

AGRICULTURAL PRESERVATION WORK GROUP MEETING MINUTES

October 17, 2007

1. **Attendance:** Thomas Dernoga, Marilynn Bland, Boyd Campbell, William Moore, Daniel Filippelli, Fred Tutman, Laura Moore, Debra Naylor, Stephanie DeVille-Eugene, Richard Krueger, Charles Renninger

For those who were not aware, Chair Dernoga informed the members that Mrs. Patricia Carr, wife of Work Group member Phil Carr, passed away and a viewing was scheduled that evening. A moment of silence was observed for Mr. Carr and his family.

2. **Meeting Agenda:**

- I. **Approval of Minutes (September 19th and October 3rd)**

Minutes of September 19th were approved. Approval of minutes for October 3rd was postponed to the next meeting.

- II. **Discussion –**

- CB-44-2007 (Transfer of Development Rights) TDRs

Chair Dernoga informed the members that earlier that morning, the Council's Planning, Zoning, and Economic Development (PZED) Committee reported CB-44-2007 (Proposed Draft-2) out of committee with "no recommendation" and gave direction to obtain the Work Group's consensus on the bill. It was understood at the end of the committee's vote on CB-44 that if the Work Group did not reach consensus in support of this legislation moving forward at this time, the bill would not proceed to Introduction (Second Reading) on October 23, 2007 (the last day for introduction of bills to be eligible for a public hearing/enactment prior to the end of this legislative year). Copies of all written comments concerning CB-44-2007 submitted to the PZED Committee were also distributed to the Work Group.

Margaret Addis (Staff attorney) summarized a Proposed Draft-3 (DR-3) of CB-44-2007 containing amendments which were drafted based on comments provided during the PZED Committee meeting earlier that day. Ms. Addis indicated that Proposed DR-3 provides for the adoption of program regulations for the operation of the TDR program. The regulations will be developed by the Planning Director and approved by resolution of the District Council.

There was a lengthy discussion on the proposed legislation with questions, comments, and concerns raised by Work Group members as well as observers present for the meeting.

Work Group Members/Staff:

Boyd Campbell expressed concern with the legislation indicating that he is overwhelmed with the information that he has obtained through research on TDRs as well as the information provided from the PZED Committee meeting. Mr. Campbell suggested that the TDR program is a good idea if it works, but he is aware that many programs around the country have not worked. He commented that there should be another opportunity to review the legislation in a future Work Group meeting because as questions are answered, new questions are raised. Mr. Campbell indicated that the Work Group would be remiss without something in place to measure goals for the program and that there needs to be a determination of the impact on the Receiving District.

Yates Clagett, of the Soil Conservation District, commented that he has been discussing this legislation with the farmers and most of their concerns (95%) have been addressed; however, he is still concerned that there is not enough demand created through the density/TDR purchase provisions and the demand should be increased. Mr. Clagett indicated that the County needs to get this program in place and that the residents in the farming communities have been underserved for too long.

Fred Tutman expressed concern that his [review of successful TDR programs around the country](#) showed that they thrive where the incentives tend to push the market and the people affected by such programs toward utilizing them. Merely creating a program and prevailing on people's best civic instincts or expecting a TDR

program to sell itself, is unlikely to make much of a difference. There must be an incentive or market factors that drive people toward the TDR program so that it becomes not just an alternative but a preferable one. Other Counties have used down zoning as a tool; others have set goals and allocated growth caps. Mr. Tutman was concerned that the proposed legislation does not do enough to ensure its success.

Richard Krueger commented that a lot of time was being spent on implementation details and not the fundamental “whys and wherefores” of the program.

Debra Naylor indicated her support for TDRs and that many of her neighbors are interested in participating in the program. Ms. Naylor noted that she has concerns with certain elements of the legislation; however, she is anxious to see the program move forward because this is a needed tool in preserving agricultural land.

Charles Renninger commented that he would like to hear from the development community since they are part of the program. He suggested that it may be better to delay the legislation and tweak it as necessary so that it is right the first time it is enacted. Mr. Renninger suggested a little more time to look at it more closely and discuss the details.

Stephanie DeVille-Eugene commented that the business side of her supports fixing any concerns/issues with the legislation; however, she remains concerned with helping the landowners and another long delay would not be helpful to them. Ms. Eugene expressed concern whether the recommendations provided from the additional review and discussions would truly be considered.

Laura Moore commented that if the percentage requirement for density/TDR purchases is not sufficient that it could be reviewed again in a year after the program has been in place.

Daniel Filippelli commented that he does not fully understand the provisions concerning the Receiving Area and what the response there will be.

William Moore indicated that most of the concerns have been addressed and asked what the Work Group would change if the legislation was held from moving forward at this time.

Chair Dernoga commented that the legislation and program are not, and will not, be perfect, but the question to ask is if it is perfect enough. He expressed concern that for the property owners, it is only going to get worse and by the time things are clarified and the program moves forward, there will be less demand. He suggested that the legislation could be presented as CB-1-2008 in the first week of December if approved by the Council leadership for inclusion on the agenda.

Observers in attendance:

Tom Farasy, representing the Maryland-National Capital Building Industry Association, posed a question concerning an applicant who may have already obtained a rezoning approval, but the Preliminary Plan is not approved as of November 1, 2007. Would TDRs be based on the zoning received in the rezoning application?

David Cahn noted several technical concerns and suggested that he would have a follow-up meeting with Chair Dernoga to discuss these concerns in more detail.

Edward Gibbs, of Gibbs and Haller, questioned the requirement to acquire TDRs at the time of Final Plat of Subdivision as provided in the table on page 14.

Raquel Hill commented that R-A zoned land has been de-valued by adoption of the County's Green Infrastructure Plan and questioned the equity of the TDR allocations in the table on page 9. In the O-S Zone, 2 TDRs are allocated per lot and in the R-A, R-E and R-R Zone, 1 TDR is allocated per lot. Ms. Hill stated that 5-acre lots do not sell for as much as 2-acre lots.

Judy Robinson commented that in order to make the TDR program fair to everyone, there should not be any exemptions to the program and the legislation needs to be tightened up in this area.

- 10 Year Water and Sewer Plan

Postponed

III. Outline for Final Report to the County Council

Chair Dernoga distributed a “draft” outline and requested that the members look over the draft and provide comments by email or at the next meeting.

- 4. Next Meeting:** October 31, 2007 at 3:00 p.m.
- 5. Adjourn:** The meeting was adjourned at 6:00 p.m.