

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 18 – Meeting Summary
April 14, 2008, Second Floor Conference Room
Harford County Office Building

Attendees

Workgroup Members Present:

Ms. Susie Comer
Col. Charles Day
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. Gregory J. Kappler
Mr. Michael Leaf
Ms. Gloria Moon
Mr. Torrence Pierce
Mr. Frank Richardson
Mr. Lawrason Sayre
Mr. Jim Turner
Mr. Craig Ward
Ms. Marisa Willis
Mr. Jay Young

Workgroup Members Absent:

Ms. Carol Deibel
Mr. Gil Jones
Mr. Chris Swain
Mr. Bill Vanden Eynden

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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 eighteenth 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. A change in the Meeting 16 Summary was discussed. Meeting 16 will be revised and distributed to the workgroup for review and approval prior to the next meeting.

Presentation on Subdivision Regulations

Mr. Pete Gutwald, Harford County's Director of the Department of Planning and Zoning (DPZ), summarized the revisions made to the Subdivision Regulations. Many of the revisions were made to remove rules and procedures that have been replaced by more recent regulations. Definitions have been moved into the zoning code and referenced as such. The improvement section, the streets section, and the sections describing requirements for concept plans, preliminary plans and site plans have been reorganized for clarity. New standards have been added for concept plans for COS and NRD development adjustments and any residential plan with more than 25 dwelling units. Modifications have been made to eliminate parkway and landscape easements, public sites and open spaces, and references to construction standards for private roads.

Workgroup Discussion – Subdivision Regulations

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

1. Topic: Development Advisory Committee (DAC) Members

Discussion:

- The workgroup discussed which County and State agencies should be represented on the DAC. The revised Zoning Code added the Maryland Department of Environment (MDE) as a requested member but removed the requirement that the Maryland Department of Natural Resources (DNR) continue to be a DAC member. One workgroup member requested that DNR be included on the DAC member list to provide regulatory comments on forest conservation issues. DPZ stated that DNR was removed from the list because they do not have the resources/staff to attend DAC meetings, or to review subdivision plans. The Natural Heritage Division responds via written comments, but local forestry does not.
- The workgroup discussed the need to have other State and federal agencies represented, including the Maryland State Highway Administration (SHA) and the United States Army Corps of Engineers (ACOE).
- The workgroup discussed the difficulty with adding State agencies to the DAC member list, as DPZ cannot require State agencies to attend DAC meetings.
- There was a recommendation to include a list of County agencies required to attend DAC meetings as DAC members, and a list of State and federal agencies invited to comment on DAC submittals. There was a concern that if a State agency was not listed specifically as a DAC “member”, their comments could be “ignored”.

Result:

- The workgroup agreed to separate the list for DAC membership. Membership will be limited to County agencies required to attend DAC meetings and provide comments on DAC submissions. A separate list of State and federal agencies, including DNR, will be incorporated. Comments will be requested from these agencies, when applicable..

2. Topic: DAC - Availability of Submitted Plans for Public Review

Discussion:

- The notification of, and ability for, the public to attend DAC meetings was a concern of the workgroup. There was a concern raised by one workgroup member regarding the ease of access for the public to project information prior to the DAC meeting. Information such as the proposed preliminary plans is available to be viewed by the public at the DPZ office, but only during the week between 8:00am and 5:00pm. The workgroup members noted that citizens attending DAC meetings should be well informed on the project to be discussed before the meeting, in order to provide the

most productive input. A suggestion was made by one workgroup member to provide information, including electronic copies of proposed development plans and preliminary plan approval dates, on the DPZ website for access by the public prior to DAC meetings. One workgroup member was concerned regarding the cost to the County to provide this service. There was discussion concerning whether or not a requirement for placing DAC plans on the DPZ website was appropriate in the Subdivision Regulations. Technological means can change over time. DPZ agreed to provide proposed Preliminary Development Plans to the public on a timely and convenient basis and investigate the possibilities of providing access to DAC submittals and subsequent approval dates of Preliminary Plans on their website.

- There was a suggestion made to allow the public to submit written comments on a proposed development plan prior to a DAC meeting.
- There was a concern by one workgroup member that many citizens attending DAC meetings are not completely aware of the purpose of the DAC and where the proposed development is in the permitting process. There have been many instances where citizens believed that the DAC process was a discussion of whether the development should occur at all. DAC meetings are to discuss and define how a development will be planned and constructed, not whether the development will occur. This distinction should be clear to the public and should be included on the website. There was also a suggestion made to have DPZ provide copies of the citizen information guide referenced under Section 5.02 (C)(6) available to the general public, perhaps as a handout at the entrance to any DAC meeting.

