the redundant reference to the Annual Growth Report in §267-123A(3)(d)(2) and (3) by removing the phrase “as contained in Annual Growth Report.”

**2. Topic: Traffic Impact Analysis (TIA) Study**

**Discussion:**

- Adequacy standards for roads - residential and non-residential development. A workgroup member suggested deleting §267-123B(2)(d)(2) and §267-123B(3)(c)(2), which allows the Director of DPZ, with the concurrence from the Director of DPW, to eliminate from TIA Studies, intersections with minimal impact on traffic or excessive distance between the first arterial road and next intersecting collector road. The workgroup member commented that since TIA Studies are required for all developments generating more than 249 trips per day, a development must have more than ‘minimal’ impact if it is generating more than 249 trips per day. Also, the workgroup member thought that a large distance between the first arterial road and next intersecting collector road would do little to alleviate traffic.
- DPZ clarified that the intent of §267-123B(2)(d)(2) and §267-123B(3)(c)(2) is to help focus the study area for a TIA. DPZ rarely eliminates intersections from TIA Studies. However, it was explained that the intent of excluding intersections with “minimal impact on traffic” is in situations where the traffic distribution based on the type of use and location of access points will add a low volume/percentage of trips to that intersection. DPZ also clarified that trips do in fact dissipate with distance.
- One workgroup member noted that there is a requirement for both DPZ and DPW to concur on eliminating an intersection from a traffic study as an adequate safeguard against too many intersections being eliminated from TIAs.
- A workgroup member stated that studies on the adequacy of roads need to look at the whole road system, and not just intersections.

**Result:**

- The majority of the workgroup agreed (with dissenting views) **not** to delete §267-123B(2)(d)(2) and §267-123B(3)(c)(2), which allows the Director of DPZ with concurrence from the Director of DPW to eliminate specific intersections from TIA Studies.

### **3. Topic: Traffic Mitigation**

#### **Discussion:**

- Roads/capital projects. One workgroup member suggested that money placed into an escrow account for traffic mitigation should not be returned to the developer if it is not used within 10 years in Section 267-123B(2)(d)[4][c]. If the resulting traffic problem from a new development cannot be fixed within 10 years, the development should not be permitted. The workgroup member recommended removing the sentence, “In no event, however, shall the money be retained by the County for longer than 10 years from date of deposit.” Nancy Giorno, Deputy County Attorney, stated there were legal issues with removing the statement.
- The workgroup discussed how the County has a commitment to spend any money placed into a traffic mitigation escrow account. In order for the County to allocate funds for traffic improvement, the improvement project must be identified in the County’s Capital Improvement Program.
- DPZ discussed how legally the County must have a process to refund money which is not spent/allocated. Since most Counties use an 8-year timeframe for refunding mitigation money, Harford County’s 10 year timeframe is appropriate.

#### **Result:**

- Due to legal reasons, the workgroup agreed to keep the requirement that the County may not retain traffic mitigation money deposited from developers for more than 10 years in §267-123B(2)(d)[4][c].

### **4. Topic: Smart Growth Policies**

#### **Discussion:**

- There was a general workgroup discussion on balancing the County’s commitment to Smart Growth with the requirements for Adequate Public Facilities. Smart Growth principles encourage focusing higher density development in targeted areas to prevent sprawl. However, the requirements for Adequate Public Facilities will prevent additional density or development from occurring in areas which have reached the rated capacity for schools, roads, water and sewer. A workgroup member commented that providing adequate public facilities is an important issue that has been discussed recently at the State level. The workgroup discussed how recent moratoriums on development (due to maximum school capacities) have led to increased development outside the development envelope and outside priority funding areas. A moratorium restricts the approval of new preliminary development plans but does not restrict development projects which have already been approved; therefore, growth may still be occurring in areas under a development moratorium.

