



# Comprehensive Rezoning & Update 2020-2021 Task Force

## MEETING SUMMARY

Hybrid In-Person/Remote Meeting  
Wednesday, September 22, 2021, at 6:00 p.m.

### I. Welcome and Roll Call – Task Force Member and Acting Chair, Joe Hickman

Vice-Chair Joe Hickman opened the meeting at 6:02 pm, conducting member roll call.

The following Task Force members were in attendance: Chair Kim Kohl (remote), Vice Chair Joe Hickman, Bill Norris, Bryan Greenwood, Buck Nickerson, Pat Langenfelder, Paul Ruge, James Saunders, Tom Mason, and Cindy Genter (remote).

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

County staff who attended included: Jamie L. Williams, Director of Economic and Tourism Development.

Members of the public who attended in-person or remotely included: Janet Christensen-Lewis, Paula Reeder, Leona Van Dyke, Ralph Van Dyke, and Judy Gifford. The meeting was also livestreamed, and anyone could listen to the meeting, via the County's website.

### II. Approval of the Summary for the Task Force Meeting on August 25, 2021, and September 8, 2021

The August 25, 2021, Meeting Summary were approved with a correction on Page 4 of 7 which noted that Gary Miller was against the 10% rule. A member noted that Mr. Miller was actually in favor of retaining the 10 % rule. Another member had a similar conversation with Mr. Miller after the August 25, 2021, meeting. Mr. Mackey suggested a clarification to the minutes that Mr. Miller was opposed to the elimination of the 10% rule. A note has been added to the minutes citing the discussion above.

Also, in the August 25 minutes, the second member cited on Page 5, Paragraph 6 sought to clarify the member's comments concerning the impact on individuals waiting in the MALPF queue for preservation. The minutes were to be amended to reflect this clarification, and the summary minutes were accepted as corrected, as moved by Pat Langenfelder and seconded by Jim Saunders.

The September 8, 2021, Meeting Summary were approved with a minor correction replacing the term, "civil war" with "American Civil War", as moved by Buck Nickerson and seconded by Pat Langenfelder.

### III. Purpose - Fair and Open Discussion on Proposed Text Amendments

**Outcome** - Staff is to summarize Task Force positions in Meeting Summary

Adopted on October 13, 2021

## Ground Rules

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

## Norms

- Participants speak 'through the Chair'. This means raising your hand if you want to speak, and waiting for the Chair to call on you.
- Don't interrupt other people.
- Don't talk/debate amongst yourselves.
- Respect other's views.
- Keep contributions short and to the point.
- Start and end on time.
- If online or on the phone: have your video ON and mute ON. Wait for the Chair to call your name before you unmute.

## IV. Old Business

- A. Review weddings as special exceptions in AZD

A member added they were 100% in support of a special exception in the Ag zone to have wedding venues and relayed the member's first-hand experience.

- B. Summary of the 2020 Census Data and Tools
- C. Review of removing the renewal requirements for sand and gravel pits
- D. Review of the definition of structures, especially considering fences
- E. Review of the definition of accessory structure and accessory use
- F. Review of side and rear setbacks for accessory structures
- G. Review of Proposed Draft Task Force Recommendations
- H. Discussion of Next Steps for Public Forum, Sign Code, Re-formatting LUO, and Additional Submittals for Requests for Specific Text Changes from the Public

Mr. Mackey discussed the Public Forum conversations with the County's IT Department about options for a possible larger venue as well as the technological difficulties and limitations. The Public Forum will be held in the County Commissioner's Hearing room.

Regarding the signage regulations, Mr. Mackey received feedback from the department's consultant, and the department will address it on a separate track due to the unique issues.

Mr. Mackey added that the department is working on a reformatted condensed land use ordinance. This document should be ready sometime in October and will be discussed by the Task Force around November 10, 2021. Tracked Changes laying out revisions will be available sometime by the end of November for the Task Force's review as well. Additional recommendations by the Consultant will also be available for the Task Force's review in December.

Regarding the Public Forum, a member voiced concerns about accessibility, social distancing and the impact on public participation.

A second member raised a question whether masks are required or a recommendation. Mr. Mackey indicated that the County recommends social distancing and masks.

A third member clarified that it was the Task Force's decision to make masks mandatory in its meetings. Mr. Mackey confirmed this clarification.

