

Public Comments on “Zoning Montgomery: Approach & Annotated Outline”

The following is an extensive sampling of the public comments we received on the “Zoning Montgomery: Approach & Annotated Outline” document. To facilitate the use of this document, comments have been organized into categories:

- General Comments
- Project Objectives
- Layout and Format
- Annotated Outline
 - Article 59-A. General Provisions
 - Article 59-B. Zoning Districts Established
 - Article 59-C. Use and Use Standards
 - Article 59-D. District Regulations
 - Article 59-E. General Development Standards
 - Article 59-F. Administration and Enforcement
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 - Buildings and Neighborhoods
 - Stormwater
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GENERAL COMMENTS

- The Zoning rewrite is a **rare opportunity** to improve the built environment in the County - the draft is an excellent start and worthy of our support.
- This is a fantastic approach & shows a lot of intensive/extensive thinking. Not everyone will be pleased but the **draft represents a good compromise on everything**. Excellent work.
- There is a marked blurring of the distinction between Master Plan requirements and zoning and design guidelines which I do not favor.
- The form based zoning approach, using pictures, graphs and templates is both misleading to the general public and too restrictive to the builder—**undermining private design decisions**. It curbs innovation and may be based on a misunderstanding of successful design in other areas of the built environment.
- Too much control is placed in the hands of the planners and zoning writers and too little in the private sector.
- Pleased to note that one of the Key Policy Issues arising from the Zoning Discovery process was the need for “designing for people.” As the primary tool for implementing Master Plan visions, we anticipate that the new zoning code will adhere to this principle.
- **Little meaningful opportunity for citizen input** into design as standard method projects’ base requirements are expanded (especially true in the CR Zones). Also, moving the design, amenity, and public use decisions from citizens/residents to professional (often non-resident) planners is not desirable.
- I see the “Approach” outline as a **very good start on the project of rewriting our unwieldy zoning ordinance**, and I heartily endorse the goal of creating a zoning ordinance which, together with the applicable master

plan, will tell a property owner and other interested parties what can or cannot be built on a given site with a high degree of certainty.

- There are **many unanswered questions** as to how this new paradigm for zoning would handle the many highly specific, unusual, site specific parcels that are highly unique, and not susceptible to a cookie cutter template.
- I just looked over the Montgomery planning website and wish to say I am very impressed with the work being done. I am a design professional with an architectural background who became a Maryland resident 3 years ago. I like the quality of the planned built environment and **appreciate your efforts to make the zoning requirements easy to understand**.
- The document places excessive reliance on Reducing Our Footprint and Zoning Discovery documents. Both are 'inside baseball' staff-generated documents with no official acceptance of the ideas contained within and a great deal of citizen skepticism and reaction bordering on hostility.
- The best way to evaluate the code is to test it with buildings/development we like to see if they would be permitted, and with buildings/development we don't like to see if they would be prevented.
- The concept of revising zoning code to permit **higher density near transit is great**. The following additions would be helpful
 - Legislate "vehicle free zones" similar to "no smoking zones" at transit centers. In these areas provide housing ownership or rental incentives or make eligibility for housing at or near transit centers conditional on residents not owning a vehicle. In other words, **provide incentives to have people get rid of their cars**.
 - Use TDRs or similar concept to increase density at transit centers. Provide density in relation to distance from transit centers and not zone e.g. higher density at the center than ¼ mile away etc.
 - Use building design to complement building height in determining FAR at transit centers i.e. building design should trump building height
- Include reduction of SOV use as a component of **reducing VMT**.
- **Increase the efficiency of transit** (especially bus service); RideOn and Metro buses are currently run apparently with little regard to scheduling, which discourages ridership.
- (Walkable communities) In winter require businesses to clear sidewalks, bus shelters, and wheelchair ramps in road ROWs fronting the business, to promote truly walkable communities in all weather.
- In **considering appropriate density**, should we identify zones in which there is a minimum lot size of 2 acres?
- How and where do we accommodate manufactured housing?
- Text amendments should not be in conflict with Master Plans and should apply to more than one specific property.
- An important area that needs definition is that of a church. Perhaps the code should distinguish between a church and church complex or provide some size parameters for the zones in which churches are allowed.
- Clustering is also a term that needs precise definition. When one thinks of clustering in the agricultural reserve, one is certainly not thinking of town houses.