Result:

- The workgroup agreed to include wording in the Subdivision Regulations to provide proposed Preliminary Development Plans to the public on a timely and convenient basis. The last sentence in Section 5.02C(2) will read “Plans submitted for DAC shall be available for review by the public in a timely and convenient manner”.

3. Topic: Enforcement of Preliminary Plan Approval Letter Requirements

Discussion:

- Section 5.02 (C)(10) of the proposed Subdivision Regulations references conditions that may be included in the preliminary plan and/or site plan approval letter. A question regarding who enforces the provisions of a preliminary plan approval was asked by a workgroup member. What is the public’s recourse if the conditions of the approval letter are not met?
- DPZ clarified that the conditions of the preliminary plan approval generally become conditions of issuance of a building permit or grading permit. These conditions are therefore enforced by the agency which made the requirement for the permit.

Result:

- No action taken.

4. Topic: Concept Plan Requirements

Discussion:

- One member of the workgroup requested that the submission procedure for concept plans discussed in Section 5.01 (A) and the community input meeting requirements discussed in Section 5.03 (A) reference the same criteria. A concept plan is currently required when 25 residential lots are proposed. However, a community input meeting is required at the concept plan stage when 250 trips per day from a development is proposed.
- The work group discussed the need for a concept plan submission for COS and NRD developments and for residential developments for 25 or more units. Some workgroup members felt that the average 3 month review and approval timeframe for a concept plan was an unnecessary delay, when the concept plan and the preliminary plan submission checklist are basically the same.

Result:

- The workgroup agreed, with dissenting views, to require a concept plan only when a COS development is proposed, or when 1,000 trips per day are generated by a proposed development in 5.01A. Submission Procedures.

5. Topic: Boundary Line Adjustments

Discussion:

- A workgroup member was concerned about the Subdivision Regulations regarding boundary line adjustments on parcels created by deed without a recorded plat. These line adjustments would not result in an additional lot. There was concern within the workgroup about the costs to land owners for preparing a boundary line survey and a record plat required for subdivision approval.
- DPZ stated that several zoning-related issues arise when boundary lines are adjusted. For example, will development rights be transferred with the boundary line change? Also, DPZ is concerned that the transfer of property from one parcel to another may result in one of the parcels becoming a nonconforming lot that may require setback variances, etc.
- A workgroup member suggested changing the definition of subdivision to state “Any division or re-division of a tract, parcel or lot of land into 2 or more lots.” Another workgroup member suggested creating a Subdivision Waiver for lots requiring a boundary line adjustment.
- A member of the workgroup questioned whether a Subdivision Waiver would apply to boundary line adjustments on agricultural lots. Workgroup members thought that a Subdivision Waiver should apply to agricultural lots as long as the boundary line change does not create an additional lot.

Result:

- The workgroup agreed to create a Subdivision Waiver process for boundary line changes, where the change does not create a new lot. The Waiver will be submitted to the Department of Planning and Zoning, and will allow land transfers to be recorded via a metes and bounds surveys and deed and will only apply to parcels created by deed, as well as agricultural parcel line adjustments. The waiver is applicable to unrecorded lots only.

6. Topic: Subdivision Regulations - Appeals

Discussion:

- A workgroup member suggested that appeals, as stated in Section 8 of the proposed Subdivision Regulations, should go to the Board of Appeals or the Director of Administration rather than Circuit Court. The workgroup discussed how decisions made by the Director of Planning and Zoning which have larger consequences than a typical zoning case should be appealed to the Circuit Court and not the Board of Appeals.
- A workgroup member thought that the requirement of burden of proof as written in Section 8.01 was unclear. The workgroup member suggested replacing the existing explanation with language from the Maryland Rules.
- DPZ clarified that the Subdivision Regulations, Section 8.01 – Appeals, applies only to Preliminary Plan and Site Plan approval letters. The appeals process does not apply to Concept Plan approval. A workgroup member suggested stipulating what can be appealed in Subdivision Regulations Section 8.01.

Result:

- The majority of the workgroup agreed (with dissenting views) to keep appeals to the Circuit Court, as stated in the proposed Subdivision Regulations Section 8.01, Appeals.
- The workgroup agreed to replace the existing explanation of the burden of proof requirements in Subdivision Regulations Section 8.01 to state “The burden of proof shall be upon the appellant, or appellants, to show that the decision complained of was illegal.”.

7. Topic: Plat Recordation Timeframe

Discussion:

- There was a general workgroup discussion on balancing a land owners right to delay plat recordation with DPZ’s need to recognize a plat when it is approved. A workgroup member suggested extending the timeframe in Subdivision Regulations 6.04 (B) that, “all record plats must be recorded within 45 calendar days upon receipt from the Clerk of the Court of Harford County.” The 45 day timeframe may be too short for some owners who might need to delay recordation of a plat due to financial reasons.

