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Comprehensive Rezoning Update Task Force
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To the Task Force:

If it ain't broke, don't fix it." I'm pondering the problem this process was designed to solve. We completed a new Comprehensive Plan in 2018. That plan does contemplate changing the zoning, but only in what I read as a few, limited cases. By my count there are 249 strategies in our Comprehensive Plan and fewer than 20 call for any intervention in the County's Land Use Ordinance. In fact, analysis by the consultants that were once employed in this process identified only 13 salient strategies.

In their "Diagnostic Report" of May 2020, those consultants compared the Land Use Ordinance to the Comprehensive Plan for how it addressed four goals. One of the goals was for supporting agriculture as a permanent and preferred land use. Only 7 of the ordinance's 272 provisions were considered in need of change. In fact, as a net positive, they singled out the 10% rule as acting to "prevent the conversion of agricultural lands into smaller parcels for other principal uses such as single-family residential dwellings." (So, wait, why are we even talking about getting rid of that rule?)

The other three goals – for expanding and diversifying businesses, creating more housing opportunities, and ensuring that future growth complements existing villages – scored less well. However, after you eliminate duplications, the consultants only identified 54 problematic provisions out of 272 provisions in our Land Use Ordinance. I'd say we scored a solid B or B+. And that's without making any changes at all.

Let me take just one proposal on tonight's docket [P4] and tell you what I found that the Comprehensive Plan says about it. That's the proposal for changes to support development west of Millington. I'm a planner, and I will tell you, in general, that's the right place for development. But the Comp Plan has a couple of important strategies that should be considered. One strategy calls for expanding "regulatory flexibility for the creation of and location of employment centers and industrial uses." (p. 12) Overall, this strategy is silent as to where and how this should be accomplished. But listen to this: the plan says, "These efforts will especially focus on the Worton area, and the US 301 corridor with a priority that the area between the Town of Millington and the lands surrounding the Route 291-Route 301 intersection be guided by the desired expansion of services and land use identified by Millington's municipal growth element." (emphasis added) I would suggest that until Millington has its house in order to accommodate the development currently proposed for its western edge, we do nothing to alter the County's "regulatory flexibility" and keep our options open, including not creating a practice that could creep into any large development across the county. Other strategies in the Comp Plan also address the development beside Millington, in terms of forest conservation: "Protect forested land and other open spaces in the countryside." (p. 50) Perhaps of all the strategies I've identified in this analysis, this is perhaps the one where the Task Force and the County's other work has supported this strategy, although I doubt that the overarching strategy, a "no net forest loss strategy" (p. 76) has been much guidance – much less the actual increase in our forest cover as called for elsewhere. (p. 82)

I would note that the re-zoning that has been requested west of Millington threatens one of the few core forests we have, and is upstream of one of the few environmentally sensitive areas we have. (You

can see a map of the County's "green infrastructure" on p. 65, Map 9, where that land is referred to as a "hub"; environmentally sensitive lands can be seen in Map 12 on p. 81.)

There are other strategies I analyzed in preparing my spoken testimony that I'd like to share in writing here:

