

## MEETING OF THE LAND USE COMMITTEE 7-22-2021

The meeting was called for 7 pm on Zoom. Present were Lees Hartman, Chair; Tom Collins, Kathy Flaxman, Rod Henderer, Dedun Ingram, Eric Murtagh, Stuart Sessions; --- by phone; and Ellen Cornelius Ericson, Council liaison.

Chair Lees Hartman called the meeting to order at 7:05 pm.

Minutes of the June meeting: Several edits had been offered and circulated. Dedun moved to approve as edited. Seconded, passed without dissent.

Public comments: None.

Thrive Montgomery 2050: Dedun updated the committee.

At the first PHED Thrive work session on July 14, the county council staff presented a comparison of the 1964 Master Plan, the 1993 updates and the current proposed plan, Thrive Montgomery. The staff also discussed award-winning plans from other cities. The comparison indicated that Thrive is missing some important pieces. Planning staff defended Thrive. Councilmember Riemer said he wants an Environmental chapter back in Thrive; Councilmember Jawando said there needs to be more outreach to minority groups in the county. At the July 21 work session, Planning staff presented justifications for Thrive's content. All indications are that the PHED committee will try to finish its work by early October.

Attainable Housing: The Planning Board held its first work session on Attainable Housing on July 8 and its second work session on July 22.

During the July 8 work session the following topics were discussed:

- A lengthy debate on the definition of Attainable Housing with no final agreement.
- The Board does not want the AHS recommendations to be connected to the Thrive Montgomery Growth map because Thrive Montgomery has not been adopted. Instead, they are recommending that boundaries of zoning blocks be used.
- The Planning Board decided to recommend allowing, by-right, house scale:
  - duplexes in the R-40, R-60, R-90, and R-200 zones;
  - triplexes in the R-40, R-60, and R-90 zones; and
  - quadplexes in the Priority Housing Districts.
- The Planning Board agreed to establish Priority Housing Districts. These districts would include residential properties within some as yet undetermined distance from Metro, Purple Line, and MARC stations and properties within 500 feet of designated major roads including Connecticut and, Wisconsin, and River Road.

At their July 22 work session, the Planning Board decided:

- Priority Housing Districts would include properties within a 1-mile radius of Metro, Purple Line, and MARC stations; properties confronting/abutting commercial properties; and properties within 500 feet of designated major roads (including Connecticut and Wisconsin Ave). and River Road
- A new "optional method" of development was discussed. The new method would allow mid-range Attainable Housing (townhouses, "cottage courts", 3-4-story apartment

buildings) to be built on properties in the Priority Housing Districts that are within 300 feet of commercial properties and within 500 feet of the designated major roadways. The details are not yet determined. The “optional method” could affect the 4-H property development.

- The use of pattern books for by right Attainable Housing developments has been dropped but they may be used for optional development projects.

There are no more work sessions until September. Planning staff has been asked to draft ZTAs even though details on many subjects have not been finalized.

Sale of the 4-H Center property: Ellen updated the committee.

The winning bidder for the property has not been announced. There have been several recent meetings with Thornapple Street residents.

Canopy Tree Working Group: Lees updated the committee.

The Town Council held a work session on July 14 where the list of “canopy” trees the group would like to add to “Chapter 29, Urban Forest” ordinance was discussed. There will be a public meeting in the Fall to allow residents to comment on this.

Applicability of County Legislation: Lees updated the committee.

The Land Use Committee has reviewed a number of chapters of the County Code and the Long Range Planning Committee has looked at several others. Lees and Dedun will work together to present the joint recommendations to the Town Attorney. Once the Town Attorney has reviewed and commented on the recommendations a work session with the Town Council will be scheduled. The County Pesticide law, Chapter 33B was discussed at the Tree Canopy work session. The Climate and Environment Committee is recommending that the Town adopt the chapter. There will be a public meeting in the Fall to allow residents to comment on this.

Lees displayed a markup of Town Code “Sec. 1-7. - Applicability of county legislation within town” and noted that some chapter titles have changed. The language in item (d) of Sec. 1-7 is conflicting/confusing regarding the addition of new chapters to the County Code and needs to be disambiguated.

