

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 16 – Meeting Summary
March 24, 2008, Second Floor Conference Room
Harford County Office Building

Attendees

Workgroup Members Present:

Ms. Susie Comer
Col. Charles Day
Mr. Rowan G. Glidden
Ms. Susan B. Heselton
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. Bill Vanden Eynden
Mr. Craig Ward
Ms. Marisa Willis
Mr. Jay Young
Mr. Jim Turner

Workgroup Members Absent:

Ms. Carol Deibel
Mr. Samuel Fielder III
Mr. Frank Hertsch
Mr. Jeffrey K. Hettleman
Mr. Tim Hopkins

County Representatives Present:

Mr. Pete Gutwald, Director, Department of Planning and Zoning
Ms. Janet Gleisner, Chief, Division of Land Use and Transportation
Ms. Theresa Raymond, Administrative Assistant, Director's Office
Dennis Sigler, Senior Planner
Tommie Houck, Chief, Zoning Enforcement Section
Shane Grimm, Chief, Site Plans and Building Permits Review Section

Facilitators:

Ms. Jennifer M Smith, Geosyntec
Ms. Christy Ciarametaro, Geosyntec

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Meeting Summary

The sixteenth 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 15 Summary was distributed for review and approved by the workgroup.

Continued Workgroup Discussion of Special Exceptions

Mr. Pete Gutwald, Harford County's Director of the Department of Planning and Zoning (DPZ), continued the discussion of the Special Exceptions section of the revised Zoning Code.

Workgroup Discussion – Special Exceptions

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

1. Topic: Amusements

Discussion:

- Motor vehicle recreation, ATV and go-cart tracks. There was a general workgroup discussion on buffers and requirement needed for ATV and go-cart track areas. Many people do not desire to live next to the amusement activities due to the noise and lighting they create. A workgroup member suggested increasing the buffer from 200 feet in §267-85A(5)(c) to 1,000 feet from adjacent residential lots. As a compromise, another workgroup member suggested raising the buffer to 400 feet.

- The workgroup discussed how the special exception process allows input and feedback from the public. A workgroup member is concerned that although noise standards are established by the state, they are not enforced.
- To minimize effects on surrounding properties, one workgroup member suggested adding an hours of operation restriction in §267-85A(5). Options discussed were 7am – 10pm, dusk to dawn, and 7am – 7pm. One workgroup member was concerned that motor vehicle recreation activities mainly occur in the summer time, when day light extends past 7pm. Another workgroup member suggested leaving the hour of operation up to the Hearing Examiner.
- One workgroup member stated that there is an impact to farm animal production associated with high levels of noise and suggested that AG preservation areas be protected from activities which would disrupt an AG operation. The workgroup member recommended adding a requirement to §267-85A(5) to not permit motor vehicle recreation, ATV and go-cart tracks adjoining properties in Agricultural Preservation.

Result:

- The workgroup agreed to increasing the buffer from 200 feet in §267-85A(5)(c) to 400 feet from adjacent residential lots.
- The majority of the workgroup agreed (with dissenting views) to add a requirement to §267-85A(5) that motor vehicle recreation, ATV and go-cart tracks are not permitted adjoining parcels in AG preservation.
- The workgroup agreed to add a requirement in §267-85A(5) that hours of operation will be set by the Hearing Examiner.

2. Topic: Industrial Uses

Discussion:

- Ordnance and accessories. A workgroup member clarified that the spelling of ordnance in §267-85B needs to be corrected.
- A workgroup member suggested that the hours of operation listed in §267-85B(7)(a), is not appropriate for the LI District because 10pm is too late for ordnance activity in the LI District. Another workgroup member noted that certain ordnance testing needs to occur at night due to specific nighttime meteorological conditions.
- A workgroup member suggested rewording the language in §267-85B(7)(b) regarding the trajectory of any weapons being tested. The new language would restrict trajectories within 15 degrees of buildings, instead of being directed away from any buildings within site-line, within ½ mile.

Result:

- DPZ will correct the spelling of ordnance in §267-85B.
- The majority of the workgroup agreed (with a dissenting view) to change §267-85B(7)(a) to state that the Hearing Examiner shall set the hours of operation.

- The workgroup agreed (with dissenting views) not to revise the language regarding trajectories in §267-85B(7)(b).

