

MINUTES

URBAN GROWTH AREA ADVISORY COMMITTEE March 6, 2008

The Urban Growth Area Advisory Committee held a meeting on Thursday, March 6, 2008 at 9:00 a.m. at the Washington County Administrative Annex, 80 West Baltimore Street, Conference Room 1, Hagerstown.

CALL TO ORDER

Chairman Richard Phoebus called the meeting to order at 9:00 a.m.

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

- Richard Phoebus
- Dennis Miller
- Hank Livelsberger
- Mike Armel
- Donovan Corum
- Jerry Ditto
- Nancy Allen
- Linda Irvin-Craig
- Harry Reynolds
- Mike Thompson
- Steve Goodrich
- Chris Cochrane
- Debra Eckard
- Greg Murray (arrived at 9:30 a.m.)

MINUTES

Mr. Armel made a motion to approve the minutes of the February 21, 2008 meeting as amended. Seconded by Mr. Reynolds. Unanimously approved.

OLD BUSINESS

- TDR Subcommittee Report

Mr. Phoebus began reviewing the Draft Report of the TDR Subcommittee. The subcommittee has reviewed the final TDR Report that was recently presented to the Board of County Commissioners. Mr. Phoebus reviewed the assigned task that states, "Identify Transferable Development Rights receiving areas in the UGA if the decision is made to create a TDR program, tentative and dependent upon final results." The following are the recommendations of the subcommittee:

- The "Urban Growth Area" surrounding the incorporated municipalities of Hagerstown, Boonsboro, Clear Spring, Smithsburg and Hancock should be designated as Receiving Areas for the TDR program.
- Further, designation of "fringe" areas within ¼ miles of UGAs would also seem to be advisable with certain limitations. If the use of TDRs were permitted in surrounding "fringe" areas, it may be reasonable to consider such privileges only where significant development has occurred outside the UGA boundaries and created leap frog situations. The "fringe" area TDR privilege

could be used to connect further development to the existing UGA boundaries. This method of development should not allow increased density in a ¼ mile swath completely around the UGAs but rather allow for selective consideration in areas already affected by a significant degree of existing development.

Mr. Phoebus clarified that a case-by-case analysis would be warranted within the “fringe” areas.

- The Committee would also support the use of TDRs within ¼ mile of the approximately 30 rural villages throughout the county excluding those that have a National Register of Historic Places Designation.

Mr. Phoebus noted that many of the rural villages do not have a National Register designation and the subcommittee believes that some development around those villages would be appropriate rather than sprawl development.

- It was the general consensus of the subcommittee that residential upzoning in the UGA and “fringe” areas would have a negative effect on any TDR program adopted by the County. With the more than 9,000 acres of agriculturally zoned land in the Hagerstown UGA, it would appear that the present requirement, 1 unit per 1 acre would make the use of TDRs much more likely for those developers interested in higher density development.
- Additionally, where areas are planned for rezoning from agriculture to commercial or industrial use, provisions for the use of TDRs in increasing impervious coverage or possible building height could result in greater use of TDRs.
- The committee felt strongly that those agriculturally zoned properties where rezoning occurs within the UGA should be “grandfathered” to allow for the continuance of agricultural use even if a new zoning category was applied to the parcel.

There was a brief discussion with regard to changing the Ag zoning within the UGA to other zoning designations. Members discussed downzoning within the UGA to encourage the use of TDRs as an incentive to get more density. Mr. Goodrich stated that the Comp Plan is the County’s guide in determining what the zoning designations should be within the growth area. He clarified that property with an existing agricultural zoning designation has a 1 unit per acre density with an individual well and septic system and 2 units per acre with public water and sewer.

Mr. Ditto noted that in the TDR Report, the consultant estimated the number of available TDRs is approximately 14,000. In order for a TDR program to work in Washington County, it would need to be competitive with the current Maryland Agricultural Land Preservation Program. Mr. Ditto gave a brief synopsis of calculations comparing the values of property if agricultural landowners would sell TDRs or participate in the Maryland Agricultural Land Preservation program. Mr. Ditto expressed his opinion stating, “you need to create more uses of TDRs and there has to be more TDRs used on the farm to transfer rights than what the consultant recommends based on its current use”. He also expressed his opinion that there would be no reason for the State to be purchasing Ag land preservation easements if the County implemented a full-scale TDR program. The TDR program needs to be competitive with ag land preservation programs.

