



## Comprehensive Rezoning & Update 2020-2021 Task Force

### MEETING SUMMARY

Hybrid In-Person/Remote Meeting  
Wednesday, October 13, 2021, at 6:00 p.m.

#### I. Welcome and Roll Call – Task Force Member and Chair, Kim Kohl

Chair Kohl opened the meeting at 6:00 pm, conducting member roll call.

The following Task Force members were in attendance: Chair Kim Kohl, Vice Chair Joe Hickman, Al Nickerson, Bill Norris, Bill Sutton, Bryan Greenwood (remote), Buck Nickerson, Cindy Genter (remote), Pat Langenfelder, Paul Ruge (remote), Sam Shoge, Tom Mason, and Tyler Brown (remote).

The following staff attended: Planning Commission Attorney Cynthia McCann, Esq; DPHZ Director William Mackey, AICP; Deputy Director, Carla Gerber, AICP; Associate Planner, Mark Carper; and Clerk, Michael Pelletier.

County staff who attended remotely included: Jamie L. Williams, Director of Economic and Tourism Development and Shalyn Boulden, Administrative Assistant for Economic and Tourism Development.

Members of the public who attended in-person or remotely included: Janet Christensen-Lewis and Judy Gifford. The meeting was also livestreamed, and anyone could listen to the meeting, via the County's website.

#### II. Approval of the Summary for the Task Force Meeting on September 22, 2021

The September 22, 2021, Meeting Summary was accepted as submitted.

#### III. Purpose - Fair and Open Discussion on Proposed Text Amendments

**Outcome** - Staff is to summarize Task Force positions in Meeting Summary

##### Ground Rules

- A. Everyone is encouraged to share ideas openly and freely.
- B. There are no right or wrong inputs for discussion purposes.

##### Norms

- Participants speak 'through the Chair'. This means raising your hand if you want to speak, and waiting for the Chair to call on you.
- Don't interrupt other people.
- Don't talk/debate amongst yourselves.
- Respect other's views.
- Keep contributions short and to the point.

Adopted on October 27, 2021

- Start and end on time.

- If online or on the phone: have your video ON and mute ON. Wait for the Chair to call your name before you unmute.

#### **IV. Old Business**

- A. Discussion of Next Steps for Public Forum, Sign Code, Re-formatted LUO, and Additional Submittals for requests for Specific Text Changes from the Public
- B. Review of lots under same ownership for keeping of backyard chickens
- C. Review of request to allow backyard goats in the Village zoning district
- D. Review of granting nonconforming accessory structures full legal status
- E. Review of removing renewal language for telecommunications towers
- F. Review of Revised Proposed Draft Task Force Recommendations.

There were no comments by the Task Force or the Public regarding the above-referenced Old Business Agenda items.

#### **V. New Business**

##### **A. Review of TF10/ TF11/ TF 12**

Ms. Gerber indicated that this was a series of requests submitted by a Task Force member concerning the standards and how they are to be applied to modified and expanded buffers.

Ms. Gerber indicated that with modified buffers, development existed within the 100-foot buffer before Critical Area laws were ever enacted. When situations arise in which an owner wishes to replace one of these structures, applying the new Critical Area laws has become problematic.

The member who submitted the requests testified and addressed his concerns on how the County can apply the Critical Area laws and make it easier for individuals and businesses to understand what the laws require. The member also discussed several examples of various problems that surveyors have in taking measurements necessary when reviewing expanded or modified buffers.

A second member inquired about the current setbacks for buffers. Ms. Gerber added that the modified buffer areas are mapped.

A third member inquired as to how this relates to rebuilding existing structures that are in the 100-foot buffer and whether this is dealing with new construction only. Ms. Gerber responded that it depends on the area in the County, but there have been instances in which infill lots and rebuilding in these modified buffer areas have been allowed. The third member opined that individuals and businesses need to know what they can do with these lots and structures as a Planning determination could be unpredictable. Ms. Gerber indicated that the Department is trying to make changes so it's easier to do in-kind replacement.