- For development tracking purposes, DPZ assumes that a plat is recorded once it has been approved and signed by the County Executive. For example, Adequate Public Facilities (APF) requirements are based on assumptions that approved plats are recorded. However, sometimes a plat never gets recorded or is recorded after subdivision criteria has changed. Therefore, a plat should have a recordation timeframe that if not met, would require a property owner to re-submit the plat for approval.
- A workgroup member suggested using Cecil County's plat recordation timeframe of 2 years in order to be consistent with a Plat approval timeframe. Another workgroup member suggested that 6 months should be an adequate timeframe to get a plat recorded.

Result:

- The majority of the workgroup agreed (with dissenting views) to change the timeframe for recording a plat in Subdivision Regulations 6.04 (B) from 45 days to 2 years.

8. Topic: Offsite Road Improvements

Discussion:

- There was a general workgroup discussion on the responsibility of the County vs. the developer to pay for offsite road improvements which are required for subdivision approval. A workgroup member was concerned that the language in Subdivision Regulation 4.05 did not stipulate that the developer would reimburse the County for the costs incurred due to acquisition of needed rights-of-way. The workgroup member suggested adding the language, "and be reimbursed in full by the developer" to the end of Subdivision Regulation 4.05(A) and (B).
- There was significant disagreement among the workgroup about the requirements in Subdivision Regulation Section 4.04(C) requiring a developer to bring a road up to current County road specifications.
- The workgroup discussed how a development should not be approved until appropriate right-of-ways have been obtained that are necessary for road frontage improvements.

Result:

- DPZ will review the requirements for right-of-ways for offsite road improvements in Subdivision Regulations 4.05 and 4.04(C) and discuss the topic with the workgroup at Meeting 19.

9. Topic: Subdivision Regulations – General Discussion

Discussion:

- Modifications and Exceptions. A workgroup member thought that the statement in Section 7.01 referencing when an exception to the Subdivision Regulations may be

- considered by DPZ should be changed. The statement that the regulations, “would cause practical difficulty and exceptional and undue hardship,” is referencing two different standards. The member thought that causing “exceptional and undue hardship” is too high of a standard to meet. Based on recent court interpretations of “difficulty” and “hardship”, DPZ recommended changing the language to state “practical difficulty or hardship.”
- Right-of-way Deeds. A workgroup member suggested that the language in Subdivision Regulations Section 4.03 (A)(2) should state that, “Title to road improvement rights-of-way shall be good and marketable and free of *financial* liens and encumbrances.” The intent is to ensure that any financial or monetary liens have been released.
 - Cul-de-sac Length. A workgroup member suggested that Subdivision Regulations Section 4.07 (F) be changed to remove the 600 foot stipulation as the determining factor of “reasonable length”. The workgroup member stated that waivers have been granted for cul-de-sacs longer than 600 feet in the past. The workgroup discussed how the determination of a reasonable length for a cul-de-sac depends on the project. The workgroup also expressed concern that long cul-de-sacs could be used as speedways and that the 600 foot maximum length may be the result of Fire and EMS requirements.
 - Preliminary and Site Plan Approval Signature. A workgroup member suggested changing the 45 calendar day timeframe in Subdivision Regulations Section 5.02(C)(10) to a longer business day timeframe. Forty-five calendar days may be too short for a developer to countersign an approved preliminary or site plan. DPZ stated that the timeframe was changed to “calendar days” to be consistent with other timeframes in the Zoning Code. A workgroup member suggested extending the timeframe to 60 calendar days.
 - Format Change. A workgroup member suggested renumbering/re-lettering Subdivision Regulations Section 5.02(C)(13)(a) – (d) to be more clear. The workgroup member suggested using 1(a) or (b) and (2)(a) or (b).

Result:

- The majority of the workgroup agreed to change the language in Section 7.01 to state, “...compliance with any requirement of these Regulations would cause practical difficulty or hardship.”
- The workgroup agreed to change Section 4.03 (A)(2) to state that titles should be, “free of financial liens.”
- The workgroup agreed to be change Section 4.07 (F) to remove the 600 foot stipulation as the determining factor for “reasonable length” for cul-de-sacs or dead end streets.
- The workgroup agreed to extend the timeframe for developers to countersign an approved preliminary or site plan in Subdivision Regulations Section 5.02(C)(10) to 60 calendar days.
- The workgroup agreed to renumber/re-letter Subdivision Regulations Section 5.02(C)(13)(a) – (d) to be more clear.

Administrative Issues:

The meeting was adjourned at 4:00 pm.

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

Meeting Handouts

1. Meeting Agenda
2. Handout on Changes to the Subdivision Regulations

Next Scheduled Meetings

Date: April 28, 2008
Time: 2:00 pm - 4:00 pm
Topic: Meeting 19 –Subdivision Regulations; 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