



Howard County Council
Public Engagement in Land Use Task Force

George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043-4392

May 5, 2008

The Honorable Courtney Watson
County Council Chairperson
Howard County Council
George Howard Building
3430 Courthouse Drive
Ellicott City, Maryland 21043

Dear Madam Chairperson,

As you are aware, the Howard County Council formed the Public Engagement in Land Use Planning Task Force in January 2008 for the expressed purposes of studying and making recommendations for the improvement of opportunities for public engagement in the land use planning processes of Howard County. Over the last four months, the Task Force has extensively studied the land use planning processes in Howard County and is now pleased to present its report and recommendations on how to improve opportunities for public engagement in the land use planning processes.

As the work of the Task Force progressed, an overwhelming theme emerged. That theme relates to the public's need and desire to have increased information about land use proposals in Howard County. This desire for information relates not just to the quantity of information, but also to the quality of information which is provided to the public. Additionally, the Public needs and desires to have information to be made available on a timely basis much earlier in the planning process.

The Task Force wishes to thank each of the members of the Howard County Council for this opportunity to study and make recommendations on this very important matter of public interest. The task force would also like to thank the Departments of Planning and Zoning and Public Works, specifically Marsha McLaughlin, Jim Irvin, Kimberley Flowers, Bob Lalush, Cindy Hamilton, Mina Hilsanrath and Planning Board members Ramsey Alexander, Jr. and David Grabowski, for the education, insight and support they provided to the Task Force. In addition, the members of the Task Force would like to offer a special thanks to Theodore Wimberly, Stephanie Scott, and Eileen Powers, Esq. for the information, assistance and support they provided to the Task Force over its life span. Without their hard work and dedication, the Task Force would not have been able to accomplish the important tasks assigned to it. Finally, the members of the Task Force would like to extend their gratitude and a special acknowledgement of appreciation to the many members of the public who contributed their experiences and insight to the Task Force through testimony and in writing. The public's comments, suggestions, and recommendations were truly invaluable to the Task Force's understanding of the issues and challenges faced by the citizens of Howard County.

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The Task Force and its members remain available to you in the event you or members of the County Council have questions about the report. On behalf of the Task Force, we submit the attached report as our final report of the Task Force on Public Engagement in the Land Use Planning Process.

Yours respectfully,

William Erskine, Esq.

James P. Howard II

cc. Council Members
Sheila Tolliver

**PELU TASK FORCE
FINAL REPORT**

INTRODUCTION

The Public Engagement in Land Use (PELU) Task Force was formed in response to concerns about how citizens could participate more effectively in land use processes in Howard County, Maryland. Task Force members who represented multiple stakeholder groups, including residents, community organizations and development groups, participated in a series of informational meetings, breakout groups, and a public forum, to gather new ideas and make suggestions for change.

The Task Force members heard presentations from the Department of Planning and Zoning (DPZ), the Department of Public Works (DPW), the Zoning Board, and the Planning Board about current land use processes and administrative procedures. The Task Force began by looking for both strengths and weaknesses in the existing system, in order to determine existing opportunities and potential limitations to participation. Audience members participated in most of the 12 Task Force meetings.

Over the course of several months it became apparent that there were gaps in the system, particularly concerning **communication issues**. There is a general sense of frustration with a complex and confusing development review process, a lack of adequate notification, and a need for information on zoning issues that is timely, accurate, and shared with all stakeholder groups.

More can and should be done with **public outreach**. There is a clear need to provide information in an easily accessible format to interested individuals and community organizations. In addition, there is a need for clear instructions on how to contact appropriate county departments and agencies, how to submit testimony, and where to get site-specific information. Proactive use of expanded broadcast media, including an interactive website, e-mail lists, web casts and “push technology,” is needed to enhance information flow and allow the public to follow cases.

The Task Force also found a need for consistency in **policies and procedures**, so citizens can give testimony in a timely fashion. For example, notification of zoning changes should be made with ample time for review and community response. The roles and responsibilities of various bodies in land use decision-making—County Council (Zoning Board), Planning Board, DPZ—need to be clarified and explained for the general public. All stakeholder groups will benefit from greater transparency.

The following recommendations address these areas of concern. Some focus on administrative changes; others may require legislation. All address the need for consistency, transparency, and fairness for all citizens, both individual and corporate, in Howard County.

BACKGROUND

In December 2007, the County Council passed Council Resolution 132-2007 which established the Public Engagement in Land Use Task Force (PELU). The task force was created to study the land use process and recommend ways to involve the public more broadly.

