

MINUTES

URBAN GROWTH AREA ADVISORY COMMITTEE September 20, 2007

The Urban Growth Area Advisory Committee held a meeting on Thursday, September 20, 2007 at 9:00 a.m. at the Washington County Administrative Annex, 80 West Baltimore Street, Conference Room 1, Hagerstown, Maryland.

CALL TO ORDER

Chairman Richard Phoebus called the meeting to order at 9:05 a.m.

The following members of the Advisory Committee and Washington County Staff were present:

- Richard Phoebus
- Nancy Allen
- Jeff Cline
- Donovan Corum
- Jerry Ditto
- Ron Leggett
- Hank Livelsberger
- Mike Armel
- Bob Garver
- Linda Irvin-Craig
- John Shank
- Steve Goodrich
- Chris Cochrane
- Debra Eckard

MINUTES

Ms. Livelsberger made a motion to approve the minutes of the September 6, 2007 meeting as presented. Seconded by Mr. Shank. Unanimously approved.

OLD BUSINESS

- Subcommittee Updates

- Housing

Ms. Irvin-Craig reported that this committee met with the League of Women Voters Workforce Housing Taskforce on September 18th. Their focus has been on public education of Workforce Housing issues. They distributed a questionnaire to all elected officials in the County to get feedback and an understanding of the Workforce Housing issues. The response has been excellent. The next step would be to get comments from the community. Ms. Irvin-Craig believes the League of Women Voters Taskforce will be a good support for the Housing subcommittee and their recommendations.

Mr. Phoebus expressed his opinion that the Advisory Committee needs to clearly define terms relative to Workforce and Affordable Housing in the report to the BOCC.

- **TDR's**

Mr. Cline reported that he has contacted every municipality to inform them of the UGA Advisory Committee meetings. He also stated he has e-mailed a copy of House Bill 1141 to Betty Shank through the Clear Spring Town offices. The TDR Subcommittee met on Tuesday, September 18th at 7:00 p.m. at the Williamsport Town Hall. Mr. Cline reported that the subcommittee discussed that a determination needs to be made on the number of potential TDR's that are available and more educational data from the Planning Commission is needed. In conjunction with the changes to the UGA, a determination is needed to see if TDR's can move in and out of the UGA. Mr. Shank also believes a determination of the acreage available inside the UGA for TDR's is needed. Mr. Ditto stated that the subcommittee also discussed Rural-to-Rural transfers.

Mr. Phoebus noted there are currently no TDR's in Washington County.

- **Incentives**

Mr. Armel reported that the Incentives subcommittee met on Thursday, September 13th at 8:00 a.m. The meeting was recorded and is on file with the Washington County Planning Department. Representatives from three engineering firms and one developer were present. The key points discussed by developers focused on uniform rules for everyone, timely action, and personnel aspects of getting through the process. Other points discussed were gray water systems, quality level zoning, and generating creativity in the development process to maximize the effectiveness of the UGA. Ms. Livelsberger stated that developers expressed their concern with regard to uniformity in areas such as mitigation aspects of the development process. The Incentives Subcommittee will hold their next meeting on Wednesday, October 3rd at 8:00 a.m. A representative from Bowman Development will be present at this meeting.

NEW BUSINESS

Mr. Phoebus stated that a representative from the Economic Development Commission was not available to attend today's meeting; however, he will try to make arrangement for a representative to be present at the October 4th meeting to discuss the effects of zoning within the UGA on economic development.

Transferable Development Rights Presentation

Mr. Goodrich introduced Mr. Eric Seifarth, Land Preservation Planner for the Washington County Planning Department. Mr. Goodrich distributed several handouts pertaining to TDR's as follows: Washington County TDR Program Background Information, a hardcopy of the power point presentation on Transferable Development Rights, the Preliminary TDR Framework Report prepared by the consultants assessing whether a transferable development rights program would be viable in Washington County, the Transferable Development Rights Work Session, and the executive summary of the report *The Feasibility of Successful TDR Programs for Maryland's Eastern Shore*.