3. Topic: Institutional Uses - Setbacks

Discussion:

- Cemeteries. A workgroup member suggested that the requirement in §267-85C(1)(b) that structures used for interment be set back not less than 80 feet from any road or 55 feet from other lot lines is excessive. The workgroup member recommended that both of the setbacks for these interment structures be reduced to 50 feet.
- Civil service clubs and fraternal organizations. A workgroup member suggested that the front yard depth of at least 100 feet in §267-85C(2)(a) is excessive and should be reduced to 25 feet.
- Community centers or assembly halls. A workgroup member recommended reducing the front yard setback from 100 feet to 25 feet in §267-85C(3)(a). There was a general discussion on what an appropriate front yard setback would be for a community center/assembly hall. A workgroup member suggested that the front yard setback of 50 feet as required for a “fire station with fire station assembly hall” would be appropriate.
- Hospitals. A workgroup member suggested that a 100 foot setback from residential lots for hospital parking areas was excessive in §267-85C(6). The workgroup member suggested using the parking lot setback for country clubs, 25 feet from residential lots. .

Result:

- The workgroup agreed to reduce the setbacks for interment structures in §267-85C(1)(b) to 50 feet.
- The workgroup agreed to reduce the front yard setback for Community Centers and Assembly Halls to 50 feet in §267-85C(3)(a).
- The workgroup agreed to reduce the front yard setback for Civil Service Clubs and Fraternal Organizations to 25 feet in §267-85C(2)(a).
- The majority of the workgroup (with dissenting views) agreed to reduce the hospital parking lot setback from residential lots in §267-85C(6) to 25 feet.

4. Topic: Institutional Uses - Day Care Centers

Discussion:

- There was a general workgroup discussion on industrial-type uses which would be allowed to be built in the vicinity of an existing Day Care Center. DPZ stated that if the use is permitted by right, it would be allowed with specific requirements based on the type of industrial use, what is typically allowed in the area, and site design characteristics such as buffering requirements.
- One workgroup member questioned why there must be access to a day care center from a public road, as stated in §267-85C(4)(b)(1). The workgroup member was

- concerned that the requirement may be difficult to meet. The workgroup discussed that the main reason for the requirement is adequate police and fire access.
- One workgroup member questioned if there was a maximum number of students allowed in a daycare facility. The workgroup discussed how the maximum number of students is State regulated and depends on many factors, including the number of employees and the age of the students.
 - One workgroup member was concerned about the potential for day care center wells to be contaminated by nearby gas stations. The workgroup member recommended changing §267-85C(4)(a) to not allow day care centers in the VR or VB zoning classifications. The workgroup discussed how there is a need for day care centers in rural districts and that they shouldn't be eliminated completely from these districts.

Result:

- The majority of the workgroup (with dissenting views) agreed not to remove the VR and VB districts as areas where day care centers are permitted in §267-85C(4)(a).

5. Topic: Institutional Uses - Schools, Colleges, and Universities

Discussion:

- A workgroup member thought that some people might misinterpret the requirements for schools, colleges and universities in §267-85(C)(7) as applying to Harford County Public Schools. DPZ clarified that the requirements specifically do not apply for Harford County Public Schools.
- A workgroup member suggested that the change from a minimum parcel size of 3 acres in the current Zoning Code to 1 acre in the revised Zoning Code does not allow enough space for outdoor activities and recommended returning the minimum parcel size to 3 acres. Alternatively, the workgroup member also suggested that if the minimum parcel size remain 1 acre, then the AG and RR Districts be removed from the list of allowed districts in §267-85C(7). Other workgroup members discussed how the requirements for special exceptions are absolute minimums and that the Hearing Examiner can require a larger parcel size, if it deems appropriate. Also, the Health Department will not approve the site development if the lot is too small for Health Department Standards. The workgroup discussed how the majority of special exceptions presented to the Board of Appeals are approved by the Board. A workgroup member suggested that the high rate of Board approval is not because it is easy to get a special exception approved. In fact, many requests for a special exception that are not likely to be approved by the Board of Appeals are never even presented to the Board.
- A workgroup member recommended replacing “institutional building” with “structure” in §267-85C(7)(c) because “institutional building” could be interpreted too broadly to include buildings which are not structures.
- One workgroup member suggested adding a requirement to §267-85C(7) to state that access to schools should be from a major collector road.

- One workgroup member was concerned about the potential for private schools to be contaminated by nearby gas stations. The workgroup member recommended changing §267-85C(7) to not allow private schools in the VR or VB zoning classifications.