PROJECT OBJECTIVES

- I generally agree with the concepts put forth in the zoning code rewrite. I feel the basic premise for future county development of **replacing greenfield development with in-fill development is realistic**. The old concept of development of M.C. on the basis of the wedges and corridor concept may still have some smaller consideration.

- **The County is not built out** - every acre is organized now for some use - the new code is about organizing renewed use throughout the County. Misstating this fact is unhelpful.
- Item #7 there is this..."In a vibrant, mixed use area, buildings are pulled up to the street, ground-floor windows are transparent, parking is structured or to the rear of the buildings, sidewalks are wide and streets are narrow." I am puzzled by the part stating buildings are pulled up to the street and wide sidewalks. **How are buildings pulled up to the street and there are to be wide sidewalks?** The Bethesda Row area appears to a successful model for streetscape development.
- Part 7, Match Land Use and Development Patterns: The last paragraph of this section discusses the importance of building form, noting that land use is not ignored, but "more loosely regulated." It seems to me that more regulation of uses is needed outside our urban centers, where tolerance for mixed uses is much lower than in urban areas. In an urban environment, residents should reasonably expect business uses in close proximity to residential ones, often in the same building. In neighborhoods where single-family detached homes predominate, many residents would be dismayed by zoning that permits commercial uses, regardless of whether they are housed in residential-style buildings, because of the risk of bringing intrusive levels of traffic, noise and activity to otherwise quiet residential neighborhoods. **The zoning approach needs to acknowledge and respect the varying needs of our urban, suburban and rural areas.**
- "Changing residential growth from greenfields to infill"...is not something the zoning ordinance can do...the zoning ordinance can "better accommodate infill development".
- "Focus on accommodating the right growth in the right place" is a master plan issue.
- "Improving the quality of development" is ok...if it does not increase **cost of housing** on the lower end of the market.
- What happened to implementing master plans as a goal? The plans form the vision of guiding growth... How about "concise, precise, and decisive" as a goal for the re-write?
- **Zoning** is a negative power...it **cannot "direct growth"**...it can prohibit unwanted growth. The market determines if density is used.
- I like the idea of "compatibility determined by standards and typology"
- "...only 4% of county land is available for new development." Absurd - **every parking lot is available for new development.**
- "Complex, one-of-a-kind zoning districts" - true, except that part of the plan will be to codify special characteristics of planning areas.
- 'Compatibility' is a trap - in a postwar, production formed suburb with large areas of virtually identical houses, **compatibility too often means identity.** The County's huge single use zones need to be enriched by retail, commercial and mixed housing uses - such improvements are unlikely to be seen as compatible with the existing 'monocultures'.
- "Projects that emulate the County's vision..." **Emulation implies inability to comply**, perhaps too harsh a test.
- Building types - **I'm not sure zoning should attempt to regulate types.** Form, and within limits, and use, but many types may be possible within a given envelope.
- Optional methods - making default building forms for low-performing developers or attention-seeking architects is likely an appropriate objective, but, despite its extortionate techniques, the Optional Method does exact public purpose - art, affordable housing, open space (this frequently misguided) are all reasonable incentivized exactions which shouldn't be lost.
- Consolidating use tables and plain language are both excellent objectives.

LAYOUT AND FORMAT

- We would like to see the Code written in **clear language** that can be understood by the general public; **visuals** that better explain the language of the Code; zones that are good conservators of the environment and codes that provide a framework for a future that is environmentally sound.
- All excellent - no objection from me.

ANNOTATED OUTLINE

ARTICLE 59-A. GENERAL PROVISIONS

- Transitional Provisions: Use caution in addressing how existing approvals are affected by the adoption of a new zoning code. Maryland case law sets up a very tough test for vesting; a landowner does not obtain a vested right to build an approved development until construction has actually begun. *See, e.g., County Council of Prince George's County v. Offen*, 334 Md. 499, 639 A.2d 1070 (1994).

