



Comprehensive Rezoning & Update 2020-2021 Task Force

MEETING SUMMARY

Hybrid In-Person/Remote Meeting
Wednesday, July 14, 2021, at 6:00 p.m.

I. Welcome and Roll Call – Kim Kohl, Chair

Chair Kim Kohl opened the meeting at 6:00 pm, conducting member roll call.

The following Task Force members were in attendance: Chair Kim Kohl, Vice Chair Joe Hickman, Albert Nickerson, Bill Norris, Bryan Greenwood, Chikki Shajwani, Cindy Genther, Jim Saunders, Pat Langenfelder, Paul Ruge, Sam Shoge, Tom Mason, and Tyler Brown.

The following project staff attended: Planning Commission Attorney Cynthia McCann, Esq; DPHZ Director William Mackey, AICP; Deputy Director, Carla Gerber, AICP; Associate Planner, Mark Carper; Office Manager, Sandy Adams; and Clerk, Michael Pelletier.

County staff who attended included County Administrator Shelley Heller; Jamie L. Williams, Director of Economic and Tourism Development; and Shalyn Boulden of the Department of the Economic and Tourism Development.

Members of the public who attended in-person or remotely included: the Honorable David Foster, Mayor of Chestertown; A Ford Hall, Sr.; Elizabeth Hodge; Frank Lewis; Janet Christensen-Lewis; and John Lysinger. The meeting was also livestreamed, and anyone could listen to the meeting, via the County's website.

II. Approval of Summary for the Task Force Meeting on June 9, 2021, and June 23, 2021

Approval of the Meeting Minutes Summary from June 9, 2021, was accepted by Chair Kohl, without objection or comment. Approval of the Meeting Minutes Summary from June 23, 2021, was also accepted by the Chair without objection. A comment was raised by a member concerning the italicized note on page two of the Meeting Minutes Summary. Ms. Gerber responded that the italicized language served to supplement the record. Mr. Mackey added that because the information was not available at that time, he wanted to update the task force about what was discussed after the June 23, 2021, meeting and to clarify the record.

III. Purpose and Ground Rules

- A. Everyone is encouraged to share ideas openly and freely.
- B. There are no right or wrong inputs for discussion purposes.

Adopted on July 28, 2021

IV. Old Business

A. 2017 Economic Development Plan

Ms. Williams clarified that Data Centers, in particular, can be co-located with other community industries and she provided an example of a Data Center located in Bethesda, Maryland.

Ms. Williams noted the importance of having adequate water supply and opined that any project without an adequate water supply should be denied.

Ms. Williams reported that many of the targeted industries in the County are agriculturally related and outlined the vision of the County to expand on this industry (including maritime) to promote more employment opportunities for citizens, promote economic development and tourism, and preserve the agricultural nature of the County.

Ms. Williams discussed County Grants available to and utilized by some of these targeted agricultural industries as well as the County's partnership with the State and stated that these grant programs have had a successful impact on agricultural industries within the County.

V. New Business

A. Review the Results of the Task Force Member Questionnaire

Mr. Mackey informed the Board that fourteen questionnaires have been received and they have been provided a consolidated summary of the comments. He suggested eliminating discussions on topics receiving only three or four discussion requests.

Mr. Mackey noted that it is the department's intention to address comments in future staff reports.

A member inquired whether the comments in the questionnaire consisted of all the comments or only a selection of comments. Mr. Mackey confirmed they comprised all of the comments.

Another member inquired as to whether certain matters that did not contain a line in the questionnaire have already been discussed and will not need further discussion. The member's concern is that further review regarding Millington should be raised in the future. Mr. Mackey indicated it was his general impression that if the Town was not supportive of the proposed amendment, then the consensus of the Task Force was that it would not be comfortable with it as well. The Chair requested this topic be addressed in the July 14, 2021, meeting minutes summary.

B. Review of a proposed Schedule for Task Force Conversations

Mr. Mackey informed the Task Force that in the past week, the Board of County Commissioner's approved a revised Schedule which will break the project into its two largest components: Zoning Text Amendments and Mapping Requests.

Mr. Mackey indicated that requests for specific text amendments will run from July 2021 to October 2022. He noted that once the legislation on the text only has been completed, it will be sent to the Critical Area Commission for Review. That review will take approximately six months (April 2023), during which time,

the Mapping Requests will be reviewed. The schedule notes a completion date by September 2023, at which time the Board of County Commissioners will incorporate all of the changes required by the Critical Area Commission.

Mr. Mackey confirmed that the Task Force will have approximately three to five items at each meeting and noted that Density provisions in the Code will be discussed.

A member raised a question as to whether advertisements for Task Force meetings will include the topics for discussion now that they have been identified. Mr. Mackey responded that the advertisements generally include a summary of the major topics for the meetings.

C. Review of S1: Consider adding accessory dwelling units to the Village zoning district (Article V, Section 7)

Turning to the July 14, 2021, Staff Report, Ms. Gerber pointed out that the Village district is the only residential district that doesn't allow accessory dwelling units or accessory apartments. The request by staff is that accessory dwellings be allowed in all residentially oriented zoning districts.