The Council established the task force following conversations with constituents and land use practitioners, who expressed an interest in expanding opportunities for public involvement in land use planning. Composed of residents and representatives of the development community, the task force is charged with the following specific tasks:

1. Examine current opportunities for public engagement in the land planning process;
2. Identify opportunities for clarifying and improving public participation; and
3. Recommend potential legislative and administrative actions for the Council to consider.

Members of the PELU Task Force:

Tom Balentine	Debbie Nix
Ada Louise Bohorfoush	Sang Oh
Patrick Crowe	Deb Poquette
Brian England	Susan Scheidt
William Erskine, Co-Chair	Ron Schimel
Judy Fisher-George	Tim Sosinski
James Howard, Co-Chair	Paul Skalny
Cathy Hudson	Andrew Stack
William Lewis	Katherine Taylor
Julia Mattis	Cathy Ward
Frank Mirabile	Shari Zaret
Bridget Mugane	

The majority of the Task Force recommendations were arrived at by consensus of the group following extensive discussion. Items that were debated at length, and where there was a difference of opinion, are listed separately under “Recommendations by Majority Vote.” Also included, on a separate list, are items pertaining to land use that came up in discussion but received less than a majority vote.

RECOMMENDATIONS BY CONSENSUS

A. Public Outreach:

1. Have a brochure on County website and at hearings, describing how to participate in the land use process:
 - a. Explain how to file a complaint or appeal, including common scenarios as examples.
 - b. Point out that complaints should be lodged before DPZ releases the developer's bond.
 - c. Include a summary of principles set forth in the General Plan.
 - d. Describe how to become an "interested party" for notification of actions on a specific development proposal, and how to contact DPZ staff for information on the proposal.
2. Develop and maintain a central list of concerned citizens, homeowners associations (HOAs), village boards and citizen organizations which have an interest in land use issues, for notification purposes. Update the list by sending out annual renewal notices:
 - a. Allow sign up for e-mail notification when a new development proposal is submitted within a certain radius of a given location (e.g., 1 mile, 5 mile, whole county).
 - b. Allow sign up for e-mail notification of proposed major land use legislation.

B. Communication:

1. Have a web page on the county website describing how citizens can get information from the government concerning land use matters; include links to relevant web pages for more detailed information.
2. Have all e-mail correspondence from citizens acknowledged electronically so that they know it was received.

C. Education:

1. Prepare a handbook for citizens on land use procedures, including how to participate.
2. Offer a non-credit course on land use processes at the Howard Community College (HCC).

D. Notices and DPZ Review:

1. Make sure signs on posted properties have an identifying number and a telephone number displayed:

- a. On the county website, include a search text box where people can enter the identifying number to include nature of proposal, name of developer and contact telephone number, and how residents can have input.
 - b. Have the same information available at the listed telephone number.
2. Ensure that signs of pre-submission meetings are placed on the site so as to be legible from street.
3. Send notices of pre-submission meetings to all adjacent residents, including those across the street, as well as local HOAs, community associations, village boards and individuals who have requested notice, in that area; DPZ is to maintain a list, by district, and to update it annually by e-mail notice to those listed.
4. If economically feasible, publish notices of land use meetings and hearings in the most widely-read newspapers including the Columbia Flier/Howard County Times, on the same page or place in the format as one of the first categories of items, in a visible box frame. Notices to be published on a consistent day.
5. Encourage DPZ to have a staff person walk the property.

E. County Website:

1. Have a central docket linked to the home page, listing hearing and meeting schedules for the Planning Board, Zoning Board, County Council and Hearing Authority, and including agendas, Technical Staff Reports, Agency Comments and any Administrative Explanations:
 - a. Ensure the Docket has at least one month lead time (except for continuances).
 - b. Post hearing and Planning Board "meeting" agenda items, including ZRAs, bills and other proposals, by the first of each month.
 - c. Have a plain-English summary posted on the website for each ZRA and Council bill.
 - d. Post Technical Staff Reports at least 14 days before any hearing or "meeting" and make it easily printable off the website; endeavor to provide a plain-English summary at the beginning, explaining the rationale and effects of the proposal, and listing the relevant staff person for inquiries, with e-mail address and telephone number. Attach or link Agency Comments to the Report.
 - e. Have as much case information and as many agency documents and decisions on the website as possible, including waiver applications.
2. Have simple rules for testifying outlined on the website, and available as a handout at hearings.
3. Have an option for signing up via e-mail to receive agendas via e-mail when they first come out.
4. Maximize use of website to keep public informed of zoning text and map amendments.