ARTICLE 59-B. ZONING DISTRICTS ESTABLISHED

- District Intent Statements - Is the Master Plan driving each statement, or are the statements presented to help modify the Master Plan?
- District Intent Statements: The drafters should be aware that under Maryland case law, whether a zone has an intent or purpose clause can be indicators of whether it is considered a floating zone. The **drafting will have to be very clear** if the intent is to establish a Euclidian zone that has an intent clause.

ARTICLE 59-C. USE AND USE STANDARDS

- To simplify through the use of categories requires care. For example, in the category accessory structure/dwelling unit it may be desirable to distinguish between a tenant house in an agricultural area and an apartment above a garage in a residential area or between an in-law apartment and a rooming house.
- Single Consolidated use table - outstanding idea!
- Streamline Special Exception use standards - redundant - if a proposal requires special constraints, they could be included as a development agreement - **don't codify with the false look of general applicability.**
- Accessory Use Standards – **Accessory Dwelling Unit's should have been made a matter of right** some time ago as recommended by the Executive Affordable Housing Task Force in 2007.
- Allowed Use Table: I strongly recommend **ceasing the use of the term "special exception."** It is misleading to the public, who often assume that the name means it is an "exception" to the Zoning Code that is rarely given and requires some special justification. The term "conditional use" expresses much more clearly the real status of such uses. Instead of making some conditional uses and some special exceptions, I would suggest two levels of conditional uses, one requiring a public hearing and one not.
- If proof of residency is to be required, consider specifying what forms of proof? are acceptable. It will speed the processing and deciding of cases if some forms of proof are considered definitive, while still leaving the door open for other forms of proof in individual cases.

ARTICLE 59-D. DISTRICT REGULATIONS

- **Mixed Use Districts** – “allow-by-right development” to full densities with set requirements **needs to be narrowly** enough **defined** so that unique areas aren’t lumped with other areas. Unique areas may continue to need to meet special exceptions standards. How is that incorporated?
- RE2C is unlisted...it should be with RLD20, by its lot size (it requires public sewer)
- RLD6...has a lot of attached housing in it...description says detached.
- RT zones...combine and have overlays like TDR...but R30 is a garden apartment zone not townhouse
- **CR**...the zone adopted by Council can only be applied by the recommendation of a master plan....**use a new name AND do something different**...as little or as much as you think appropriate... such as...more as of right density if built to form code or increased standards...less discretion...whatever; You may then need to allow currently CR zoned properties to move into the newly named zone...you will
- Grouping of zones:
 - C1 is an isolated zone for 7-11 stores...there may be resistance to intensifying these areas
 - CT is a transitional zone...this may require different treatment than being in a general mixed-use zone
 - OM is rarely applied as a campus zone...it may be better in the mixed use category
 - LSC...Economic development wants this as a unique zone for its marketing even though it looks like other zones...
- Lumping the TMX-2 zone which has a modest BLT requirement with the CR zone with its crippled/inconsistent BLT requirement would **need to fix BLT equivalence**. How could an overlay help this situation?
- In regulating building in the agricultural reserve, it would be desirable to **have some rural design criteria such as preserving rural vistas**.
- Since there is only one TDR sending area an overlay for it is not needed.
- It is not clear what “calculating TDR under various scenarios” means. Do you propose to change the standard equivalence?
- These regulations could change from place to place to re-enforce a sense of a particular place, but should not vary for any other reason.
- Measurements - **measuring house height in the County is a catastrophe** since the mansionization foolishness, Cellar/Basement and areas under the roof are intolerably complex. Further, the definition of addition/new house is such that all the regulations governing new construction can be triggered by a relatively small addition. All this needs to be simplified.
- Building Types I'm generally in favor, but the modernist in me smells a prohibition against new types which would be inappropriate. As long as building envelopes are described, **I'm not sure types need to be codified**.
- Agricultural Districts Simplification is good, but **one thing contemporary zones don't do well is encourage rural villages** which can grow some of the existing great villages in the County or enable new ones. This means small areas of higher density in the Ag Preserve - seemingly outrageous. Except that the English countryside is peppered with such settlements which work well.
- Overlay Districts - It's true that, if base districts contained appropriate controls, overlays might not be necessary, but, in a County as large as ours, places vary, and **overlays permit specialized, place-based standards**.
- The Rock Creek SPA is not logically defined. It covers the upper drainage area of the Rock Creek Main stem. However, it only covers the upper drainage area on the west side of the North Branch of Rock Creek because it was designated as part of a master plan that did not include the east side of the North Branch. The zoning

code changes would be a good time to either add the east side of the North Branch to the overlay zone (and SPA) or pull the North Branch out of it.