This discussion was temporarily suspended to begin NEW BUSINESS discussions with County Administrator Greg Murray.

Following discussions under NEW BUSINESS with Mr. Murray, the committee resumed their discussions with regard to TDRs. Ms. Irvin-Craig expressed her opinion that the committee needs to include comments and discussion about EDUs. She also believes that recommendations should substantiate the issue of public water and sewer availability in specific areas and should be included in the report. Mr. Phoebus also believes that EDU issues should be addressed in the report. He also suggested creating a structured incentive program for zoning designations that lower densities. Mr. Phoebus gave the

following as an example: If a developer purchases a TDR from an individual in the EC – Environmental Conservation zoning district (1 dwelling unit per 20 acres), the developer should get twice the density for that purchased TDR. Mr. Ditto believes that method of calculating TDRs discriminates. He expressed his opinion there should be a consistent basis for issuing TDRs county-wide. Mr. Corum gave an example of the TDR program in Montgomery County.

Mr. Phoebus suggested before the next meeting, that everyone on the committee should read the TDR programs of different counties that are outlined in the TDR Report. He asked Mr. Ditto to prepare copies of his calculations to distribute to each member of the committee.

NEW BUSINESS

Mr. Murray began by offering the following comments on TDRs. With State tributary strategies, there is the assumption that certain provisions will be put in place to reduce nutrient loads on agricultural property. There are “targets” that need to be met before there are real nutrient values on any lots that are sold to transfer in the UGA. The County is currently working with the State to get credits for preventing septic systems and transferring the EDUs to the urban areas and sewage treatment plants to create extra capacity.

Mr. Phoebus requested clarification from Mr. Murray regarding the tasks that have been assigned to the UGA Advisory Committee. Mr. Phoebus began with a discussion on the TDR Report that was presented to the BOCC. Mr. Murray stated that the BOCC has reviewed the report and they do not believe the program would work as presented. The BOCC raised concerns that the report is deficient in addressing ways to transfer nutrient loads into the urban areas. Mr. Phoebus noted that the Advisory committee shares those concerns.

Mr. Phoebus then asked Mr. Murray when the BOCC expects to hear from the Advisory committee and what format should be used in presenting their report and recommendations. He further explained that the committee has explored an incentive program, affordable and workforce housing issues and TDR issues with regard to zoning designation recommendations. Mr. Murray believes the County Commissioners are looking for a final written report with recommendations and a formal presentation outlining the tasks and the conclusions of the committee. He stated that a report should be completed as soon as possible.

Mr. Phoebus noted that the final task (#6) is to review and make recommendations on the Planning Commission and Staff’s final proposals for the rezoning of the Urban Growth Area. Mr. Goodrich stated that Staff’s intention is for the Advisory committee to review and comment on the “Draft” of the Growth Area rezoning proposal before it is presented to the Planning Commission. He noted that Staff is working to complete the “Draft” tentatively by the end of this month (March). Mr. Murray stated that other committees have prepared a preliminary report to send to the County Commissioners for their review.

Mr. Phoebus discussed a tentative schedule as follows:

- A “Draft” report detailing the first five assigned tasks should be completed by the first meeting in April.
- A preliminary interim report can be presented to the BOCC.
- Review and comment on Staff’s zoning recommendations.

Mr. Murray suggested that the committee should make their presentation to the BOCC after the budget public hearing at the beginning of May.

Mr. Murray briefly spoke on the issues associated with EDU’s and nutrient loading. There were also discussions with regard to downzoning in order to make a TDR program work successfully. Mr. Murray noted that with a property right there is a “minimum expectation of density”. Mr. Murray discussed development in and around the rural villages. Mr. Goodrich stated that rural villages have been

designated as priority funding areas. He noted that the rural village designation was intended to protect existing development and limit the amount of vacant land available for additional development.

NEXT MEETING

The next meeting of the UGA Advisory Committee has been scheduled for Thursday, March 20, 2008 at 9:00 a.m. at the Washington County Administrative Annex, 80 West Baltimore Street, Conference Room 1.

ADJOURNMENT

Mr. Phoebus adjourned the meeting at 11:05 a.m.

Respectfully submitted,

Richard Phoebus, Chairman