F. Meetings and Hearings:

1. Pre-Submission Community Meetings:
 - a. Have DPZ provide a facilitator upon request to explain procedures and to help resolve differences between the developer and the community.
 - b. At the meeting distribute a DPZ brochure describing how the public may follow the development proposal, noting that it is likely to undergo significant change, and that waivers may be required.
 - c. Create incentives for developers to work with the community: could include investigating possibilities of creative zoning to encourage collaboration as well as allowing transferable development rights, expedited processing, and site-specific incentives.
 - d. Publicize how residents can become an "interested party" to receive issuances concerning specific development applications, and how they can contact or meet with DPZ staff assigned to the application.
2. County Hearings (all):
 - a. For all County entities that hold hearings concerning land use and zoning, have procedures as uniform as possible. Outline the procedures and make them available on the website and as handouts at hearings, for non quasi-judicial (including Planning Board "meetings") and quasi-judicial hearings.
 - b. Allow e-mail sign up to testify in person (except for quasi-judicial hearings).
 - c. Allow e-mail testimony, for a specified period before and after the hearing or meeting, and have a link on the website to facilitate it (except for quasi-judicial hearings).
 - d. Allow new speakers to sign up if hearing is continued.
 - e. Allow organization representatives 5 minutes to speak; spell out any needed documentation if necessary, including how to authorize a substitute, making it as easy as possible. (Note: Includes Planning Board "meetings.")
 - f. For quasi-judicial hearings spell out how parties' representatives are to be selected if they are to represent a group.
 - g. Refund the developer's application fee if the Technical Staff Report is not issued and posted on the website at least 14 days prior to the hearing, or Planning Board meeting.
 - h. Record and broadcast (via TV or webcast) County Council and Planning Board hearings, meetings, and work sessions.
 - i. Establish criteria to define what constitutes a substantive amendment which requires an additional hearing. Issue notification of the new hearing to those who testified.
 - j. Allow the Zoning Counsel to present an opening argument (Zoning Board quasi-judicial hearings only).

G. Zoning Text Amendments:

1. Require the petitioner to post the individual property for which a text amendment is sought, and to mail notices to adjacent owners (including those across the street), as well as to any HOA or local community association.
2. Require that the Technical Staff Report identify all other properties in the County which would be affected by a text amendment.
3. A pre-submission community meeting should be held, with minutes listing residents' concerns, together with the developer's suggested possible solutions; these documents are to be made part of the application.
4. Require that the Planning Board hold meetings quarterly to consider zoning text amendments. Post the proposals on the website at least 30 days prior to a hearing.

H. Master Plan Areas:

1. In areas where a master plan is applicable, require every submittal to explain how its is in harmony with the master plan or why the master plan should be changed to allow the submittal to be approved.
2. In all decisions the Planning Board shall state the basis on which the submittal is determined to be in harmony with the master plan or alternatively, why a change is necessary in the public interest.

I. Appeals:

In cases where an appeal has been filed, promote mediation prior to a hearing.

J. General Plan Process:

1. In advance, educate the public in the process and opportunities for participation. Utilize the website, media, and brochures and include a flow chart of steps.
2. Retain the hearings and forums already designated on the General Plan Process flow chart. Consider shortening the process, with definitive start and end points for each stage, to keep the public engaged.
3. Initially hold area meetings for public input on General Plan Guidelines.
4. Have General Plan task force meetings open to public observation but not participation.
5. Consider "push technology" to deliver each draft of the General Plan Guidelines and chapters to individuals and organizations that sign up.
6. Consider "town hall" meetings for both General Plan Guidelines and the General Plan via GTV, web streaming and/or other technology.
 - a. Encourage the public to make comments orally at the meeting or by e-mail to a website blog page for public review.
 - b. Ask members of the Planning Board, DPZ, and County Council to "click the box" to send a return message indicating that the comment was read, and by whom.

7. Ensure that the County issue a General Plan monitoring report every two-three years as required, to update and mark progress.

K. Comprehensive Rezoning Process:

1. In advance, educate the public in the process and opportunities for participation. Utilize the website, media and brochures, and include a flow chart of the process.
2. Have an "open suggestion" season when County agencies, the public, County Council members, and property owners can suggest appropriate zoning categories for a particular piece of property.
 - a. Suggestions should include a statement explaining how this is consistent with the General Plan.
 - b. Suggestions would be catalogued by geographic area and made available to the public by various means, including "push technology," web posting, and/or interactive maps that highlight areas of change that impact specific districts.
3. Require that all properties or areas being considered for rezoning be posted on site and on the website.
4. Have the County notify property owners and adjacent property owners in writing of any suggestion for rezoning; describe how to participate in the process before the Planning Board and County Council.
5. Keep the current opportunities for public input as indicated on the Comprehensive Rezoning Process flow chart but change flowchart to read "County Council Amendments" after box for "County Council 1st Hearing," and before box for "County Council 2nd Hearing."
6. Have public comment to the Planning Board made at a "meeting" or to a web page/blog open to public review. Ask Board members to "click the box" to send a return message indicating that the comment was read and by whom.
7. Limit Planning Board recommendations to suggestions that the Board finds to be consistent with the General Plan.
8. Have County Council establish a cut-off date by which all amendments must be submitted prior to a final vote.
9. Allow at least 30 days between the cut-off date and the final vote, for public comment at a hearing or via e-mail to a website page open to the public. For e-mail comments ask Council members to "click the box" to send a return message indicating that the comment was read and by whom.

