



Zoning Technical Panel Meeting
Zoning Ordinance and Subdivision Regulations Rewrite: Comprehensive Review Draft
Wednesday, October 25, 2017
12:00–2:00 p.m.

The purpose of this discussion was to present Clarion Associates' recommendations contained in Comprehensive Review Draft for the Zoning Ordinance and Subdivision Regulations and to discuss the concerns and questions of the group. Public questions and comments are identified by **bold** text. Clarion Associate's responses to questions and additional presenter comments are identified by normal text.

Regarding the Certificate of Adequacy proposals—so, after 12 years, the background for a development project will disappear?

Yes, in the sense that if a project that obtained a Certificate of Adequacy did not move forward in that 12-year period and did not obtain extensions, their certificate would expire and “free up” that background traffic.

Do all counties have “call-up” (Election to Review)? So, there is call up now for everything that can be appealed?

Based on Clarion's research, no county of this size in the country has a “call-up” provision. M-NCPPC had previously researched the State of Maryland, and no other jurisdiction in the state has an ability to “call-up” cases. Yes—election to review has been restored for procedures that can be appealed to the District Council.

Will there be any fine tuning? Will there be any glitches?

Yes, there will be fine-tuning. The code will not be perfect. We recommend a six-month periodic update process to incorporate revisions. Consider this a “safety net” for development. The Planning Department has a two-year period set aside for this revision cycle.

How will new types of projects be implemented? New uses?

The format of the code makes it easier to accept new uses and to adapt the code as may be needed to provide for truly new projects or development review procedures.



What is the lifecycle of a zoning ordinance? Is there a time where we will have to go through this again?

The best approach is to revisit the code every two years for comprehensive updates. This will keep the code from going out of date.

The M-X-T (Mixed Use – Transportation Oriented) zone at Westphalia Town Center does not have expirations on transportation determinations today. If there is a 12-year time limit for adequacy, does that mean the projects will expire in 12 years?

No. Only the adequacy certificate will expire. This certificate can be renewed for up to six additional years if the application is received prior to the initial expiration period.

My concern is to make sure that we get a good mix of projects, not just residential development, this is especially important at the Metro stations.

In the M-X-T Zone, the finding required is that other uses need to be in the same M-X-T Zone, not the individual property. In the proposed ordinance, is it by zone or by property or by use? Does undeveloped land count? Won't the last developer in the transit location be stuck having to build nonresidential?

The proposed draft requires a mix of 18 percent of both residential and nonresidential development for the Transit-Oriented/Activity Center base zones. If there are no commercial projects in a given Metro station area after the first five years following the approval of the Zoning Ordinance (when this 18 percent requirement kicks in), then no one can build anything until that 18 percent threshold is reached. Alternatively, the [County] Council may make a policy decision to allow development to proceed, but essentially “set aside” property for providing the 18 percent minimum nonresidential mix at a future date.

Development at the Branch Avenue Metro Station is a multiphase project in the M-X-T Zone. If it becomes Legacy MXT (a newly proposed zone for discussion purposes), the standards and procedures for M-X-T development under the current Zoning Ordinance will not change.

If conformance to the general plan is required, would it require a redrafting of the Zoning Ordinance after every plan? What about revisiting the schedule for master plans?

Updates or replaces of the general plan should not require a redrafting of the Zoning Ordinance. The proposed Zoning Ordinance has been drafted to provide a stronger link to County plans and to



facilitate implementation of Plan 2035 [*Plan Prince George's 2035 Approved General Plan*] (the current general plan), but is not so directly tied to plans that it forces Zoning Ordinance revisions as each plan is updated.

State law requires re-evaluation of master plans and the general plan every 6 and 10 years, respectively. This requirement has been carried forward into the new Zoning Ordinance. It is important to understand this requirement is a re-evaluation, not a requirement to redo plans on this schedule.

What about the new zoning maps? Will the maps show the core and edge areas of the Transit-Oriented/Activity Center zones? What about the quarter-mile radius for the 18 percent of required mixed use?

The new zoning maps will be released before the legislation is enacted for review and initial discussion. These maps will be in draft form and subject to change, but there will not be a long wait to see these maps. They will show the core and edge of the Transit-Oriented/Activity Center zones, but will not reflect the quarter-mile distance for mixed-use development requirements, because this could change for each property.

Have tiny houses come up?

No. Nothing precludes someone from building a tiny house on a normal lot. However, nearly all tiny houses are “mobile” homes and would not comply with the current building code.

Page 27-3–99 of the Comprehensive Review Draft speaks to variance requests and pre-application meetings for variances heard by the Board of Zoning and Administrative Appeals (BZA). Remove this. There is also a required staff report. The BZA will not be able to manage that.

Can all standards be varied?

Not all. There is a major and minor departure process that allows modifications to many of the standards. Variances cannot be used for uses, but can be used for use-specific standards. There are no variances for adult uses. **This may be an equal protections issue.**

If something is built when the County is remapped, is that building considered legal, conforming or nonconforming, or grandfathered?

Page 27-1-6 discusses the transitions. Assuming the built project is legal, these properties will be “deemed conforming.”



Is transportation adequacy back in? Are the core areas of the RTO (Regional Transit-Oriented) and LTO (Local Transit-Oriented) zones still exempt? If so, this will be problematic for College Park.

If adequacy requirements are not exempt in centers, then there will be no centers. Jurisdictions that want vibrant, mixed-use, transit-oriented centers increasingly choose to exempt these areas from traffic adequacy because they are, and should be, congested places; they are where people want to be and where development patterns have shifted. For example, most companies want to locate at transit-served locations because that is where their employees want to be.

Impact fees are a better approach than adequacy testing (although not currently recommended). The Comprehensive Review Draft will be revised to reincorporate the current bicycle/pedestrian impact statement process, and transportation demand management procedures are available to further reduce reliance on the automobile.

Can you explain the Neighborhood Compatibility Standards.

Staff offered a general explanation, and indicated that neighborhood compatibility standards are proposed to be exempt in College Park, with reduced requirements for other locations along US 1. Neighborhood compatibility standards will control if there is any conflict with other standards. The reason for the exemption and reduced compatibility requirements along US 1 is that the market of this area is the strongest in the County, the mixed-use parcels are very narrow and problematic to achieve desired development patterns when the full neighborhood compatibility standards are applied, and stakeholders, including municipalities, along the corridor have indicated that the initially proposed standards were too stringent (for example, they would prohibit outdoor café seating in the areas where this is desired).

Regarding quasi-judicial hearings—this should be an evidentiary hearing. Witnesses should be sworn in.

Does a reconsideration apply to the entire project, or just specific conditions?

There is an amendment process for every application, so reconsiderations are more limited than they are today.

Historic preservation appeals are in Subtitle 29. What is the coordination with this subtitle?

Appropriate cross-references (as in the current Zoning Ordinance) have been incorporated.



The People's Zoning Counsel is not in the draft, and needs to be added.

Staff concurs.

There should be an appeals process for Planning Director determinations of new uses and zone boundaries.

Should eleemosynary uses be permitted in dense zones? Technically, they can be any use, which makes them problematic.