The first member also opined that there might be issues with owners who wish to replace and expand these structures. Ms. Gerber noted that these owners would still be subjected to the same limits as the original structure.

A fourth member raised concerns about how measurements of setbacks to adjacent properties will be made, noting the same point on each house needs to be used, as well as expressing concern about homes that are built on pilings located in flood prone areas, noting buildings should not be allowed in such areas.

Regarding expanded buffers, Ms. Gerber explained that this topic serves to clarify how expanded buffers are to be calculated. Some examples of calculations were discussed as well as the prospect of adding a clearer definition and graphic examples.

Ms. Gerber also discussed the challenges for determining the top of a slope given certain unique topography within the County. One suggested solution is that the County consider the top of the slope as the point in which the slope becomes 5% or less.

The first member indicated that he brought forth this request as there appeared to be inconsistencies on how the “top of slope” is being interpreted as well as challenges with applying Critical Area regulations with how current interpretations are being applied in regard to expanded buffers in the Critical Area. The member also gave an historical account and a number of examples on how various State and local officials have addressed these types of calculations and as well as the impact of modern-day technology and its effect on these calculations versus legacy techniques and technology.

One suggestion that the member had is for the buffer to be perpendicular to the shoreline due to ravines and issues with contour lines. Although the intent would be to establish the buffer, the reality in some scenarios is that a property could become an unbuildable lot if this issue is not addressed.

Turning to the shore cliff area, Ms. Gerber indicated that the idea was to discuss whether there needs to be an amendment to the minimum setback requirement. The major concern is getting construction equipment along a hillside which would, in and of itself, disturb the buffer and that the definition is rather limited insofar as it is triggered only when there is a steep face of 10 feet or higher with a slope of 60 percent. The idea is to establish a setback based on “top of slope” once defined.

The first member added that people will inherently build right up to the edge of a slope as far as they can and that there are also safety reasons that need to be taken into consideration. An inquiry was made by the member to another member in the construction industry for their opinion about challenges pertaining to construction on the edge of a slope and trying to use a ladder safely. The second member agreed this would be problematic. The second member was in favor of a 15-foot minimum. Ms. Gerber indicated it currently is at 20 feet. The first member wants to see that this requirement be consistent.

A third member sought confirmation that the County can make conditions more restrictive than the Critical Area Commission if the County so chooses. Ms. Gerber affirmed that the member was correct.

Another member opined that whatever proposed definitions go to the Critical Area Commission, the member wasn't sure how much the Task Force could do if it ultimately was the Commission's jurisdiction. Ms. Gerber indicated the Task Force could discuss whether or not they felt the Department was going in the right direction in relation to the proposed definitions or what the Task Force's preferred definition is.

The second member noted the Task Force did not have a lot of expertise but felt it might be better to go to the Critical Area Commission first with the proposed definitions and then come back to the Task Force and readdress the topic. The member also commented that if the County can define this issue with more clarity, the member would be in favor of it.

Mr. Mackey added that he would like the Task Force to address the Task Force's recommendations on these agenda items so that the thought process can be correctly captured.

*Public Comment*

No public comment.

**B Review of Second Revised Proposed Task Force Recommendations**

Mr. Mackey indicated he would like the Task Force to review the recommendations so the Department can post them online in advance of the Public Forum in order for the public to review and comment.

A member raised some concerns about TF1/TF17 concerning the number of allowable animals for a 1-, 2-, 3- or 5-acre parcel. Ms. Gerber indicated that this discussion has been superseded by more recent discussions concerning small ruminants (goats and sheep) and it was determined to be a 2-acre minimum with the number of animals based on the amount of grazable acreage. Mr. Mackey suggested striking the language if there is a conflict in order to avoid confusion. Mr. Mackey indicated the department would strike this sentence.

*Public Comment*

Janet Christenson-Lewis of Millington raised concerns that public comments were not being included in the Task Force Recommendations. Ms. Lewis was concerned that the public comments were being given a courtesy and not reflected properly at this stage in the process.