The Committee then discussed chapters reviewed at earlier meetings:

- County Code Chapter 10A: Child Care  
The chapter sets up commissions and initiatives to develop policies, programs and services in support of child care within the County. In addition, it sets up a loan program that provides funds for capital improvements to child care facilities. The Committee discussed whether the County might not agree to provide funds to residents operating family day care facilities if the Town did not adopt the chapter. The County would have difficulty enforcing limits on the use of funds in municipalities that did not adopt the chapter. The Committee also discussed the general question of adopting chapters that don’t seem to make much difference with the Town, is it better to adopt them for consistency, or to ignore to avoid clutter? Lees will talk with Town Attorney and get his thoughts.

Committee Consensus: Recommend adopting unless the Town Attorney sees drawbacks.

- County Code Chapter 31C: New Home Warranty/Building Licensing  
Committee members spoke in favor of adopting this chapter. The general feeling was that County regulations were stricter than the State's. The Committee reviewed a chart of warranty coverage for the both the County and State. The County and State coverage was very similar. However, the State excludes from the definition of "new home" outbuildings, driveways, fences/walls, etc. and has nothing specific about Accessory Dwelling Units. The Committee also discussed the fact that the State does not require a builder to provide a warranty, while the County does. The Committee discussed the issue of County enforcement and whether it was weaker than the State's? It was noted that building inspections are done by the County, not the State and that documentation is all done at the County level. The Committee felt that the County requirement for a warranty and the stricter regulations associated with the County warranty were reasons to adopt the chapter.

Committee Consensus: Recommend adopting this chapter.

- County Code Chapter 33B: Pesticides  
The Climate and Environment Committee reviewed this chapter with the Town Council at a work session on July 14 and recommended that it be adopted.
- County Code Chapter 55: Tree Canopy  
The Committee was impressed with the goals of the chapter, but the number of replacement trees required, and the pervious surface area required for each new tree did not seem to fit with the size of lots in Town. It was noted that no other municipality where new chapters adopted by the County do not automatically apply, "the specific adoption approach" has adopted this chapter. Some Committee members thought that it might usefully apply to the 4-H property, but it was noted that there is a separate County ordinance dealing with larger pieces of property, and we have already adopted, Chapter "22A, Forest Conservation-Trees". Lees will talk to the Town Attorney to follow up.

Committee Consensus: Recommend not adopting this chapter.

Potential ARPA projects: The Land Use and Climate & Environment Committees had been asked to provide suggestions for projects that could be funded using this special grant. The current list has nine items, of which seven were discussed at the June meeting and two are new:

- 4-H site development
- Coquelin Run (Elm St./Oakridge Lane/Lynn Drive)
- Farm Woman's Market Development
- Green infrastructure
- Rosemary Circle
- Stormwater Management System Engineering Study (New)

- Thornapple St. sump
- Wonders, Inc. (New)
- Zimmerman Park

The two new initiatives were proposed by Town residents.

- Stormwater Management Engineering Study (SWMS): Town-wide FEMA maps make it clear that parts of the Town have significant stormwater issues. ARPA money would be used to fund a SWMS that would bring the Town's plans up-to-date and proactively prepare better plans. The study could be used to guide SWMS upgrades with the County and create future-focused plans to help the Town better anticipate needs caused by climate change. Members asked if the ARPA funds could be used for study only projects? Would the County accept such a study as the basis for doing work? It was noted that the State's Clean Water Revolving Fund, while mostly funding infrastructure, can be used for an engineering study and that anything eligible for that fund is generally eligible for ARPA funding. It was further noted that the Town of Somerset is doing a similar study using ARPA money.
- Wonders, Inc: This is not an infrastructure project, but the daycare facility is potentially eligible for ARPA funds to alleviate the impact of Covid on their business. It was noted that there are two Wonders facilities within the Town, but several other Wonders facilities are outside the Town in Maryland and the District. Could the funds be earmarked for the facilities within the Town?

The Town is also developing a list of questions for the Treasury Department regarding allowed uses of the ARPA money.

#### Administrative Topics:

The committee will not meet in August. Next meeting will be in September. Members were thanked for their service over the last year and reminded to re-volunteer for next year.

Members were also reminded to send letters/emails to the Planning Board and County Council with thoughts about Thrive Montgomery.

Ellen announced that there would be a Town Council work session on Thursday, July 29 from 7-8 pm to discuss proposals for a project management study of Zimmerman Park.

The meeting adjourned at 8:38 pm.