

# MINUTES

## URBAN GROWTH AREA ADVISORY COMMITTEE November 1, 2007

The Urban Growth Area Advisory Committee held a meeting on Thursday, November 1, 2007 at 9:00 a.m. at the Washington County Economic Development Commission's conference room, 100 West Washington Street, 1<sup>st</sup> Floor, Hagerstown.

### CALL TO ORDER

Chairman Richard Phoebus called the meeting to order at 9:10 a.m.

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

- Richard Phoebus
- Dennis Miller
- Harry Reynolds
- Hank Livelsberger
- Mike Armel
- Linda Irvin-Craig
- John Shank
- Steve Goodrich
- Chris Cochrane
- Debra Eckard

### MINUTES

Because a quorum was not present, Mr. Miller made a motion to accept the minutes of the October 18, 2007 meeting. Seconded by Mr. Reynolds. By consensus, the members present accepted the minutes as presented. A formal vote will be required at the November 15, 2007 meeting.

### OLD BUSINESS

#### - Subcommittee Updates

- TDR's

There was no report from this subcommittee.

- Incentives

Mr. Armel stated that the Incentives subcommittee met with Staff on Wednesday, October 31<sup>st</sup> and discussed the recommendations in the Comprehensive Plan relative to streamlining provisions. Key points included allowing structures of greater height in the UGA than what is currently allowed by the Zoning Ordinance. Currently, the Zoning Ordinance allows structures with a maximum height of 50-feet in districts zoned for business and each zoning district has its own height restrictions.

## NEW BUSINESS

- Housing

Ms. Irvin-Craig lead the discussion regarding housing issues in the Urban Growth Area. The Housing subcommittee was given the task of identifying land use and financial obstacles to affordable and workforce housing in the UGA. They believe that one main focus should be the language as written in the Comprehensive Plan.

The subcommittee identified the following obstacles to affordable and workforce housing in their report of October 4, 2007:

- ❖ Zoning – densities are too low to well-serve production with the required larger lots
- ❖ Disallowed integration of house and lot sizes, Euclidean zoning.  
Mr. Goodrich explained that the term “Euclidean” zoning developed from a landmark zoning decision by the Supreme Court that established zoning as a legitimate exercise of local government power. Ms. Irvin-Craig stated that during their subcommittee meetings, “Euclidean” zoning means that everything is the same; mixed uses were not included. Mr. Goodrich stated that when a zone is created, things within the zone are generally the same or compatible and regulations must be applied equally. There are minimum lot sizes within each zone; however, all the lots within that specific zone do not need to be the same size. Zoning allows for a mixture of lot sizes as long as the minimum lot size is met.

The Advisory Committee discussed changes to the language. Mr. Goodrich suggested the following change, “Disincentives to integration of houses and lot sizes”. He also noted that there is no flexibility to go below the minimum lot size requirements to create more affordable housing. Mr. Phoebus suggested the following change, “Lack of flexibility in the integration of house and lot sizes”. He noted that there might be benefits in allowing a modification to the minimum lot size requirements when considering workforce/affordable housing. The reduction in lot size would be voluntary by the developers. Mr. Shank expressed his opinion that the people who need workforce/affordable housing want a lot that is large enough to accommodate a garden and room for their children to play. Mr. Armel suggested that if developers incorporate the smaller lot sizes in their development, some of the open space area could be used for common gardens, play areas, etc.

By consensus, the Committee agreed to the phrase **“Lack of flexibility in the integration of house and lot sizes.”**

- ❖ Cost of water and sewer taps
- ❖ Impact fees and APFO requirements
- ❖ NIMBY (not in my back yard) issues, need for political will to overcome. Members briefly discussed the fact that people do not want developments with higher densities next to their properties or they do not want the smaller less expensive homes next to the larger expensive homes. Mr. Phoebus stated that townhouse developments in areas around cities are being created to address this issue. Mr. Armel suggested that developers could design structures to serve multiple families that fit into the development.
- ❖ Excise taxes. Mr. Armel suggested an exemption from the excise tax for a specified amount of square footage for workforce/affordable housing. Ms. Livelsberger noted that the Excise Tax Task Force recommended eliminating several exemptions from the excise tax.