A member inquired if there are going to be standards regarding minimum lot size, septic, or wells. Ms. Gerber responded that accessory dwellings do not have to be standalone units. They could be second-floor apartments. Building permits are required and all other setbacks or standards must be met. Ms. Gerber also gave examples of other districts which allowed for accessory dwelling units in residential and commercial structures and pointed out that the Village district could be one of those districts where more conditions could be required, or it could be more open like in districts that allow more commercial uses.

John Lysinger, resident of Chesterville, raised concerns pertaining to ambient noise during the meeting and notified the task force he was having trouble hearing the discussion and asked if there was a way to resolve this problem.

A second member inquired as to whether accessory dwelling units are tracked and whether a count could be available. The member also raised a question as to whether there have been any complaints about accessory dwelling units. Ms. Gerber responded the department does not track that data but through assessment data, the department could accumulate some information, however, the scope of the results would be limited insofar as it would encompass other properties with multiple dwellings that pre-date the ordinance. Ms. Gerber confirmed that, to the best of her knowledge, there have been no complaints from neighbors concerning accessory dwellings, but the department has received complaints pertaining to how difficult the process is in obtaining building approval.

The second member asked whether a variance could be obtained for properties that cannot meet the location standards, and Ms. Gerber responded that further research would need to be conducted in regard to this question. This member is in favor of accessory dwelling units and making it easier to obtain a variance.

A third member inquired whether additional conditions should be considered. Ms. Gerber agreed it should be a matter to consider by the task force.

A fourth member voiced support for accessory dwelling units in the Village district and is satisfied with the current requirements that are in place to grant approval.

Ms. Gerber indicated that it seems as though the consensus is that accessory dwelling units in the Village district should have conditions similar to those in residential districts and to make sure we have ways for flexibility as needed.

A fifth member inquired as to how much area there is in the Village as it is already pretty concentrated in certain areas. Ms. Gerber added that a change regarding accessory dwellings would apply to the majority of all districts, not just the Village district.

The sixth member inquired about concerns of potential negative feedback from neighboring properties.

Janet Christensen-Lewis, resident of Millington, raised a question whether the density is higher in the Village than in Residential districts. Ms. Gerber confirmed that she is correct. Ms. Lewis also raised concerns that granting accessory dwellings would have to be restrictive, and individuals living in the village may not approve of having two story structures built in their community.

D. Review of S9: Consider reviewing demolition process as it relates to age of structure (p. 482, Article XII, § 3, #5.5)

Mr. Mackey noted that the County selected 75 years or older as its default in determining how old a structure should be to be considered historic. Nationally, this standard is at about 50 years. The 2018 Comprehensive Plan includes a description of the regulatory provisions from the zoning code. Mr. Mackey recommends that the Task Force consider maintaining the current standard of 75 years.

A member raised the question whether demotion counts for a portion or all. Mr. Mackey confirmed it applies to partial and complete structure demolitions. The member also raised issues concerning the timeline for the demolition process. Ms. Gerber noted building permit review is currently taking about four weeks.

A second member inquired as to whether the Historic Preservation Commission has been consulted. Mr. Mackey confirmed that the Commission has not been involved in this process.

A third member sought clarification in regard to the definition of historic, to which Ms. Gerber replied that the definition would be any structure over 75 years old.

A fourth member inquired as to how the County determines if a structure is over 75 years old. Mr. Mackey responded that the department uses tools, such as SDAT, in assisting with that determination and if the department has a question, it can request the expertise of the Historic Preservation Commission.

Mr. Lysinger was concerned about the County's lack of a means to prohibit the demolition of certain properties. He did not believe the Task Force was the appropriate forum for discussing this matter and would like to see greater protections for properties older than 200 years in age.

A fifth member raised support for the 75-year standard for classifying historic homes.

Ms. Lewis noted she was in support of the 75-year threshold and stressed concerns over the demolition of these structures as they support tourism and are part of the County's landscape. Rather than demolition, she noted that there are several state and federal grants that are available for restoration work.

A discussion ensued regarding concerns that the Task Force needs to carefully consider this matter because the County will run into situations in which structures, such as barns, will eventually collapse and are beyond repair.

The Chair noted it was clear that the consensus was that the 75-year threshold is appropriate.

The meeting closed for a 10-minute break at 7:04 pm.

E. Review of S13: Consider discussing an overall approach to short-term vacation rentals (STVR)

Mr. Mackey stated that the department is requesting consideration on whether to regulate short-term vacation rentals in the Land Use Ordinance. The County currently levies taxes on these rental properties but does not regulate them in the Land Use Ordinance. Mr. Mackey identified that there were more than 65 properties and 16 properties in the unincorporated County that currently pay a hotel tax, but the County does not track these properties and suspects that only a small percentage are actually being reported.