- A workgroup member is concerned that there needs to be some assurance that adequate public facilities will be provided in areas where a moratorium currently exists on any new development plans. Development must be able to return to these areas so that property owners can preserve the value of their property. One suggestion is to require a time limit for the County to allocate funding to improve facilities in areas with a development moratorium. Similarly, there could be a maximum time limit that areas located within the development envelope and targeted growth areas could be restricted from new development. A workgroup member recommended a time limit of 5 years because this should be sufficient to correct inadequate facilities. One workgroup member stated that the shortest time period used in other counties/states is three years. One workgroup member thought that a 5 year time limit is an arbitrary number.
- The workgroup discussed how improving school facilities could reasonably be done within 5 years because it only involves allocating money in the Capital Budget. However, road improvements can involve State projects that require State coordination. It would be more difficult to reasonably assure that a road project would be completed within 5 years. If the State Highway Administration fails to obtain an easement or obtain a required permit for a road project, then the project could take much longer to complete. It was noted by workgroup members that a time limit for restrictions on preliminary plan approvals would put pressure on local public officials to coordinate with the State and would refocus the attention of public officials on the conflicts between smart growth and providing adequate public facilities in populated areas. One workgroup member stated that ensuring a coordinated process for improvements from the State is a large problem that would require more than Zoning Code changes to fix. Nevertheless, having the political will to get a project done is one of the most important factors in completing the project.
- DPZ explained that school improvements can be planned up to 10 years in advance. However, the Capital Improvement Program is a 6 year plan with a one year program and 5 subsequent planning years in which funds are allocated but not appropriated. The future allocated funds are based on projected revenues and costs. However, it was noted that the Capital Improvement Budget is adopted on an annual basis and new projects can be identified during each of the budget cycles. One problem with projects which are planned many years out is that they can get postponed and remain as a planned project in the Capital Improvement Program for more than 6 years. One workgroup member thought that because of the tendency for projects to get pushed back in the Capital Improvement Plan, a five year restriction on new development plan approval would be too short. Another workgroup member suggested having a time limit of 3 years plus the number of years until the project is planned for in the Capital Improvement Plan. However, the logistics of using a 'planned' timeframe which is subject to change would be difficult. Other workgroup members noted that if there was a timeframe on preliminary plan approvals and the public facilities have not been improved within that timeframe, children will be attending inadequate schools.

- One workgroup member recommended distinguishing between improvements which can be done by a developer and those that can't be resolved by a developer when setting a time limit. Specifically, the workgroup member thought that certain road and sewer improvements can be done by a developer but that building a school would be outside the scope of a developer's responsibility.
- There was further discussion between workgroup members regarding the unintended consequences of Adequate Public Facility ordinances such as redirecting development opportunities to areas outside the development envelope. Some workgroup members did not agree with the analysis.
- A workgroup member commented that the Adequate Public Facilities requirements shouldn't be structured in a way that requires "catch-up" after facilities have become overcrowded. However, it was noted that it is difficult to have schools built in advance of predicted future development and the limited amount of funds available need to be utilized immediately.
- Workgroup members discussed the cumulative effects of multiple developments on community facilities. The discussion focused on the funding availability including private/public partnerships and the ability to provide the facilities in a timely manner that coincided with development patterns.

**Result:**

- The majority of the workgroup agreed (with dissenting views) to establish a timeframe of no more than 5 years for moratoriums on preliminary plan approvals inside the development envelope.

**5. Topic: School Adequacy Standards**

**Discussion:**

- A workgroup member expressed concern that approval for a preliminary subdivision plan requires that only the elementary, middle, or high school currently serving the development location be evaluated. The workgroup member suggested that adjacent schools which had available capacity should be considered in the calculation of school adequacy standards because school boundaries can be redistricted. The workgroup member recommended changing the language in §267-123B(2)[a][1][a] and [b] to state, "The combined enrollment of the school which serves the site and all adjacent schools is greater than 105% of the State rated capacity within 3 years." The recommended change would apply countywide.
- The workgroup discussed how redistricting a school requires consideration of multiple factors required by the State such as distance.
- Workgroup members were concerned with the ability of the Harford County Board of Education to consider adjacency issues as it relates to growth patterns and existing student populations and the proposed adjacency standard would allow developments to proceed under the proposed change to §267-123B(2)[a][1][a] and [b].