RECOMMENDATIONS BY MAJORITY VOTE

1. Encourage involvement of the public in formative stage of major land use legislation, either by a task force or committee, as well as by invitation to citizen organizations or individuals who sign a register. (17 for/1 opposed/0 abstentions)
2. Require the same due process procedures (notice, pre-submission meeting, hearing, etc.) and the same substantive standards such as the Adequate Public Facilities Ordinance (APFO), for government development proposals just as for private proposals. (15/1/2)
3. Review APFO to determine if local and downstream impact should be added as a criterion. (12/5/1)
4. Have County or its contractors do all traffic and environmental studies for development applications. (9/8/1)
5. Attach a box to on-site signs, with a DPZ handout describing the development process and how the public can participate. (10/6/2)
6. Require developer to hold an additional community meeting if number of units is increased in a development that includes residences. (11/7/0)
7. Establish a Design Advisory Panel (DAP) to review all development proposals in all districts:
 - a. Have the DAP consider aesthetics as well as the public interest and consistency with the General Plan and other guiding documents.
 - b. Ensure maximum public participation, to include 30-day notice of DAP reviews on the website and review of pre-submission community meeting minutes which would include citizens' concerns and proposed solutions. (9/7/2)

ITEMS RECEIVING LESS THAN A MAJORITY VOTE

While not recommended by the Task Force, it was decided to include the following items as matters of public concern expressed by some members:

1. Require pre-submission community meetings convened by the developer for all development proposals, including commercial/retail, and government projects, in all zoning districts. (7 for/10 opposed/1 abstention)
2. Discourage rezoning via ZRAs for individual parcels ("zoning text amendments"); rezoning should be in the Comprehensive Rezoning process whenever possible. (9/9/0)
3. Require that all zoning text amendments outside the Comprehensive Rezoning process be proposed by DPZ or a County Council member. (7/11/0)
4. Establish standards to be met by petitioners requesting any zoning text amendment. (4/12/2)
5. Support legislation that would allow the County Council to amend the County statute on standing for appealing land use decisions. (7/9/2)
6. If and when the state grants the County the authority to alter standing to appeal land use decisions, the County should grant standing to any County taxpayer. (6/10/2)
7. In quasi-judicial or court proceedings allow interrogatories directed to County technical staff involved in the Technical Staff Report. (1/17/0)
8. Have a People's Counsel as a party which represents the public interest in any type of land use issue in any forum. (3/13/2)

CONCLUSION

The Task Force sees public outreach, communication and education as the highest priorities. Its recommendations would strengthen public participation in land use processes in many practical ways, such as creation of brochures explaining how citizens can participate, maintenance of a list of concerned citizens and organizations for notification purposes, and development of a non-credit course on land-use processes.

The County website is viewed as a key resource that can provide more timely notification, explanations of public processes, and a wealth of substantive information. A central docket could list schedules of all public bodies that hold hearings, and be linked to their agendas. Legislative and administrative proposals would include plain-English summaries, and would be accompanied by explanations as well as relevant reports and agency comments.

The Task Force advocates incentives that could encourage developers and adjacent residents to collaborate more effectively, and it recommends voluntary mediation in appeals. The recommendations also include measures for better notification concerning proposed zoning changes and for establishing periods when proposals may be considered.

The opportunity to be heard is vital; the Task Force strongly recommends that the procedures for hearings before all County bodies be as consistent as possible and that they encourage public participation. The General Plan process was considered good but it could be shortened, and communication with the public could be enhanced by electronic methods for sending out drafts, and for public dialogue. Some recommendations which involved substantial discussion, deal with matters that may require future attention. These include possible revisions to the Adequate Public Facilities Ordinance (APFO) regarding the impact of development on downstream traffic, as well as the possibility of having the county or its contractors conduct traffic and environmental impact studies for development proposals.

The Task Force believes its recommendations will help create new opportunities for effective public participation in land use processes. We respectfully submit these recommendations to the County Council for legislation as needed, or referral to agencies and officials, and ask that a method be devised for agencies to report on the status of implementation.