

MINUTES OF THE LAND USE COMMITTEE 2-MEETING 25-2016

The meeting was called for 7 pm in the Town Hall. Present were Dedun Ingram and Craig Brooks, co-chairs; Pat Burda, Tom Collins, Kathy Flaxman, Rod Henderer, Eric Murtagh, Stuart Sessions, and Deborah Vollmer; Kathy Strom, Council liaison; and resident/observer Mary Flynn.

Water Ordinance update: The proposed ordinance has been sent to the State for review but we have not yet had a response from them.

Floating Zones

Additional information about floating zones:

1. The County does not have a data base showing properties that have applied for and received a floating zone. To find these properties you have to go to the County Hearing Examiner site, and look for hearings on floating zones.
2. Floating zones have been approved for two sets of properties since the new zoning code was adopted. One in downtown Silver Spring and the other a set of properties on Kensington Parkway.
3. According to planning staff, Connecticut Avenue and East-West Highway are considered non-residential streets and therefore, all properties on them are eligible for floating zones.
4. The Town attorney confirmed that if a floating zone were applied to a Town property, all current Town regulations would apply including height restrictions, setbacks, FAR, stormwater management, and tree protection.
5. The Town cannot regulate "use".
6. Any property that confronts or abuts a property that is zoned commercial or confronts or abuts a non-residential street is eligible for a floating zone. Currently, all properties on the north side of Elm St., Part of Oakridge Lane, part of Lynn Drive, all properties on East-West Highway and Connecticut Ave are eligible for floating zones. The expectation is that some properties along the border of the Town will be rezoned commercial under the new Bethesda Sector Plan, which will make additional Town properties eligible for floating zones. Properties that may become eligible for floating zones include: properties with a border on 46th St. between Willow and Walsh, several additional properties on Walsh, and all properties with a border on West Ave.

New Questions to consider:

1. Could the Town levy different property taxes on commercial vs. residential properties?
2. Does the Town have an insurance policy that could be used to rule out certain uses as not covered? Could we require certain types of coverage by businesses?
3. Could the Town have different regulations for properties zoned commercial or R-townhouse, etc. vs. those zoned R-60 (i.e., for FAR, height, setbacks, etc.?)
4. The County has setbacks for surface parking lots that apply in some zones. Could the Town have such setbacks that apply only to properties with a floating zone? If not, could we have such setbacks and craft them so they would not interfere with existing driveways and garages?
5. The Town already has regulations forbidding commercial lawn signs, but could commercial signage on the sides of buildings be regulated?
6. Could setbacks be defined as being between dwellings rather than between structures?]
7. If properties adjacent to the Town, such as the county parking lots #10 and #24, which are currently zoned R-60 were given a commercial floating zone in the Master Plan (instead of rezoning them to CR), would the properties in the Town that confront them or abut them still be eligible for floating zones? One would think this would not be the case, because their base zone would still be R-60 and this was supposed to prevent "creep".

Tasks

- Dedun will contact Planning Department staff to ask a few more questions about floating zones.
- Craig and Dedun are drafting a report for the Council. It will be ready for the committee to review at the March meeting, possibly for consideration by the Council in April.
- Rod will create a map of Town properties showing those currently eligible for floating zones plus those that will become eligible if border properties are rezoned to Commercial as expected under the new Bethesda Sector Plan.]
- All committee members should review the uses allowed in different zones (59-3 of zoning code)

The meeting adjourned at 8:30 pm.

Next meeting is scheduled for Thursday, March 24.