Ms. Irvin-Craig then began a discussion regarding the recommendations proposed by the Housing subcommittee. The subcommittee believes the following recommendations, previously

submitted by the Workforce Housing Task Force, should be implemented by the Board of County Commissioners by the end of 2008.

- ❖ The creation and adoption of inclusionary zoning that both mandates and incentivizes Moderately Priced Dwelling Units (MPDU) within the UGA rezoning.

The subcommittee believes that zoning laws should include language that would require the developer to provide workforce/affordable housing within developments. Frederick County requires that 12.5% of any development over 25 units must be affordable/workforce housing. Mr. Miller expressed his opinion that the word “mandate” may be too strong and believes that the word “incentives” should be the leading word. Members discussed ways that developers could try to get around the 25-unit rule and ways to discourage or stop them from using those mechanisms. The committee believes the BOCC should carefully review these issues. There was a brief discussion that the affordable/workforce housing should be for people who either work or live in the County.

By consensus, the Committee agreed to replace the word “mandates” with the word “**requires**”.

- ❖ Amend the Excise Tax legislation to encourage production of Workforce (and Affordable) Housing. The subcommittee added Affordable housing as part of their recommendation, which was not part of the Workforce Housing Task Force’s recommendation.
- ❖ Adoption of standards for manufactured housing and allowing this type of housing to be built in appropriate and integrated locations. Ms. Irvin-Craig noted that the term “manufactured” housing encompasses both mobile and modular housing.
- ❖ Complete the other recommendations of the Workforce Housing Task Force on a phased-in schedule, with a timeline of completion by 2010. Mr. Phoebus does not support this recommendation without a complete review of all recommendations and the proposed timeline. **He suggested that all members review the Workforce Housing Task Force’s recommendations, which were distributed during an earlier meeting, and discussions on this item will continue at the next meeting.**
- ❖ Accept the federal definitions for Affordable and Workforce Housing for application to County regulations, as determined by the U.S. Department of Housing and Urban Development and the U.S. Department of Agriculture Rural Development, and updated annually.
- ❖ Adopt MPDU regulations that:
  1. Mirror closely those of nearby jurisdictions to prevent competitive issues.
  2. Target those who live and/or work in Washington County. (A provision for the amount of time living or working in the County should be adopted.)
  3. Require a Housing Counseling Certificate for eligibility. Ms. Irvin-Craig stated this program would help families who do not have the financial background to prepare themselves for homeownership.
  4. Allow waivers and/or exemptions for 501(c)(3) charitable organizations that build/develop housing for low income families and individuals.

Mr. Shank stated he is not in favor of exemptions for 501(c)(3) organizations. He believes that many people would begin creating these type of organizations and he does not believe the BOCC would approve the waivers or exemptions. Mr. Phoebus stated that each group trying to get the 501(c)(3) status must make a mission statement with regard to their charity. There was a brief discussion by the committee regarding this issue. Mr. Phoebus suggested changing the recommendation to state,

“Allow waivers and/or exemptions for 501(c)(3) charitable organizations that have a demonstrated history of developing low and moderate income houses for families.” Members discussed this statement and some were concerned for churches or groups that may want to build affordable housing that have never done so before.

By consensus, the Committee agreed to replace the word “Allow” with the word “**Consider**”.

Mr. Armel suggested that the report should include an appendix on controversial issues that have been discussed by the Committee with both sides of the issues being addressed.

- ❖ Adopt provisions for Senior Housing that reaches the age 60-and-over market with deed restrictions and income requirements, with waivers and/or exemptions for 501(c)(3) builder/developers and senior care facilities.