- Agricultural Districts: I **recommend against** the option identified in the last sentence of D.4.1., **allowing more intense agricultural activity in all agricultural districts as a special exception** (or as a conditional use), given how difficult it is to deny a special exception or conditional use under Maryland case law. The rare times that a special exception is denied and appealed, the denial has often been overturned by a court on grounds that the use should be permitted with conditions that limit potential adverse effects.
- Residential Districts: I see no use limitations discussed in this section. I **believe it is important to limit non-residential uses in suburban or rural residential neighborhoods**, to protect a level of peace and quiet that residents consider their reasonable expectation.
- Residential Compatibility: The **implications of prohibiting garages along the front façade** of a house should be carefully considered, as they **may lead to significant amounts of additional paving**.
- Mixed Campus Districts: Consider making a mixed campus zone available to hospitals. They typically include physicians' offices as well as the hospital itself, and they are large, intrusive facilities that benefit from a campus-like setting. **A mixed campus zone would be an ideal candidate for a floating zone**, should the concept of floating zones survive in the new zoning ordinance. It would allow a landowner to identify a tract that would work well from a market perspective and request the appropriate zone, rather than relying on the County's planners to anticipate the right number and size of tracts for such a zone in each master plan area.
- With regard to **affordable housing**:
 - Requirements for low and moderate income housing should be incorporated into all residential and mixed use zones as well as increased density consistent with smart growth to make provision for workforce housing.
 - Single room occupancy housing should be encouraged as well as the use of scattered sites for mobile home housing and encouragement of well designed parks for mobile homes.
- With regard to preservation of agricultural land:
 - **Preservation of productive farmland should be a primary consideration** in the Agricultural Reserve.
 - Transferable development rights and building lot termination easements should be accommodated where density increase is granted in residential, mixed use, commercial, office and industrial zones.
 - Activities and events in agricultural zones that stimulate a need for commercial or industrial development should be restricted.
- ...supports the report's proposal to **increase residential density and diversity**, including:
 - Requiring appropriate density in order to support neighborhood-scale commercial uses as well as transit;
 - Requiring a greater diversity of lot sizes and housing types within residential zones; and
 - Permitting houses greater than 5,000 square feet to be re-used as senior housing, duplexes, or triplexes without being subjected to Resubdivision Criteria.
- Housing developments that include **MPDUs should be encouraged to include market-rate units of the same housing type as the MPDUs**....MPDUs must be spread proportionately between single-family and multi-family units in subdivisions that include both of these types of units, and that the Zoning Ordinance encourages MPDUs to be spread through a development.
- The Zoning Ordinance should discourage two-over-two piggyback townhouses.
- Density and height limits in master and sector plans should be allowed to be exceeded (within zoning density and height limits) as a matter of right in all zones that require MPDUs, in order to ensure that

applicants can take advantage of the provisions of Chapter 25A that allow bonus density in return for providing additional MPDUs.

- Recommend an overall review of language in the Zoning Ordinance concerning MPDUs to **ensure that the requirements are clear and consistent with Chapter 25A of the County Code.**
- MPDU Optional Development Standards: The Zoning Ordinance should clarify that use of these standards requires that the applicant utilize MPDU bonus density, unless doing so is not possible due to environmental constraints. Also recommend that the zoning ordinance include additional incentives for utilizing MPDU bonus density, such as allowing smaller market-rate lots than currently permitted when additional MPDUs are provided.
- When certain lots are held back from development due to impervious surface caps, school reservations, etc., these lots should include no more than a proportional number of MPDUs, in order to ensure that the MPDU requirement is met if these lots cannot be developed.
- The Zoning Ordinance should provide examples of how to calculate the required number of MPDUs, MPDU bonus density, and Workforce Housing units. These examples should also clarify the relationship of TDRs to MPDUs and Workforce Housing units.