*Public Comment*

Paula Reeder, resident of Still Pond, stated that the County needs to have maximum public participation and recommended using the auditorium at the Kent County High School with audio/video access to the public as well.

Janet Christensen-Lewis, resident of Millington, agreed with Ms. Reeder's recommendation and inquired as to why the County's IT Department could not facilitate a Public Forum at the Kent County High School. Mr. Mackey indicated that this particular question has not yet been posed to IT and he would check with them.

**V. New Business**

**A. Review of request to consider adjacent lots under same ownership in order to meet the minimum requirements related to rules for keeping of backyard chickens**

Mr. Mackey indicated that the purpose of this request is to allow two adjacent properties under the same ownership to be considered together for the purpose of keeping backyard chickens.

Mr. Mackey also discussed the proposed regulations pertaining to the keeping of backyard chickens and that the 2018 Comprehensive Plan did not address backyard chickens.

Mr. Mackey noted several problems that might develop should this requested change be accepted and recommended that the Task Force take no action on this item.

Eight members voiced their support for Staff's recommendation.

Overall, the Task Force expressed agreement in support of the staff recommendation not to take any action on this specific request.

*Public Comment*

No public comment.

**B. Review of Request to allow backyard goats in the Village zoning district with similar provisions as backyard chickens**

Mr. Carper conveyed to the Task Force that a request had been made to consider allowing backyard goats in the Village zoning district similar to backyard chickens.

Mr. Carper provided examples of how other jurisdictions addressed this issue. For example, Baltimore City regulations allow for miniature, dwarf and pygmy goats on properties 20,000 square feet or greater. Baltimore County allows for the keeping of goats on properties of 3 acres or greater with a maximum of 2 animals per acre of grazing or pastureland. .

Mr. Carper added that the subject request contained a proposed regulation addressing the number of goats per acre, shelters, location on property, waste, setback requirements and fencing pertaining to the keeping of goats.

Staff recommended that the Task Force consider including in the Land Use Ordinance definitions for livestock, fowl and poultry.

Staff further recommended that the Task Force consider including in the Land Use Ordinance as an Accessory Use in the AZD, RCD, RC, RR, CAR, CR, and V districts, regulations concerning the keeping of small ruminants as set forth in the Staff Report submitted by Mr. Carper.

A member voiced support for the Staff's recommendations.

Two members sought clarification regarding the number of goats per acre of ground in Kent County. Mr. Carper stated that the minimum property size would be 2 acres with a maximum of 3 sheep or goats per acre of grazable land, with maximum number of 8. The second member raised concerns about the lack of enforcing these provisions. Mr. Carper noted that the County's response would be complaint driven.

Ms. Gerber added that the minimum number of acres is 2 acres in order to have small ruminants, and the number of additional acres would determine the total number of goats or sheep allowed on the property.

#### *Public Comment*

Judy Gifford raised questions regarding the nutrient management plan. Ms. Gerber noted that the proposed language is similar to other provisions pertaining to nutrient management plans throughout the land use ordinance.

Paula Reeder, resident of Still Pond, discussed her experience raising ruminants on her property. She felt the list was a good start but did not go far enough given the different types of animals and the standards for raising pets versus livestock and the amount of land required for grazing. She also raised concerns that there were no penalties, fines, or overseeing authority to enforce these provisions.

A fourth member felt it would be a good idea to have a definition of grazable ground.

A fifth member raised enforcement difficulties as a concern and also raised concerns that Kent County is stricter than in some urban counties. The member also noted that these types of property owners also help drive the economy of Kent County given the products they buy to raise these types of animals.

A sixth member felt that at some point a plan is needed to make people recognize what they have to do regarding the amount of feed, acreage, or manure that is involved with animals.

Leona Van Dyke had a question between differentiating between pets and livestock.

A seventh member agreed with Ms. Reeder that the Task Force should consider categorizing several other types of animals such as lamas and alpacas.

An eighth member suggested allowing these regulations in certain zoning areas with larger parcels so as to avoid problems that might develop in more dense areas.

A ninth member supported Staff's recommendation.

Overall, the Task Force expressed support of the staff recommendation to allow for small ruminants with conditions as listed.