Mr. Seifarth began by presenting a power point presentation. The previous Board of County Commissioners established 10 goals they wanted to achieve. Goal #1 was "equity and land preservation in the rural areas". Goal #2 was a comprehensive rezoning of the UGA and if a TDR program could be factored into the rezoning process. Mr. Seifarth explained that every property has a "bundle of rights". In the case of rural land, there is agricultural use, and a "bundle of rights" for housing. Depending upon the zoning of the property, there are different "bundles of rights". A TDR program would assist with both equity and land preservation as follows: the housing rights would be transferred from the farm to the Urban Growth Area or to another area within the rural designation thereby preserving the farm and providing financial equity to the farmer and would allow a higher density than the current zoning allows. The developer would buy the rights from the farmer. The current estimated cost of a TDR is \$10,000.

Based on a sales analysis during the peak of the real estate market, the consultant analyzed three zones. In the easternmost zone of the County around the UGA, the values are higher; as you proceed west the

values are lower. The “sending areas” are the farms proposed for preservation and the restoration of equity. “Sending areas” would be established on lands within one of the following zoning districts: Agricultural-Rural, Environmental Conservation or Preservation.

The consultant and the Ag Advisory Board reviewed TDR “receiving areas” and agreed that they should be located around already built up areas. In the rural areas, Rural Villages are established with a higher density (1:1) than Agricultural land, for example. The idea is to expand around those Rural Villages and allow them to be “receiving areas”. Another option for “receiving areas” is the Urban Growth Area and town growth areas because the density is higher and infrastructure is available to support the growth. “Receiving areas” can also be established to allow for commercial and industrial development.

The consultant suggested an “early entry bonus” program to encourage TDR’s. The “early entry bonus” could include a waiver from the excise tax in order to get the program started.

Mr. Seifarth summarized that a TDR program can be viewed as both a short-term and a long-term planning tool. The first goal is to structure the program so that TDR’s are used immediately. A TDR program would become part of the County’s long-term planning framework. Whether or not significant activity is generated initially, future rezoning requests and market increase in demand should be considered in light of the TDR program.

Mr. Seifarth stated that Washington County currently has seven preservation programs that includes: the Maryland Ag program, Rural Legacy, Installment Payment Program, donated easements, federal funds, and environmental programs. There is approximately 22,000 acres of private land that has been permanently protected through land preservation, which is mostly agricultural and open space. In the early 1990’s, the Ag Board and the Board of County Commissioners discussed the implementation of a TDR program and efforts to increase all programs to protect land. The County has established a goal of 50,000 acres to be placed under permanent protection, which represents approximately 16% of the County’s area. With the exception of donated easements, all preserved land is paid for with government funds. Due to the increased price of land, the County has exceeded \$10,000 per acre to buy the development rights. TDR’s would be paid for by the development community to preserve the land and may return some equity to land owners. Initially, the County would be involved in the start-up of the TDR program; however, it is anticipated that the real estate community would take over the program.

Mr. Phoebus asked how the County would get the program started. Mr. Seifarth stated that after the County would adopt a TDR program, there would need to be a heavy marketing blitz with the rural communities and developers. The key is to have a real estate market that would drive the program. He noted that incentives and early entry bonuses would encourage developers to buy the rights to develop at a higher density. The County would work with landowners to sell the TDR rights. Mr. Goodrich stated that the most important first step would be to create and adopt the regulations to guide the program. It is the County’s hope that the buying and selling of TDR’s would become part of the general real estate transactions.

There was a brief discussion regarding government or independent investors purchasing the TDR rights. The rights could be purchased as an investment and resold at a higher price in the future. Mr. Phoebus suggested finding an organization that would be willing to help the County’s land preservation efforts as well as encouraging growth in the Urban Growth Area.

Mr. Seifarth discussed other obstacles that need to be overcome. One such issue is the view of residents that do not want development with higher density in their “backyard”. Mr. Phoebus believes that most people associate areas of large density with low-income housing. Ms. Allen believes that positive incentives for the developer are needed such as waiver of the excise tax, because that cuts into the profit for the developer. Mr. Phoebus noted that EDU’s are a big issue with the developers. Developers don’t want to purchase a TDR and not be allowed to develop because the EDU’s are not available.