ARTICLE 59-E. GENERAL DEVELOPMENT STANDARDS

- Bicycle parking – Since security is a primary reason people may not bike and park in urban areas, can provisions be written into the code? Bike parking in easily accessed, well lit spaces, etc.
- **I hope the maximum parking is greatly pared down in our urban areas** similar to what is suggested. Looking at the parking plans put forth by Lee development for its office project adjoining the music hall is exactly what we need to be sure and prohibit.
- Landscaping maintenance – How will enforcement be built in?
- Signs – Can public and private signs be better coordinated so that they agree, don't block each other, and are more aesthetically pleasing?
- **Streetscapes** (in terms of ROW design) **are a ROAD CODE issue** not zoning,
- What is a resource protection issue in zoning?
- Parking and Loading: **absolutely correct about flexibility in parking regulations** - the vast lots in strip centers are ample illustration.
- The rest of this section fogs my mind - we need to regulate these issues in some way, I'm sure. I see Buffers and Screening - a relic of the old zoning by separation. Replace with landscape standards - no fig leaves.
- Streetscapes – This is not ESD to the MEP. I don't think that moving the street trees to private property so there can be more pavement meets the spirit of the new road code either.
- Resource Protection – This section should also **address retaining walls near the streams.** Building a 20' high retaining wall to separate the development from the stream valley and make the lots flatter has impacts to the stream valley. Moving the walls back 25' does not mean anything. The section should cover **incorporating natural land elevations into the building design.**
- Parking and Loading: The question of **how much parking is needed should be considered carefully**, looking at the context of the type of area and the type of use. In urban areas with good transit access, parking needs can be set lower than in suburban areas without good transit access... the current parking requirements in our Zoning Ordinance are not enough for multi-family and townhouse developments... a case in the last two or three years in which a multi-family residence for seniors was given a waiver to permit a very large reduction in the number of parking spaces required, with the result that once it was occupied, residents found they could not go out in their cars for fear of not finding a parking space on their return. It was not an example of a successful parking strategy. Use also matters. An office user can tell employees that they do not get a parking space and must use public transit. Dramatically reducing parking

requirements for stores and restaurants in our urban centers, in contrast, would be a strong disincentive for those who live farther than walking distance from those centers – most of the County’s residents – to patronize those stores and restaurants. It is vital to the success of our new urban centers that the customer base include people who don’t live within what they consider walking distance.

- On-site afforestation requirements should be maintained.
- Support the report’s proposals to reduce parking requirements.... However...the parking requirement for multi-family MPDUs in certain zones is already lower than the parking requirement for market-rate units in these zones...recommends that the parking requirement for MPDUs in these zones not be further reduced in proportion to the parking requirement for market-rate units.

ARTICLE 59-F. ADMINISTRATION AND ENFORCEMENT

- About the rewrite, on non-conforming structures and uses is how the proposal to gradually eliminate them would be proposed etc. We have a list of many nonconforming uses in Permitting Services that continue in use not to mention the ‘phase back program’ in Takoma Park
- Would like to suggest revised language for the findings necessary in what are now **special exception cases**, and **I hope will one day be called conditional uses**. Currently, the general standards for all special exceptions require the decision-maker to make several compatibility findings that are stated in absolute terms....
- Reviewing Bodies – Clear, concise description of duties and responsibilities of each body and at what point they come into the process is helpful for the public. Who has authority over what body?
- Concept Plans – If the public can give early input (even if only written) it may **speed up the entire project approval process**.
- Change *Planning Director* to *MNCPDC--Montgomery County Planning Department*.
- Description of Planning Board authority is incorrect as written
- Change *District Council* to *Montgomery County Council sitting as the District Council*. The description of its authority is incorrect as written.
- A reminder that the **Concept Plan is needed not just for staff guidance but for public/citizen input** as well. Also note that its elements must be adhered to at site plan as well.
- The **Planning Director should not have the authority to grant any variances**.
- It **MUST have an amendment process** for the text and zoning maps
- Is it really desirable to include duties of many administrative departments in the zoning code? Would a cross-reference not be sufficient?
- Concept Plans; Consolidated Plan - appears similar to DC which works well and allows staging which is increasingly critical.
- Concept Plans: **I am concerned to see that the elements** to be addressed in the new first-step plan **do not include compatibility**, either of uses or of structures. If staff is to make commitments to a proposal at this stage, their review should include compatibility concerns.
- Special exception uses should be specifically defined and appropriate to the zone in which they are allowed.
- Sufficient land should be available for any permitted use in a zone.
- Standards and licensing should be used as much as possible to eliminate special exceptions.
- Add DHCA to the proposed list of Review Bodies in the Zoning Ordinance.
- Remove the MPDU requirement for Life Care (Continuing Care) Facilities, as the MPDU program does not work well for this type of facility.