**Result:**

- The majority of the workgroup agreed (with multiple dissenting views) to change the language in §267-123B(2)[a][1][a] to state, “The combined enrollment of the elementary school which serves the site and all adjacent elementary schools is greater than 105% of the State rated capacity within 3 years.” A similar change is recommended regarding evaluation of middle and high schools in §267-123B(2)[a][1][b].

**6. Topic: Annual Growth Report – Specific Facility Analysis**

**Discussion:**

- A workgroup member suggested that the Annual Growth Report required to be prepared by DPZ should include all public facilities and services included as capital projects (including libraries, landfills, etc.). Currently the Annual Growth Report addresses only school, water, sewer, and road facilities/services.
- If all types of public facilities/services are included in the annual growth report, there must be a procedure to give a quantitative rating to each service. A workgroup member stated that professional standards exist for all types of public facilities services. Another workgroup member pointed out that although professional standards exist for other types of facilities/services, these standards are usually optimal standards and not necessarily minimal standards. The unit of measure for services/facilities was discussed. For example, at a road intersection, a driver shouldn't have to stop for more than a specific amount of time. Similar measurable levels of service could be set for other facilities, such as parks. The workgroup discussed how the evaluation of certain services could be subjective based on preference. For example, even though a park is located in a resident's community, the resident may prefer a different type of park.
- Workgroup members discussed the validity of locating a level of analysis for community facilities in the Annual Growth Report. Several members mentioned that this analysis should be part of the Comprehensive Plan or Community Facilities Element.
- The workgroup discussed how additional services are evaluated and addressed in the Comprehensive Plan which is updated every 6 years. This is the time when DPZ looks at the bigger picture of community wide services. It was noted as part of the Planning Advisory Boards requirements of reviewing the Capital Budget annually, the goals in the Comprehensive Plan are considered.
- A workgroup member reminded the group that facilities evaluated for the Annual Report in §267-123A(3) would not cause a moratorium on development. The Report would only call attention to any inadequacy in the current level of the service and help to direct money towards its improvement. While evaluating the adequacy of a service in the Annual Report is important, the report itself does not help solve the problem. Money will have to be directed to improving the service. However, if more money is spent on these additional services, less money will be available for improvement of other services such as schools.

- The workgroup discussed how it would be valuable to have one place (i.e the Annual Growth Report) which would identify and evaluate all of the County's facilities. It was suggested that the Master Plan should provide a comprehensive evaluation of the County's facilities.

**Result:**

- The majority of the workgroup agreed (with dissenting views) not to add additional facilities (besides schools, roads, water, and sewer) to the specific facility analysis in the Annual Growth Report (§267-123A(3)).

**7. Topic: Private Reimbursement of Intersection Improvement Costs**

**Discussion:**

- The workgroup discussed how multiple development plan approvals can be given the same bonding requirement for a specific intersection improvement. This places the full burden of the cost of improvement on the first project to receive a permit. A workgroup member suggested that the County needed a policy or a procedure to allow for cost sharing amongst multiple projects with the same improvement requirement. Workgroup members discussed options that provided developers an opportunity to share the cost of identical improvements for a number of development projects. DPZ noted that this only occurs when projects are submitted simultaneously, otherwise development projects with previous approvals are accounted for in the traffic study.
- DPZ stated that bonding is not legally under the jurisdiction of the Subdivision Regulations or the Zoning Code. Also, the County is legally unable to accept double bonding on the same project.
- The workgroup expressed a desire for the County to play a role in bonding situations where the same improvement is required for multiple developments. The workgroup discussed ways for the County to facilitate the distribution of improvement costs amongst multiple projects. One idea is to provide a reimbursement mechanism to the initial developer who posted the bond for the improvement. The reimbursement would only be required of development projects which had concurrent plan approval at the same time as the development for which the bond was posted.
- For planning/budgeting purposes, one workgroup member stated that he would want to know the expected costs of a project upfront so that his clients would be aware of the costs and would be prepared to move forward with the project. If there was a question as to how much money could be reimbursed for an improvement project, then the total cost of the development becomes uncertain. DPZ acknowledged that if a reimbursement mechanism was in place, a developer could never know for sure how much he would be reimbursed because additional projects which have plan approval could withdraw their plans at any time. Therefore, it would be difficult to set a reimbursement rate based on the number of projects with concurrent plan approval. One workgroup member suggested that once a project is bonded, the County could collect the money and only provide reimbursement to the initial

developer after it is known what other developments will move forward with construction. Therefore, if an approval letter is valid for 2 years, then a developer would know the reimbursement he would be receiving within 2 years of the improvement project.