Result:

- The workgroup agreed to change §267-85C(7) to state, “Schools, colleges, and universities (other than Harford County Public Schools)” to clarify that the restrictions listed do not apply to Harford County Public Schools.
- The majority of the workgroup (with dissenting views) decided to leave the minimum parcel size for schools, colleges, and universities in §267-85C(7) at 1 acre.
- The workgroup agreed to replace “institutional building” with “structure” in §267-85C(7)(c).
- The majority of the workgroup (with dissenting views) did not agree to add a requirement to §267-85C(7) to state that access to schools should be from a major collector road.
- The majority of the workgroup (with dissenting views) agreed not to remove the VR and VB districts as areas where private schools are permitted in §267-85C (7).

6. Topic: Motor Vehicle and Related Services

Discussion:

- A workgroup member suggested that a minimum parcel size of 5 acres, as stated in §267-85D(1)(C), Commercial vehicle and equipment storage; farm vehicle and equipment sales and §267-85D(2)(f) Motor vehicle repair shops, is too large as a minimum requirement on lots that may have commercial vehicles, and suggested changing the requirement to 2 acres. Sometimes a small business may only have one commercial vehicle in one garage and the requirement for a five acre lot would result in an unnecessary buffer from surrounding lots. Since Special Exceptions are approved on a case by case basis, only the minimum requirements appropriate for a small business should be required and the standard should be based on the best case scenario, not the worst. The Hearing Examiner reserves the right to require a larger parcel size, if appropriate. The workgroup discussed how typically commercial vehicles have not been permitted on lots less than 5 acres, although this was not stipulated in the current Zoning Code. One workgroup member thought that two acres could get crowded once multiple shop building and vehicles are placed on site. A workgroup member suggested compromising by changing the minimum parcel size to 3 acres.
- A workgroup member suggested that requiring parking and storage areas to be paved in §267-85D(1)(d) and §267-85D(2)(i) increases stormwater runoff. DPZ clarified that by having parking and storage areas paved, it clearly delineates the limits of the parking/storage areas. Additionally there may be more erosion from an area that is not paved.

- A workgroup member suggested requiring a stabilized surface instead of a “paved” area. DPZ stated that compacted gravel can be impervious and result in the same stormwater runoff as a paved surface.

Result:

- The workgroup agreed to replace “paved” with “stabilized surface” in §267-85D(1)(d) and §267-85D(2)(i). DPZ will also add a definition of stabilized surface.
- In §267-85(D)(1)(c) and §267-85(D)(2)(f), the workgroup agreed to reduce the minimum parcel size to two acres for commercial vehicle and equipment storage in the AG district and for motor vehicle repair shops in the AG and B1 districts.

7. Topic: Residential Uses - Nursing Homes and Assisted Living Facilities

Discussion:

- One workgroup member requested clarification that the density and acreage requirements for nursing homes and assisted living facilities changed by the workgroup in the Special Development section would carry over to §267-85F(5). DPZ clarified that the previously agreed upon changes would be reflected here.
- There was a general workgroup discussion about whether to require nursing homes to have public water and sewer. One workgroup member stated that since nursing homes can have a considerable number of residents, the drawdown from a local water well could be significant and suggested they be required to be served by public water and sewer. One workgroup member commented that wells and septic systems located in poor quality soils will continue to have water withdrawal and infiltration problems, regardless of whether nursing homes are located in the area. The workgroup discussed whether it is appropriate to limit certain water demands in rural villages, regardless of soil quality.
- One workgroup member thought that elderly residents, on a per person basis, would consume less water than younger residents and teenagers. Since more nursing home facilities will be built in the future, the workgroup discussed whether it is more appropriate for nursing homes to be concentrated in a specific area or be dispersed throughout the County.
- Some workgroup members expressed their desire to keep nursing homes in rural areas because there is a demand for nursing homes located in rural environments. One workgroup member thought that a good landscaping design on a large parcel should provide the same effect as being in a rural environment. Since nursing homes are already heavily regulated, the workgroup questioned whether additional restrictions would be appropriate.
- One workgroup member questioned whether wells serving nursing homes would be considered non-transient, non-community wells? If so, the workgroup has already recommended certain density/parcel size requirements intended to protect these wells.

Result:

- The majority of the workgroup agreed (with dissenting views) to not require nursing homes and assisted living facilities to have public water and sewer in §267-85F(5).

8. Topic: Services

Discussion:

- Construction Services and Suppliers. A workgroup member suggested that a minimum parcel size of 5 acres, as stated in §267-85H(1)(a), is too large as a minimum requirement on lots that may have commercial vehicles and suggested changing the requirement to 2 acres.
- Veterinary clinics or hospitals, or Veterinary practice, large animals. A workgroup member suggested adding “or outdoor holding areas” to §267-85H(10)(d) to clarify that in addition to runways, outdoor holding areas must be set back at least 200 feet from any lot line.