Miscellaneous Comments

- The Sustainability Audit section provides the basis for many of the changes in the code and should be emphasized as the rewrite project is presented to the public.
- Allow green roofs, onsite energy generation, and community gardens as a means of meeting FCP requirements in infill development.
- The Sustainability Audit is a **mixed bag of recommendations** (as noted in the audit table). As note, some items are building code issues (operable windows, energy use, plumbing standards, reflective materials, window shading, use of recycled or local materials, LEED standards) Some issues are stormwater management (not zoning). Some issues are subdivision (block size minimum) density would be a constitutional issue.
- Lighting and landscaping can be in the zoning ordinance. Solar access would be zoning. Parking is clearly zoning. Allowing farmers markets and home occupations is zoning. There impervious surface limits in some overlay zones.
- **I would advise against expanding the zoning ordinance rewrite to rewriting the code for subdivision, building permit, stormwater management and the public roads.** Writing an environmentally sensitive zoning ordinance would be ambitious enough and within the scope of your project. (Just because you have a hammer in your hand, it does not mean that everything is a nail.)
- **I am a bit concerned at the characterization re: rebates** -- basically this document does not make it clear that different techniques have different levels of support. \$ Values are split into SF, Other and Targeted - \$1200, \$5000 and \$2200 respectively. This is a particularly noticeable discrepancy on the tree page (23) where we actually award up to \$600/lot (any kind of lot) but it states \$1200/SF, \$5000 for other and \$2200 for targeted areas. Specific information is available at www.rainscapes.org
 - They reference “allow rain gardens/ Swales to the back of the curb”. This is misleading since they do not clarify that the rebates are not given for ROW areas.
 - The form indicates a metric of 1800 street trees from the county/ year but what about when the budget prevents that from occurring?
 - Limit shading of Southern yards in small lot areas – this is a solar provision and it places tree canopy and solar power in direct competition/ conflict. I would recommend that canopy trees be excluded (i.e. building can’s shade a yard but trees could
- Page 71: Private Open Spaces: Recommended Changes: 1st sentence: I think we need to redefine “green space” to separate the current conflation of public use space and vegetation. **Clear requirements for amount of vegetated open space should be established**

Buildings and Neighborhoods

- The key themes of appropriate density, walkability, and housing diversity resonate well with DHHS. These concepts are interrelated from a “designing for people” perspective. Particularly as it relates to walkability, we are concerned that the needs of the “lowest common denominator” in the form of mobility-challenged persons (due to age and/or disability) be routinely considered in walkability enhancement requirements and prohibitions.
- What about using water efficient landscaping (natives)?
 - Might we including something from or about the **Sustainable Sites Initiative program**? Again, most is covered but a few items not in the zoning audit are.
 - The use of non-invasive plant species
 - Design rainwater/stormwater features to provide a landscape amenity

- Minimize soil disturbance in design and construction
- Promote the use of sealants, paints, and coatings with reduced VOC's (not sure if this can be applied)
- Provide views of vegetation and quiet outdoor spaces for mental restoration
- Recommend careful consideration before imposing a requirement on developers of commercial projects to set aside a certain percentage of retail space for local businesses. Prefer an incentive-based, voluntary program to accomplish this goal.
- Concerned about the impact of the passive solar requirement on the cost of housing, and recommend that any requirement of this nature be studied further before implementation.