Ms. Irvin-Craig stated that this type of housing option has already been abused in Washington County. The subcommittee believes that deed restrictions and income requirements must be used. There was a brief discussion regarding the enforcement of age-restricted units.

The Committee discussed the availability of money from Federal and State government to make affordable housing a reality; however, in order to use the money at the local level, you must have the 501(c)(3) status to use those funds. Mr. Phoebus suggested the following recommendation, “Consider waivers or exemptions for individuals or organizations that build housing for low income families and individuals on a not-for-profit basis”. Ms. Irvin-Craig stated that low-income housing tax credits are available to private developers. Usually private entities and 501(c)(3) entities form a limited partnership for a specific project for low-income housing units. Mr. Goodrich suggested that the use of those funds could be the trigger to allow the waivers and exemptions.

The Committee discussed their intent that the developer should not have the advantage of not paying the excise tax and not passing that benefit on to the potential homeowner. The Committee continued their discussion in an attempt to change the wording of the waivers and exemptions statement from #4 above. Mr. Reynolds suggested the following, “Consider waivers or exemptions for charitable organizations that build/develop housing for seniors, low-income families, or individuals. Mr. Phoebus suggested removing the word “charitable”. Ms. Irvin-Craig suggested including “that have deed restrictions and income requirements”. **Mr. Phoebus requested that the Housing Subcommittee should revise this statement and bring it back for further review at the next meeting.**

Due to time constraints and the request for additional information, Mr. Phoebus tabled the discussion with regard to the Housing Subcommittee’s report of October 18, 2007 until the next meeting. Ms. Irvin-Craig noted that Mr. Goodrich distributed information with regard to manufactured and modular homes. She also noted there is a conflict between the State and Federal definitions for these types of housing units. She believes that the Committee needs to determine their own definition to distinguish between the two types of housing units. Mr. Goodrich stated the information that he distributed was written by the manufactured and modular housing industry. It appears to be written to highlight their similarities and minimize their differences. Mobile and modular houses are built to two different codes. A mobile home structure is not inspected locally, only its installation. They are also viewed differently by mortgage lending institutions, depending on their type of installation as realty or personalty.

Ms. Irvin-Craig stated that the biggest problem when considering manufactured housing are the limitations of what could be added or changed with regard to manufactured housing. The State Attorney General’s office states, “that local jurisdictions in Maryland are pre-empted from adopting anything other

than the State's standards." Therefore, if the State accepts the mobile home standards, the County cannot change it. Mr. Goodrich stated he believes the "standard" is a construction standard and is not the same as changing the zoning to allow manufactured housing. Some states have adopted rules that say you cannot treat mobile homes differently than stick-built houses in land use regulations. Maryland has not adopted this rule. In Washington County, mobile homes are allowed in the rural areas on individual lots; however, in the urban areas, if a mobile home already exists it can remain, but you may not put new mobile homes in the urban area except in an approved mobile home park.

There was a brief discussion regarding the use of mobile homes. Mr. Goodrich noted that mobile homes are a "special exception" use in mobile home parks. He also noted that mobile homes must be on the same size lot as a stick built house. Mr. Phoebus suggested that the Committee could express their opinion that the elimination of mobile homes as a permitted use and the regulations regarding their limited use should be reconsidered. Members expressed their opinion that it would be difficult to get mobile homes integrated into the MPDU's.

### **NEXT MEETING**

The next meeting of the UGA Advisory Committee will be held on Thursday, November 15, 2007 at 9:00 a.m. at the Washington County Administrative Annex, Conference Room 1, 80 West Baltimore Street, Hagerstown.

Prior to the next meeting, Mr. Phoebus would like the Committee members to review all recommendations in the Workforce Housing Task Force report and review the information provided by Mr. Goodrich with regard to manufactured housing.

### **ADJOURNMENT**

Mr. Phoebus adjourned the meeting at 11:03 a.m.

Respectfully submitted,

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Richard Phoebus, Chairman