**The meeting closed for a break at 6:55 p.m. and resumed at 7:09 p.m.**

C. Review of allowing nonconforming [accessory] structures that were conforming when built to be granted a fully legal status as conforming vs. as legal, nonconforming

Mr. Mackey noted that this request would be related to situations where an accessory structure was originally constructed in conformance with setbacks in the Land Use Ordinance and when the ordinance is changed and becomes more restrictive, then the building is rendered unusable for its original purpose. The request is to allow existing structures to be used for their original purpose.

There are generally three potential ways of addressing this type of issue: The first is the non-conforming use provisions; next is language contained in the Village District Article under Permitted Principal Uses and Structures; and, a third option would be use of a special exception.

A new special exception could be included in the Land Use Ordinance for specific zoning districts, which could provide conditions for approval of structures that do not conform to the current setbacks.

Staff recommends that the Task Force consider directing staff to include specific language in the code to allow existing structures to be utilized for original uses as permitted uses via special exception.

A member raised a question as to why Staff wants to allow for permitted uses when they were not permitted uses to begin with. The member opined that the use of a conforming use would be a better option.

Another member added that this provision would address a non-confirming use in which certain circumstances have changed and the owner wants to resume use of the property for its original purpose after a period of time. The member also raised concerns about setting a precedent.

A third member raised concerns about non-conforming uses that are being used for purposes other than the original use. The member felt the time restrictions for non-confirming use should not be necessarily so restrictive given there is little difference between a few years of non-use as compared to two years.

*Public Comment*

Janet Christensen-Lewis contends these types of uses should be evaluated on a case-by-case basis using a special exception. She felt that if a building that was under a non-conforming use is not being used for that use, then the buildings should not be utilized again. She was in support of using a variance as opposed to a blanket rule.

A fourth member raised a question that if the County changes setbacks in the Land Use Ordinance, will we create more non-conformity. Mr. Mackey stated that the member was correct.

Paula Reeder asked if Staff was distinguishing between non-conforming structure and non-conforming use because the language appears to be used interchangeably. Ms. McCann indicated there are definitions of both in the zoning ordinance.

Overall, the Task Force did not express agreement on this item.

D. Review of removing renewal language for telecommunications

Ms. Gerber noted this request addresses the special exception the County has for personal wireless facility towers in the County. Currently, the special exception is only valid for five years and must be renewed.

A member inquired if the intent going forward was once valid always valid. Ms. Gerber replied that one approval is all that would be required but noted that if a tower ceases to be in operation for 6 months, then the approval would terminate. At that point, the County would enforce removal of the tower with the owner. However, if there is a tower in continuous use, whose owner seeks a renewal of the special exception, this endeavor takes a lot of staff time and board time and is not necessary.

A second and third member supports Staff's recommendation.

A fourth member agreed that the County should not have to keep processing these five-year renewals. The member suggested they review stronger language in the original approval for situations in which the towers are to be removed and who would be required to remove the towers.

A fifth member inquired regarding what is the current process for removing the towers. Ms. Gerber noted that the current language is that the property owner shall remove the tower within 90 days of the termination of use. If it had to be enforced, the action might have to be litigated in Court.

*Public Comment*

Paula Reeder notified the Task Force that there was a very rigorous process in getting a Verizon tower approved in Still Pond. She was in support of having a renewal process to ensure that the parties involved performed all conditions as required by the special exception.

Overall, the Task Force expressed agreement with the staff recommendation.

E. Review of revised Proposed Draft Task Force Recommendations

Mr. Mackey informed the Task Force that Staff has incorporated changes in the Revised Draft of the Task Force Recommendations and that this document would be revised throughout this process.

A member thanked the Staff for listening and incorporating the task force's comments in the document and thought it was much improved and wanted to acknowledge their much-appreciated effort.

*Public Comment*

Janet Christensen-Lewis inquired why the Task Force has never taken a vote on these recommendations. Mr. Mackey clarified that for the members who speak an opinion, Staff is assembling comments to come up with a recommendation from the group and the group has an opportunity to review those items.

A member noted that as we cannot make assumptions about those from whom we do not hear, all are encouraged to participate to ensure full representation of opinions/comments.

**VI. Task Force Comments** – There were no additional comments.

**VII. Public Comments** – There were no additional comments.

**VIII. Adjournment**

Acting Chair Hickman adjourned the meeting at 7:35 p.m.