Stormwater

- Focus on assuring that proposed zoning code changes **do not create barriers to implementing environmental site design (ESD) stormwater management** features and do not result in increasing the amount of stormwater retrofit that the County must install in order to meet its Stormwater Permit requirements.
- While the requirements for on-site SWM will be difficult in urban areas, they need to be met. ESD to the MEP is a State Law and supersedes the zoning code. Over the course of several NPDES permit cycles, we will need to provide SWM for all impervious surfaces in the County. If waivers are granted, DEP will have to come back to these areas and retrofit them with SWM. It is better to plan space in the zoning process for on-site SWM now. If the development is granted a waiver, where will we put the SWM controls? In in-stream regional ponds in the park system?
- The NPDES implementation and TMDL implementation plans will be the watershed plans called for in this section. I would expect the TMDL plans to call for on-site SWM at all new development and redevelopment. Otherwise, we are adding pollutants in new development areas as we are trying to reduce them in old development areas.
- I assume that “district SWM system” means regional pond or regional underground storage tanks, etc. District SWM systems are not ESD to the MEP. ESD needs to be incorporated into the development design.
- On page 71 where it discusses open space - **What about utilizing green roofs for passive recreation** and require ADA access and recreational features such as playground equipment, picnic tables, benches, etc.
- Limit Cul-de-Sacs – I agree with limiting cul-de-sacs, because they increase impervious surfaces compared to thru streets. But if they are limited to 250 LF it will increase impervious surfaces even more because it will reduce the number of houses on a cul-de-sac street (2 lots on each side plus the 3 – 5 in the cul-de-sac) thus increasing the amount of road impervious per lot.
- Manage SWM volume before it reaches the stream – They are pushing waivers. This is not ESD to the MEP.
- Infiltration – ESD requires getting water back into the ground. Limiting infiltration because it could reduce density is not ESD to the MEP.
- District SWM Systems – This is regional ponds and not ESD to the MEP.
- Limit retaining walls –This is needed. Clarksburg has far too many retaining walls along the stream valleys.
- District SWM Systems – This is not ESD to the MEP. In rural and suburban areas
- **ESD has the greatest ease of implementation.**
- Rain Gardens Swales – These need to consider ADA requirements for areas adjacent to sidewalks. Hopefully some of the standard LID devices that we are developing for closed section roads can be utilized for these situations.
- **Permeable Pavement – Should be required for Alleys** but will need to be designed to handle the weight of garbage trucks. (Alleys add to impervious surfaces because it results in a big road in front of the house and a

small road behind the house. We should probably recommend not using alleys in residential single family and townhouse zones.)

- Street Trees – Add **encourage the use of required street trees in Environmental Site Design / Low-Impact Development Storm Water Management** practices.
- Page 75: Stormwater: Top Row: The mapping should not be for a waiver, but instead for consideration of a more limited number of practices that would apply to urban areas.
- PAGE 75-79: Stormwater: This should be coordinated with the revisions to Chapter 19 and the stormwater management regulations.
- Page 76: Stormwater: Top Row: Recommended Changes: 1st sentence: **Not sure we should “prohibit single use stormwater facilities”** because ESD to the MEP in some situations may still not leave much choice. We probably need different language here such as “Use multiple-use stormwater facilities to the maximum extent practicable.” Again, DPS will probably have opinions here.
- Page 78: Stormwater: Greywater Systems: I’m not sure this belongs in the Stormwater section. I’m not sure how they are defining greywater. Maybe they are including roof runoff with dishwasher, etc. If so, they need to be separated because they are not the same thing and involve different levels of health and technical issues.
- Page 78: Add the words **Limit or mitigate impervious areas**. Pervious paving mitigates imperviousness, but does not decrease impervious area. Move the permeable pavement section as second after parking lot pavement.
- Page 79: **Stormwater**: Row 2: Recommended Changes: **“Green Area” should be redefined**.