- **Strategy: Promote the "Kent County Economic Resource Bill of Rights" which includes the right to farm, the right to fish, and the right to hunt.** (p. 15) This bill of rights is an idea that has been around at least since it was articulated in the County's 2012 Land Preservation, Parks, and Recreation Plan (LPPRP). Nowhere have I seen anything in the way of an evaluation of the current application of our ordinances as to how they support farming, fishing, and hunting. The strategy does call for Kent County to "continue to implement and strengthen, if necessary, the existing right-to-farm law and adopt right-to-fish and right-to-hunt regulations."
- **Strategy: Encourage the development of farm-based business including agri-tourism.** (p. 17) After a fairly lengthy list of uses and ideas – none of which include the development of farms as full-time wedding venues – the strategy concludes with this assertion: "Such uses are and will continue to be permitted in the agricultural area."
- **Strategy: Promote and expand facilities, services, and activities that support natural resource-based economic development."** (p. 19) This could fairly be read as potentially leading to the need to change the Land Use Ordinance although nowhere does this strategy state such a possibility. The guidance is "The County will advocate the development of tourist facilities and activities that support agricultural or maritime operations, arts and entertainment venues, eco-tourism, and historic sites and museums, while retaining the unique character of the area and the quality of life enjoyed by residents and visitors." In the list of 10 "facilities and activities," wedding venues are not included. Another, related strategy appears on the following page without further annotation: "Identify and develop year-round attractions and events that increase the County's tourism-related economic development potential including historic, cultural, and arts-related activities and venues."
- **"Strategy: Require developers to engage and inform citizens during the development review process through the incorporation of a participation program."** (p. 27) Nowhere have I seen any effort to improve what is already in practice.
- **"Strategy: Develop designated growth areas in cooperation with the towns."** (p. 27) This is the first listed strategy among several intended to support one of the plan's goals, which states that Kent County will "Coordinate Growth Planning with the Towns and in the Villages." Nowhere have I seen any discussion of accomplishing this except in the situation with Millington as I describe previously. Other similar strategies also support this goal. One strategy calls for developing "town gateway standards." Nowhere have I seen any discussion of this, which has lately become an issue in the fight over whether the state of Maryland should override our county zoning by allowing solar development on the edge of Chestertown.
- **"Strategy: Explore the creation of a limited number of additional village zoning districts to improve the relationship between the distinct character of certain villages and their zoning."** (p. 29) This strategy supports another stated goal (and one recognized by the consultants), "Insure that Future Growth Complements and Enhances the Character of the Existing Villages." The explanation of this strategy states, "The current village zoning districts permit a mix of

commercial and residential uses, which are appropriate for some villages. Other villages' character may be inadvertently altered by some of the uses now permitted. This could be rectified by creating one or several additional zoning districts to better capture the mix of residential and commercial uses within diverse villages. The Planning Commission will study this approach and make recommendations to the County Commissioners." Of all of the strategies in the Comp Plan, this comes closest to some of the activities of the Task Force. There is also a lengthy strategy with guidelines calling for ensuring "that development in villages reflects the historic character of the area." (p. 29) In fact, there is a great deal of language in the plan calling for context-sensitive development, including calling for the County to "evaluate the existing design guidelines." (p. 33)

- **"Strategy: Promote Kent County as an agriculturally-friendly county."** (p. 43) While this sounds promotional, the guidance in this strategy reiterates that "the County will periodically review and, if necessary, update the right to farm ordinance" and describes the purpose of the Agricultural Zoning District with vague reference to a few changes made since its establishment. It provides no guidance for some of the major changes reviewed by the Task Force, including the 10 percent rule, the "reset" of the subdivision restrictions, setbacks, etc. For all that Kent County states that it is friendly to agriculture, it is also an extraordinarily good place to live in the country, with half our population living in the county, as opposed to our five towns. Farmers have a lot of neighbors here and our Land Use Regulation has been careful to help neighbors remain neighborly. The strategy that immediately follows, **"Support programs and initiatives to maintain the economic viability of agriculture,"** states firmly that "the County intends to allow very limited development in the Priority Preservation Area." (p. 43). A further strategy asserts the County will retain the Agricultural Zoning District, with the following guidance: "For agriculture to continue as a viable industry, specific standards which address preferred uses, farmland retention and diversification of the agricultural economy are essential. These standards have been built into this Plan's implementation policies and must be vigorously pursued." (p. 45) The Plan indeed provides highly specific guidance, right down to a strategy calling for the reduction of parcels in the Priority Preservation Area (p. 48). Ideas under consideration by the Task Force, changing the 10% rule and resetting the subdivision rule, are in direct contravention to this guidance.
- Many others commenting in this process have also addressed the critical issue of promoting Kent County's agriculture. In that regard, we are not only NOT broke, Kent County is the envy of many other farming areas with every sign of being sustainable for the very long term. Let me just say that the Comp Plan supports the idea of permanently protecting at least 50% of the County's "Resource Lands." (p. 49) With about 34% protected now, which is truly a remarkable achievement, we may be closer than most jurisdictions anywhere, but how are we going to close the gap if we allow more development and subdivision in in the AZD?
- **"Strategy: Promote the use of native plantings."** (p. 60) There's been a lot of talk about how the County has been too stringent in requiring landscaping with new construction. Pure and simple, that is balderdash. The Task Force should endeavor to support some rigor into this discussion and bear in mind that the Comp Plan specifically states that "the County will encourage homeowners and businesses to use native plants for landscaping." Why aren't we asking for MORE landscaping?
- That strategy, by the way, falls under discussion of ways to meet the plan's goal for **protecting the Chesapeake Bay watershed**. In the times I've watched the Task Force's discussions –