Some Task Force members commented in agreement, and some in opposition to this statement. Mr. Mackey explained that the role of the public has been to bring information and opinions to the Task Force for the Task Force's consideration in its deliberations, citing examples of those persons who brought information on a specific topic that the Task Force utilized in its discussions of the specific text changes.

The issue of letters from the public was also broached by Ms. Lewis. Mr. Mackey indicated he had no objection to reading any public comments into the record at the Public Forum.

Mr. Mackey indicated that he wanted to ensure that public comments were accurately reflected in the minutes, and those public comments are available to everybody in the public at large.

Task Force recommendations with respect to the Town of Millington were discussed. The Town was not in agreement with a floating zone, which is reflected in the Task Force minutes. The Town's position was given due consideration, even if these considerations did not reach a consensus. It was noted that the Town's position is also evolving.

**C. Establishing the Task Force Recommendations for TF 10/ TF 11/ TF 12<sup>1</sup>**

Mr. Mackey made two Task Force Recommendation proposals.

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<sup>1</sup> This topic was discussed out of the agenda order prior to topic B.

The first was that the Task Force did not object to establishing clear standards and a set measuring point for determining the average setbacks, subject to the approval of the Critical Area Commission.

The second was that the Task Force did not object to using Critical Area Commission approved graphics and whole numbers for percentage calculations, when addressing slopes in the buffer. Top of slope needs to be more clearly defined, and a 20-foot setback provided as a minimum.

**The meeting closed for a break at 7:05 p.m. and resumed at 7:11 p.m.**

D. Discussion of format and process for Public Forum to be held October 27, 2021

The topics for the Public Forum on October 27, 2021, were discussed. A suggestion was made that public comment should be compiled in the minutes or in another document by section and topic rather than being displayed chronologically and by speaker.

Mr. Mackey restated that the Task Force will have several opportunities throughout this process to give weight or otherwise address public comment as it sees fit as a body. The Task Force can always amend its recommendations during the process.

Another member raised concerns that the Task Force has a habit of only a few members voicing their positions and questioned how a body could reach a consensus in a situation in which only a few people voiced an opinion.

Mr. Mackey opined that we have a re-iterative, consensus-oriented process designed to not reach a conclusion by voting but to gather viewpoints or a sense of direction.

*Public Comment*

Janet Christensen-Lewis raised concerns about the weight of the public's input on the Task Force's recommendations. Staff stated that there are certain stages in this process that are designed for Task Force and public input. A discussion ensued on this topic and Task Force members voiced diverse opinions on how much or little public input should be involved or documented in the Task Force recommendation process. Mr. Mackey noted that all public comment at the meetings is documented in the summary minutes prepared for the Task Force.

The issue of overflow at the public forum was also discussed by members and the Department, in light of COVID restrictions and other health precautions, which will determine the number of seats that are available. Ultimately, there are several options open to the public, such as the overflow measures the County has taken to allow the public to participate in person as well as remote access.

At the Public Forum, people will receive a number to determine the order in which they can testify. Two overflow spaces are planned in case audience attendance is high. In case the proceedings run past the allotted time, a second date of November 3rd is being reserved for an overflow evening. People are also being asked to register, so it will be known in advance approximately how many people are attending in person.

Another Task Force Member gave a heartfelt thanks to the Task Force members and the Department for all the hard work to get to this point, noting the County needs to see the remaining tasks through to the end.

E. Discussion of Deadline for submittal of Requests for Specific Text Changes.

Mr. Mackey informed the Task Force that the deadline to submit specific text changes is October 31. Staff incorporated changes from the prior meeting in the Revised Draft of the Task Force Recommendations and that this document would be revised throughout this process.

**VI. Task Force Comments** – There were no additional comments.

**VII. Public Comments** – There were no additional comments.

**VIII. Adjournment**

Chair Kohl adjourned the meeting at 8:05 p.m.