

AGRICULTURAL PRESERVATION WORK GROUP MEETING MINUTES

June 18, 2008

1. Attendance: Thomas Dernoga, Marilyn Bland, William Moore, Torben Agesen, Richard Krueger, Charles Renninger, Debra Naylor, Boyd Campbell, Stephanie DeVile-Eugene, Daniel Filippelli, Laura Moore, Harry Ketts

2. Meeting Agenda:

I. Approval of Minutes (May 14th)

Minutes approved.

II. Discussion/Questions and Answers

- **TDRs – Tom Farasy and Larry Taub (*Presentation of Building Industry Assn (BIA) Proposed TDR Legislation*)**

Representatives of the Maryland National Capital Building Industry Association (BIA) were present to provide an overview of their draft TDR legislation. Tom Farasy, Vice President/Prince George's County and Chairman of the Prince George's Liaison Committee informed the work group of three documents submitted for review: a June 16, 2008 letter to Council Chairman Dean from Mr. Farasy regarding the BIA's draft legislation, the draft bill, and a summary of the draft. The letter stated: "As you know, the industry has expressed grave concerns about the current draft, even though Mr. Dernoga had attempted to provide some provisions suggested by us, specifically the fee-in-lieu provision, but after careful review by the industry, as we expressed to you, we still cannot support the bill as drafted.....As you requested, we have drafted our proposed TDR legislation. We used the current draft bill as a base document. Due to the time constraints and the partial

feedback of our membership, it is still very rough. If the Council believes this concept has merit, we stand ready to work out the many details of a TDR measure....The key concept for us in preparing this draft is **that this must be a voluntary program** that will allow it to work where sender and receiver can agree upon a price that is advantageous to both and a process that will allow for a true bonus density for purchasing TDRs.”

Larry Taub commented that the original draft discourages density increases in Receiving Districts, and the BIA draft provides a voluntary purchase if the developer wants to seek additional density. In responding to William Moore’s question regarding whether there may be any developers who are willing to buy 5% TDRs in exchange for increased density, Mr. Taub suggested that an economic analysis be conducted to determine the demand for TDRs. He commented that knowing the market would determine the cost of a TDR and that knowing this cost is essential to the development community in the overall analysis for a new project.

Chairman Dernoga responded that by the time an economic analysis to determine the cost/value of a TDR is performed, the economics would change and it would no longer be valid.

Debra Naylor commented that hypothetically speaking even if every developer wants an increase in density of 5%, based on the number of residential permits that have been issued per year in recent years, this would still not give the program traction to start.

Charles Renninger suggested that in certain zones in Metro areas, such as M-A-C, base densities are given with an increase based on public benefit offers and that TDRs could be required in these instances as well. He added that at Largo Metro, there is I-3 zone property that could be converted for higher density.

Boyd Campbell expressed concerns with regard to how developers plan to absorb the cost as well as the impact on Receiving Areas and how the program will be received in these areas by leaders and citizens alike. Larry Taub responded regarding the cost issue and the likelihood of it being passed on to the purchasers. He added that developers need to know if

TDRs are worth purchasing and how many are available to purchase; this information establishes value and liquidity of a TDR. Mr. Taub suggested that the BIA would like to discuss other ways in which the Rural Tier can be preserved because a TDR program can have enormous effects on development throughout the County.

Debra Naylor commented that a TDR program is just one part of a larger picture, even though it is a significant tool in the toolbox. Chairman Dernoga commented on other tools that the work group has considered such as those programs available through the Maryland Agricultural Land Preservation Foundation, which have been considered to ensure that the TDR program is not the only tool and is not onerous.

Chairman Dernoga commented that consideration should be given to the fact that if additional density is obtained, it may result in a balance for having to purchase TDRs. Also, he noted that residents in the Receiving Areas would not be as upset about an additional 5% in density as they would be about a property going from the R-R zone to a multifamily residential zone.

Daniel Filippelli expressed concern with the BIA's proposal for a voluntary program indicating that if the program is purely voluntary, the market will never happen and that it would be encouraging to see interest in the program from the BIA because everyone needs to work in cooperation. William Moore agreed adding that the proposed draft to allow a voluntary program is worthless.

Stephanie DeVille-Eugene commented that the burden has always been on the farming community to work the land, preserve the land, and pay the taxes on the land and at this point, there needs to be a partnership and compromise where this burden is shared in the government's goal to preserve agricultural land. In response to Mr. Taub's statement that there should be a discussion of other ways to preserve the Rural Tier, Ms. Deville-Eugene inquired as to what suggestions he has regarding other tools.

Mr. Taub responded that the BIA has not focused on this as yet given that their task has been to review the original draft legislation, provide comments regarding their concerns with the draft, and to offer suggested revisions.

Dr. David Billings, Chief of Staff to Council Member Marilyn Bland, suggested that the work group has heard the concerns noted by the BIA; however, as indicated by Council Member Bland the community's desire is also to protect the Rural Tier and the work group needs to move forward in a positive way in a continued effort to meet the goal of agricultural preservation.

Chairman Dernoga informed the work group that he is in the process of making revisions to the draft based on feedback that has been obtained, specifically in the areas of density bonus (not subtraction), opt out provisions, tree mitigation, and grandfathering (effective date). He indicated that his revisions would be distributed by email to the work group members for their review prior to the next scheduled meeting on July 2nd.

4. **Next Meeting:** July 2, 2008 at 3:00 p.m.
5. **Adjourn:** The meeting was adjourned at 4:45 p.m.