admittedly far from all of them – I have never heard anyone worry about the impacts of upcoming decisions on the Chesapeake Bay. We are specifically directed, on p. 75, to “Continue to use zoning, the Comprehensive Plan, Watershed Restoration Action Strategies, and current Watershed Implementation Plans to guide growth to minimize future deterioration of the Chesapeake Bay and its tributaries and foster water quality improvements.”

- **“Strategy: Continue to allow the creation of accessory dwellings in specified zoning districts.”** (p. 91) The Comprehensive Plan does not express any dissatisfaction with the current state of affairs, but nevertheless, we are somehow seeing the Task Force and staff spend time on this one.

I really think we all need to take a step back and a big breath. We’ve been so buried in the details that we’ve lost sight of the original purpose of the Task Force, which is to implement the Comprehensive Plan. Toward that end, I would suggest that before the Task Force votes for a single change, that the exact language of the change be stated in writing, along with a description of the need and/or problems met by the change and a statement of how the change supports the Comprehensive Plan.

In my view, you took a very small idea – aligning the Land Use Ordinance and the Comp Plan – and made way too much of it on the way to implementing what might be some useful workaday administrative changes. If you want to modernize the 2002 Land Use Ordinance in all its amended glory and streamline it down from the 489 pages – which includes a lot of repetition designed to enable users to find everything they need in close proximity – then go ahead and put it into digital form without making any of the changes under current consideration. You could add the kinds of explanatory and comparative tables we saw the consultant present only briefly in a discussion of page mockups many months ago that I think everyone understood would be incredibly useful all-around.

Then, with the ability to work with the current document at their fingertips, the Task Force would have a much more comprehensible ordinance and a base from which to make the important decisions implied in the documents you now have before you.

Furthermore, I would urge the Task Force or the Planning Commission to come up with a one-year and three-year work program for implementing the parts of the Comprehensive Plan that are your top priorities. There are some very big and important ideas in that plan. For example, when are we going to define our most scenic views and develop guidelines to protect the most threatened? (p. 50) Where is our wellhead protection plan (p. 70), our biological resource management plan (p. 79, our bike and pedestrian strategy (p. 99), our wetland bank (p. 63), and our greenways program (p. 114)? Where are our programs to protect more of our land through transfer of development rights and purchase of development rights (pp. 48-49) and when are we going to figure out how to raise the funding to make them effective?

We have spent a lot of well-meant time and attention and community energy and leadership, especially in the form of you, the Task Force, and our hardworking staff. I would submit that all those critical community resources would all have been better spent without the helter-skelter rushed, poorly designed process we’ve all been burdened with. With the pandemic hanging over all of us as everyone has struggled in their own way to make this process work somehow, we really haven’t accomplished much more than aggravation and exposing to great potential for mischief our legacy of a basically okay Land Use Ordinance.

Thank you for your consideration.

Sincerely yours,

A. Elizabeth Watson, FAICP