Mr. Goodrich referred to page 3 of the *Report – The Feasibility of Successful TDR Programs for Maryland’s Eastern Shore* that states, “The most successful programs in Maryland have common features or attributes that contribute to their success including:

- TDRs make economic sense to developers.
- Elected officials are willing to adopt significant down zoning of farmland to preserve agricultural land or maintain the demand for TDRs.
- Large or multiple receiver areas provide bonus density for using TDRs that significantly exceeds base zoning density, and there is a market demand for higher density.
- The demand for TDRs was carefully balanced with the total supply of TDRs.
- County policy requires the use of TDRs for increasing zoning density in received areas.
- TDRs were combined with other land preservation tools.
- Permanent easements restrict TDR sending sites for agricultural, forestry or open space.
- Sufficient professional staff support was provided to administer the program.

Mr. Goodrich stated that these are important items that would need to be incorporated into our County’s program either in the formal ordinance or in the education and promotion of the program.

Mr. Ditto stated that until two or three years ago, Maryland Ag Land Preservation easements had a “25-year look-back” clause if the easement was purchased by the State. At the end of 25 years from the date of purchase of the easement, if it was deemed agriculture was no longer viable on that parcel, the landowner could buy back the easement from the State and develop the property. Prior to any of these easements reaching that point, the State removed that clause from the Maryland Ag Land Preservation Program. Mr. Ditto expressed his opinion that the “25-year look-back” option was a good idea because things change over the years. He believes that easements should not be “permanent in perpetuity but in a defined time.” Mr. Ditto cited one example of property along the Downsville Pike located beside the UGA boundary. Development has occurred on both sides of the property and has created an island of agriculture with development all around. At some point in the future, the owners may not want to farm the property.

Mr. Seifarth stated there is approximately 13,000 acres in the 10-year districts. There is also approximately 33,000 acres in preservation owned by the government.

Ms. Irvin-Craig expressed her opinion that it is very important to be able to afford to live where you work. There are many people that were born and raised in the County and now work in the County but they cannot afford housing in the County. Ms. Allen stated that the income level is not compatible with the cost of housing.

Mr. Phoebus believes a determination of the number of TDRs outside the UGA is needed. Mr. Seifarth stated that the consultant would be providing that information in the next few weeks. There was a brief discussion regarding the densities allowed in different zoning districts. Mr. Phoebus summarized that incentives other than density are going to be needed to make TDRs work effectively.

There was a brief discussion regarding the availability of water and sewer capacity issues relative to TDRs.

There was a brief discussion regarding the type of land that would be suitable for TDRs. Mr. Seifarth stated that each property is evaluated for the quality of its soils.

There was a brief discussion regarding the City’s acceptance of TDRs. Mr. Goodrich stated that this issue was discussed with the City; however, the City did not give a definitive answer. He stated that the *“Report”* distributed earlier in the meeting discusses the appropriateness of transferring TDRs between jurisdictions.

OTHER BUSINESS

Mr. Phoebus stated that he would like to discuss economic development issues relative to TDRs during the Educational portion of the next meeting. Subcommittee reports and recommendations should be prepared and ready for presentation to the Advisory Committee in four weeks. Ms. Irvin-Craig stated that clarification is needed for modular/manufactured housing.

Mr. Ditto recommended that the Advisory Committee should obtain copies of each municipality's Comprehensive Plan. A suggestion was made to invite representatives from the Towns of Williamsport and Funkstown to attend the next meeting to discuss their views regarding TDRs.

NEXT MEETING

The next meeting is scheduled for Thursday, October 4, 2007 at 9:00 a.m. at the offices of the Washington County Planning Department, 80 W. Baltimore Street.

PUBLIC COMMENT

No one was present to make any comments.

ADJOURNMENT

The Chairman adjourned the meeting at 11:10 p.m.

Respectfully submitted,

Richard Phoebus, Chairman