Jamie L. Williams, Director of Economic and Tourism Development, informed the Task Force that her department performed some research on this topic. The department identified that there were approximately 50 Airbnb and VRBO short term vacation rentals. The department currently has some differences in accounting as they have 45 properties listed on the County's Visitors Guide, 40 listed on the department's website, and 65 properties paying the hotel tax. She believes that despite these differences, only a small number of owners are reporting these rentals to the County. If the County discovers a rental, then Finance will begin communications with the owner for payment.

A member inquired as to how much lost revenue the Task Force is considering. Ms. Heller stated that would not be possible to track as some of these rentals are for one weekend or one week per year, or anytime all year.

Mr. Mackey added that the 2018 Comprehensive Plan does not appear to address short-term vacation rentals, and not all matters need to be addressed by the zoning ordinance. Talbot County has established a licensing program. Should the County implement a similar program, it would require detailed regulation and provide a mechanism for staff to have the ability to enforce the regulations. Mr. Mackey added that Queen Anne's County currently does not regulate short-term vacation rentals directly.

Mr. Mackey concluded that the staff recommends the Task Force consider not addressing short-term vacation rentals in the Land Use Ordinance.

A second member agreed that short-term vacations rentals should not be addressed in the Land Use Ordinance, but the County needs to ensure that they do pay an accommodation tax as it is unfair on local businesses (hotels, B&Bs, and Inns).

A third member agreed that it was unfair, however, it appears very difficult to enforce and identify the property owners. The second member noted that perhaps the County should not be considering two-week rentals. The first member agreed but raised the issue of property owners who advertise using a platform such as Airbnb and VRBO and are essentially acting as "Inns." The County can only request that they pay as there does not appear to be a penalty for non-compliance.

A fourth member commented that this topic appears to probably require some sort of regulation, however, it may not be a Land Use issue.

A fifth member inquired as to how the Town of Chestertown addresses these rentals.

The Honorable David Foster, Mayor of Chestertown, noted that short-term vacation rentals have been a huge problem for the town for a long time. The Town really needs to solve this problem.

A sixth member commented that these rental properties do not appear to be a Land Use matter and would be better addressed by the Town or County Commissioners to strengthen enforcement.

The fourth member asked Mr. Mackey about what other larger jurisdictions are doing to address enforcement. Mr. Mackey noted that in many jurisdictions, the programs require staffing for enforcement.

A seventh member does not believe that short-term vacation rentals should be a Land Use Ordinance concern. The member also understands that Airbnb and VRBO have the ability of collecting taxes.

The first member added that Kent County is dependent greatly on tourism and it might be better suited for the County to collect from these platforms as opposed to the property owners.

Ms. Williams wanted to reiterate the fact that should this matter be added to the Land Use Ordinance, 80 to 85 percent of the short-term vacation rentals are located in Chestertown and Rock Hall. Ms. Williams also added that her department does check the Airbnb and VRBO sites and sends out letters, but they have had difficulties in reconciling which of these properties are paying.

Shelly Heller, County Administrator, noted that this topic has been addressed by MACo and on the State level, and it appears the most effective way to address these problems is to address them in a Land Use Ordinance because the ordinance can set permitting requirements. Permitting requirements could be conditional on reporting earnings to the County.

Ms. Heller added that businesses such as Airbnb and VRBO collect taxes for larger jurisdictions, such as Montgomery County, however, they do not respond to smaller jurisdiction.

The second member commented that if the County is not going to regulate these rentals, the County is effectively permitting short-term vacation rentals in all districts.

The fourth member inquired to the Task Force that, in light of Ms. Heller's input, this topic might have to be addressed in the Land Use Ordinance.

Mr. Mackey suggested to the Task Force that the department could draft up proposed text to add short-term vacation rentals as a use conditional of paying taxes, and the Task Force can consider whether it is appropriate in certain districts. The fourth member agreed, and it was confirmed by Mr. Mackey that the Town would still be required to draft its own provisions.

The second member commented that it is important that we do not want to over-regulate short term vacation rentals as it appears there is a consensus that the Task Force does not want to overburden these

property owners and agrees that Mr. Mackey's recommendation appears to be the most feasible and efficient means to enforce collections.

An eighth member agreed that the County could take the lead on this issue, and it probably would result in a minimal permit process. Ms. McCann, Esq. added that Talbot County has addressed short-term vacation rentals as accessory uses and there is a list of requirements the department can reference from their Code which might be of assistance. She also added that Chestertown passed an Ordinance requiring registration of short-term vacation rentals.

Janet Christensen-Lewis commented that she believed there needed to be some sort of balance to prevent over-regulating and having the ability to enforce collections from short term vacation rentals.

VI. Public Comments

In-person: Comments are listed above.

Via Phone: Comments are listed above.

VII. Task Force Comments - There were no additional comments.

VIII. Requests for Research by Task Force Members

No requests for research were made by the members.

A member commented it was nice to see so many members of the task force appear in person as well as more people from the public.

IX. Readings for Next Meeting

Staff noted and confirmed the next Task Force meeting will be on July 28, 2021, at 6:00 pm.

X. Adjournment

With no further business to discuss, Chair Kohl motioned to adjourn the meeting, seconded by Vice Chair Hickman, and all were in favor. The meeting adjourned at 7:45 pm.