Result:

- In §267-85H(1)(a), the majority of the workgroup (with multiple dissenting views) agreed to reduce the minimum parcel size to two acres for commercial vehicles stored in AG, B1, and VB districts.
- For clarification, the workgroup agreed to change §267-85H(10)(d) to state “Any runways or outdoor holding areas shall be set back at least 200 feet from any lot line.”

Presentation on Landfills

Mr. Gutwald reviewed the changes to the Landfills section of the revised Zoning Code. The revised Zoning Code created Article X Landfills, and moves buffer requirements related to landfills from the Landscaping and Buffer Yards sections of the Zoning Code to Article X. Article X also consolidates other zoning standards related to sanitary landfills, rubble landfills, solid waste transfer stations and other solid waste processing facilities into one article. Section 267-89, Other County Solid Waste Processing Facilities was added to the revised Zoning Code due to the number of yard waste facilities located throughout the County.

Mr. Gutwald presented legislation recently passed and enacted into law by the County Council on December 11, 2007, that updates the buffer requirements for Landfills based on the existing Zoning Code. The provisions in Bill No. 07-47 are not included in Article X of the revised Zoning Code.

Workgroup Discussion – Landfills:

A workgroup discussion followed Mr. Gutwald’s presentation.

1. Topic: Minimum Parcel Size

Discussion:

- There was some workgroup discussion on what size a parcel should be, as a minimum, to operate a landfill. The revised Zoning Code has a minimum parcel size for a rubble landfill, but no minimum parcel size for a sanitary landfill. A workgroup member suggested a requirement of 100 acres for minimum parcel size.

Result:

- The workgroup agreed to add a minimum parcel size of 100 acres to operate a sanitary landfill.

2. Topic: Height Restriction

Discussion:

- A workgroup member expressed concern that based on the wording of the revised Zoning Code, a landfill operator could potentially fill to a height equal to a nearby cell tower. The discussion referred to the definition of “highest structure”. One member wanted the word “inhabited” placed before “structure” in the revised Zoning Code. It was also suggested that the wording exclude towers.

Result:

- The workgroup agreed that under §267-87F, the words “excluding towers” will be added after “structures”.

3. Topic: Location

Discussion:

- One member expressed concern over the likelihood that existing quarries, including those located in Cardiff and Whiteford might become used as a landfill site. The workgroup discussed the State permitting requirements of landfills that must be met including groundwater investigations and development of a groundwater monitoring plan. Dan Pazdersky, representing the Department of Public Works, noted that State requirements would most likely not permit this. It was also explained by DPZ that the County Council would have to approve this through the adoption of the Solid Waste Management Plan.

4. Topic: General Discussion – Landfills

Discussion:

- One member suggested that the wording “may be granted” should be replaced with “is allowed” at the beginning of each section of Article X.

Result:

- The workgroup agreed to change the wording of “may be granted” to “is allowed” in the first sentence of §267-86, §267-87 and §267-88.

Presentation on Historic Preservation

Mr. Gutwald reviewed the changes to the Historic Preservation section of the revised Zoning Code. The existing standards for historic properties, districts and structures have been consolidated and streamlined into Article XIII General Provisions for Historic Landmarks. Commission roles and responsibilities will be relocated to Chapter 9 of the County Code, and the proposed changes established all historic designations as “County Landmarks”.

Workgroup Discussion – Historic Preservation:

A workgroup discussion followed Mr. Gutwald’s presentation.

1. Topic: Preservation of Historic Function

Discussion:

- There was a general discussion regarding the addition of a provision to preserve the historic function of operations and sites in the County. The example provided was an existing fjord located in Harford County. Preservation of the site alone would not necessarily ensure the preservation of the function of the fjord.

Result:

- The workgroup agreed to add the preservation of historic function to §267-105.