- One workgroup member expressed concern that a smaller project which results in less traffic should not have to pay an equal amount for intersection improvement as a larger project which results in more traffic. There were dissenting viewpoint on whether it would be appropriate to set a reimbursement rate based on the number of trips through the intersection.
- One workgroup member was concerned about a situation where two projects which individually would not require an intersection improvement would in fact, require an improvement if the combined effect of the two projects is considered. DPZ discussed how the rare case when two projects are submitted for plan approval at the exact same time would be the only time where the combined effect of the two projects would not be considered.
- A workgroup member acknowledged that other Counties do allow for reimbursement of improvement projects by other developers.
- A workgroup member suggested that the requirement that developers with concurrent plan approvals coordinate on requirement improvements could be put in the TIA manual.

**Result:**

- The workgroup agreed that the County needs the authority to adopt a process where developers can be reimbursed by other developers with concurrent plan approvals requiring the same intersection improvement.

**8. Topic: School Enrollment Capacity in the CRD**

**Discussion:**

- One workgroup member thought that road and school adequacy requirements for developers in the CRD should be lower in order to encourage development and suggested relaxing the provision for school percentage in the Rte. 40 CRD for elementary and secondary schools from 110 - 115%.
- DPZ stated that school facilities in the Route 40 Corridor have school district boundaries which extend well beyond the U.S. 40 corridor. It was noted that there are inequity and legal issues regarding this suggestion.

**Result:**

- No action taken.

**9. Topic: Preliminary Site Plan Approval and School Adequacy**

**Discussion:**

- A workgroup member thought that the requirement in §267-123(B)(3)(c) that preliminary subdivision plans or site plans can be approved if a school capital

project is scheduled to be completed and operational within 1 year is not adequate. The workgroup member suggested that the timeframe is too short to allow for projects to be designed, permitted, and built. A workgroup member commented that development projects should be allowed to move forward concurrently with a public school capital project..

- DPZ clarified that the restriction for school projects to be completed and operational within one year is to ensure that priorities will not change and that funding for the school will remain through completion of the school.
- The workgroup discussed how the requirement for plan approval used to be 2 years after a school project is funded because it takes two years to build a school. A workgroup member suggested changing the language in §267-123B(3)(c) to state that preliminary plans can be approved 2 years prior to the scheduled opening of the school.

**Result:**

- The majority of the workgroup (with dissenting views) agreed to change the language in §267-123B(3)(c) to state that preliminary plans can be approved 2 years prior to the scheduled opening of the school.

Prior to Meeting 18, Craig Ward will send the workgroup comments regarding recommendations on the Edgewood Overlay District.

**Administrative Issues:**

The meeting was adjourned at 3:45 pm.

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

**Meeting Handouts**

1. Meeting Agenda
2. Draft Meeting 16 Summary

**Next Scheduled Meetings**

Date: April 14, 2008  
Time: 2:00 pm - 4:00 pm  
Topic: Meeting 18 –Subdivision Regulations  
Location: Harford County Administrative Office Building  
220 South Main Street, 2nd Floor Conference Room  
Bel Air, MD 21014

Date: April 28, 2008

Zoning Code Update Meeting 17 – Meeting Summary

25 April 2008

Page 11

Time: 2:00 pm - 4:00 pm

Topic: Meeting 19 – Follow Up on Pending Issues from Prior Meetings

Location: Harford County Administrative Office Building  
220 South Main Street, 2nd Floor Conference Room  
Bel Air, MD 21014