Food Production

- Livestock – Considering that we are trying to address bacteria TMDL’s, **I don’t think that we should be encouraging livestock operations on small lots**. In addition to the zoning requirements, many deed covenants prohibit livestock and / or fowl (my deed prohibits me from raising fowl on my property). Lots smaller than RE-2 are too small to raise livestock. The number of animals allowed on an RE-2 lot should also be limited. Overgrazing results in soil erosion and sediment to receiving streams. Livestock require shelter so having a barn or a chicken house on every lot adds impervious area. Also, you need to have a good system for manure management.
- Farmers Markets – **I agree that there is a need for farmers markets in the urban areas**. They should be treated like grocery stores and consignment shops. Without good markets for the agricultural products grown in the Ag Reserve, the farmers will not be able to succeed financially and will be forced subdivide into smaller farmettes for pet horses and mansions.
- The DHHS shares the emphasis found in the report on allowances for community gardens and farmers’ markets. **The importance to health of having access to fresh food cannot be overstated**. In recent months, we have been educating ourselves on the ways in which decisions about land use and the built environment affect people’s well-being. We are sharing our knowledge of these determinants of health with Montgomery Planning Vision Division leadership, and are learning how we can best contribute to and collaborate on local planning activities.
- The statement on the document regarding existing code for food licenses leads us to believe **the author is not familiar with L&R licensing and fees or is working from outdated information**. Farmers who produce and sell their raw, uncut fresh vegetables and produce from a stand on their farm, at a farmers market in the county or from a mobile unit are not required to pay a fee or to be licensed.
- Maryland State Food Service Regulations COMAR 10.15.03 requires that vendors selling potentially hazardous foods, e.g., meats, cheese, milk and cut melons, comply with the requirements of the regulation.

Licensure and Regulatory Services are required to inspect these vendors during the season. The license fee for these vendors is \$50 annually.

- DHHS' Licensure and Regulatory Services has had a strong working partnership with the Montgomery County Farmers Market Association for the last two years and has eliminated the fee for selling fresh, uncut produce, simplified regulations, and assists market organizers and vendors with the application process and compliance. The recommended changes have been implemented now for two years.
- Livestock – Raising livestock on lots < 2 acres is a bad idea.
- Provide incentives for building designs that **promote or accommodate food production by residents.**

Parking

- There are a number of older areas in the County (Glen Echo Heights, e.g.) with relatively narrow streets and grassed rights-of-way. Current zoning prohibits designation of on-street parking. However, property-owners over the years have converted grassed areas in the rights-of-way to **graveled pull-outs that facilitate parking.** We have approached DOT about using ESD approaches for these parking pads but because there is no official recognition of their existence, we cannot retrofit them. **We recommend recognizing their existence and requiring maintenance or installation in a fashion that promotes runoff management** rather than just promotes runoff.

Tree Canopy

- Healthy Trees: page 61. Great section with lots of good ways to get tree plantings. Yet tree plantings in urban areas were recommended for medians, parkways, and islands. There was no mention of planting trees in bioretention areas for urban/rural areas.
- Add a new (c) **that encourages the use of appropriate tree species and provides realistic environments to ensure their long-term survival.** For example, require an area to match the critical root zone at maturity for each canopy tree planted or retained in infill development i.e. retain minimum 1/10-acre open space for a 10" Tulip-poplar to meet the tree's CRZ requirements when it reaches 30" diameter.
- In urban settings, **increasing the volume of underground soil can provide adequate root space** when surface square footage is limited. (b) should include the use of covered underground soil cells and constructed root paths.
- Provide incentives to encourage linking urban open space with greenways, stream valleys, parks and other **green infrastructure.**
- We would **love to see a tree ordinance or something addressing urban trees or the urban forest** addressed in anything related to zoning revisions. With the demand increasing for infill development and redevelopment in Montgomery County, I think this is a niche that needs to be addressed once and for all.
- **Tree planting also needs a deer management program;** we live on a property with a forest & have watched the deer denude all the undergrowth as well as pull down tree branches to eat the leaves & when they are really hungry to strip & eat bark. Doing tree replacement as the older trees die is futile under such conditions.
- Page 83: **Recommend adoption of a tree ordinance separate from forest conservation law.** The tree ordinance should protect individual trees or require replacement of trees where loss is unavoidable.
- Page 85: Tree Canopy and Heat Island: Healthy Trees: Recommended Changes: 1st Sentence: Delete "with impervious or semi-pervious materials", add "and underground structures" to structural soil. Second sentence: Add "or soil volume" after width.

Water Reuse and Irrigation, Energy, and Waste Reduction

- Because of the issues surrounding greywater and stormwater reuse in the County, this should be addressed in the Comprehensive Water and Sewer Plan.
- What about allowing solar panels on historic buildings? This should be allowed when approved by the Historic Preservation Board.
- This section mentions adding recycling centers and recycling construction waste. Can we include an allowance for compost collection? (Like San Francisco's neighborhood composting collection program)