2. Topic: Buffer Requirements on Adjacent Property

Discussion:

- The workgroup discussed the requirements for landscaping buffers on adjacent property if the adjacent property “use” is within 500 feet of a historical landmark. One workgroup member expressed concerns about existing structures such as a fence and their ability to replace it if it was within 500 feet of a landmark. It was clarified that any structure that requires a permit (i.e. AG structures don’t require permits) would be reviewed by the Historic Preservation Commission. There was a discussion regarding the obligation put on an adjacent property for buffering if a property owner voluntarily places his property or structure into historic preservation. There was concern expressed regarding adequate notification of adjacent property owners when a property or structure is placed into historic preservation.
- Elimination of the buffer requirement was suggested by one workgroup member. However, there was concern expressed that some uses placed within a 10 foot buffer to the historic property might impair the value of the resource being protected. DPZ clarified that this buffer requirement currently exists in the Code.
- A workgroup member suggested eliminating the minimum buffer width and changing the maximum width in §267-115B(1) to state the width shall be up to 75 feet.

Result:

- The workgroup voted against a recommendation to eliminate the buffer requirements for adjacent property located next to an historic property or structure in §267-115.
- The workgroup agreed to revise §267-115B(1) to state “The width shall be up to 75 feet.”

3. Topic: Historic Preservation – General Discussion

Discussion

- A workgroup member noted that in §267-104B, the wrong section number is referenced.
- The workgroup discussed adding archeologically significant sites to the purpose sections of the Historical Preservation Article.
- The workgroup discussed adding a reference to the section of the County Code that addresses the Power and Authority of the Historic Preservation Commission
- One member of the workgroup suggested that the word “ordinary” used in Section 267-102 A. should be replaced with the word “routine” as this is standard language in most historic legislation.
- The workgroup discussed the requirement that any modifications, other than routine maintenance, must come before the Historic Preservation Commission for review and approval.
- The workgroup discussed the need to make the designation criteria for a landmark to be nominated as historical be based on a report forwarded to the Director of Planning and Zoning and based on criteria developed by the United States Department of the Interior.

Result:

- In Section 267-104B, DPZ will revise the referenced section to §267-105.
- The workgroup agreed to revise §267-101A to add the word “archeologically” after “and” under the purpose statement.
- The workgroup agreed to add a reference in §267-102 to the section of the County Code that addresses the Power and Authority of the Historic Preservation Commission.
- The workgroup agreed to change the wording of §267-102A to say “Prevent any routine” rather than “ordinary” maintenance or repair.
- The workgroup agreed to delete the words “in a manner that impacts the historic character of the structure” from §267-102C.
- The workgroup agreed to modify the wording for §267-106A to state “the determination shall be forwarded in a report to the Director of the Department of Planning and Zoning” rather than “shall be made based on a report.”

- The workgroup agreed to modify §267-106A and §267-102B to designate historical landmark nomination criteria based on criteria developed by the United States Department of the Interior.

Workgroup Discussion:

5. Topic: General Discussion - Rendering an Interpretation

Discussion:

- One member requested that language in §267-7B(6) be reinstated from the current Zoning Code. Specifically, the workgroup member recommended changing §267-7B(6) to state “Render an interpretation, within 60 calendar days of the written request by an interested person whose property might be affected.” The workgroup member was concerned about not being able to obtain the reasoning behind a Zoning Administrator’s decision. DPZ clarified that property owners are still able to request an interpretation. The language regarding “interested person” was removed in the new code.
- There was a discussion about actions a property owner could take to understand or appeal a Zoning Administrator’s interpretation. The DPZ case file on a property is available for public review. A workgroup member suggested that once an approval letter has been mailed to an applicant, an adjacent property owner could then appeal to the Zoning Administrator. Another workgroup member commented that if language on an interested party is added to §267-7B(6), there would have to be a clarification on who an “interested party” is. One workgroup member stated that the current process gives other property owners the ability to create a legal case against a property owner simply by requesting an interpretation, which could cost thousands of dollars.
- DPZ clarified that a Hearing Administrator would make the interpretation/decision for all special exceptions.

Result:

- The majority of the workgroup (with dissenting views) agreed not to reinstate language in §267-7B(6) in regards to “an interested parties” interpretation of the zoning code.

Administrative Issues:

The meeting was adjourned at 4:00 pm.

Mr. Gutwald proposed an additional meeting to get the workgroup back on schedule. **The workgroup agreed to an additional meeting on Monday, April 7th from 2:00 pm - 4:00 pm at the Harford County Administrative Office Building.**

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 15 Summary
3. Handout on Proposed Changes to the Historic District

Next Scheduled Meetings

Date: **April 7, 2008 (additional meeting)**
Time: 2:00 pm - 4:00 pm
Topic: Meeting 17 –Growth Management (continued) and Subdivision Regulations
Location: Harford County Administrative Office Building
220 South Main Street, 2nd Floor Conference Room
Bel Air, MD 21014

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