Subject: Our comments on the Montgomery County stormwater ESD elements in the Zoning Code revision
From: Diane Cameron <dianemcameron@verizon.net>
Date: Tue, 01 Jun 2010 23:52:39 -0400
To: "Villemaire, Lois" <Lois.Villemaire@mncppc-mc.org>
CC: 'Bruce Gilmore' <bgilmore@anacostiaws.org>, "Curtis, Meosotis" <Meosotis.Curtis@montgomerycountymd.gov>, "Shofar, Steven" <Steven.Shofar@montgomerycountymd.gov>, "Dolan, Mary" <Mary.Dolan@mncppc-mc.org>, "Federline, Steve" <Steve.Federline@mncppc-mc.org>, Neal Fitzpatrick <neal@audubonnaturalist.org>, Dolores Milmoe <dmilmoe@audubonnaturalist.org>, Diana Conway <dconway@erols.com>, bob.hoyt@montgomerycountymd.gov, "Brush, Rick" <Rick.Brush@montgomerycountymd.gov>, "Krasnow, Rose" <Rose.Krasnow@mncppc-mc.org>, Stella AOL <Smkoch@aol.com>, Jim Humphrey <theelms518@earthlink.net>, Ginny Barnes <ginnybarnes@juno.com>
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June 1, 2010

Dear Lois,

Please accept this email letter as the comments of the Audubon Naturalist Society on the Montgomery County's Zoning Code "Sustainability Audit." Your email requested specific comments on "the priority pieces of the audit that should be incorporated into the new zoning code." You had set today, June 1, as the deadline for your receipt of comments that will be presented to the Zoning Advisory Panel at its June 16 meeting.

Regarding the Sustainability Audit, (attached), we support the provisions of the Stormwater matrix, pp. 19 through 22, with the exception of the item concerning the proposed inclusion of green roofs for the "green area" requirement. As ANS has previously testified, we support green roofs for several reasons, but they do not serve as ground-level green areas. We support the amendments to the definition of green area contained in ZTA 08-01 proposed by Councilmember Elrich, and we see this definition as being conducive to our stormwater/ESD, Smart Growth, walkability, green street, and other County sustainability goals.

As I requested during our May 24, 2010 meeting at the Planning office, we ask that you incorporate all of the attached Biohabitats and Horsley-Witten Group consultants' comments into the Zoning Code revisions. These consultants' comments are aimed at helping the County to fulfill its stormwater permit mandates for:
* elimination of barriers to use of ESD practices;
* identifying specific opportunities to promote use of ESD; and
* correction of gaps in the code where ESD could be better enabled.

For instance, page 6 of the attached Biohabitats memo states,
"*All zone widths and setback codes should be reconsidered if they could potentially discourage ESD designs such as rain gardens, bioretention, swales, expanded tree pits, or others...As ESD areas could be considered "Green Area" and "Landscape", terms mentioned extensively in Article C as well as D and E, the minimum required area could be expanded to minimize impervious surfaces and allow for more ESD area."*

We support these and all other proposed revisions to the Zoning Code/Chapter 59 in the Biohabitats memo and Excel matrix (both are attached here).

The thrust of the narrative on stormwater on page 5 of the Sustainability Audit is problematic, in that, in promoting a significantly weaker volume standard for urban redevelopment projects, it is out of step with longstanding, and continuing, policy and law here in Montgomery County. Montgomery has long required both new development and redevelopment projects to adhere to the same stormwater management standards, while affording greater flexibility for urban redevelopment projects. This tradition has served us well, and it will be even more important as we strive to implement ESD measures to meet our permit requirements; Anacostia and other urban water restoration objectives; and drinking water protection goals.

The state's equivalent half-inch stormwater volume standard for redevelopment projects is well below Montgomery's 1"/2.6" standard that applies to all development projects, including redevelopments. The narrative on page 5 also suggests that urban projects should generally be assumed to need waivers to enable them to escape on-site practices. This suggestion is out of line with current (and proposed) County law and policy, and runs counter to the Stormwater Management Act of 2007, which expressly includes redevelopment projects in its ESD requirements. As you know, there are numerous ultra-urban ESD practices already available, and more, like green walls, are emerging on the market, as evidenced by the Washington Regional Green Roofs and Walls conference in D.C. running today and tomorrow. (http://greenroofs.com/upcoming_events.htm#washingtonGRHC)

The new stormwater norm assumes that all projects are able to apply ESD, and the burden of proof is on the applicant to show that they have exhausted all feasible ESD practices before turning to any other option. We ask that this narrative be revised to reflect this norm and Montgomery's ESD requirements.

In addition to the substantive ESD zoning code changes that we are requesting, we also request that the planning and zoning staff work with DPS and DEP staff to institute changes in public notification and plan review abilities, related to the new ESD approaches and mandates. Specifically, we ask that the Montgomery County development approval process be revised to ensure that the public is given adequate, timely and reasonable notification of; access to; and meaningful comment opportunities on, all proposed projects' ESD Concept Plans.

Thank you for considering our comments.

Yours for clean water,

Diane M. Cameron
Conservation Program Director
Audubon Naturalist Society
Consultant to the Natural Resources Defense Council

From: Villemaire, Lois
Sent: Tuesday, May 25, 2010 10:38 AM
To: 'Weisburger, Douglas'; 'Zyontz, Jeffrey'; 'Diane M. Cameron'; 'Rothblum, Corinne'; 'steve.silverman@montgomerycountymd.gov'; 'montgomery.group@maryland.sierraclub.org'; 'jbonomo@audubon.org'; 'dcameron@audubonnaturalist.org'; Bradford, Mary
Cc: Dolan, Mary; Witte, Peter; Sloan, Joshua; 'Diane Conway'; Brule, Rina; Krasnow, Rose; 'Lee Einsweiler'; 'Colin Scarff'
Subject: RE: Review of the Sustainability Audit for the New Zoning Code

REMINDER – Thanks in advance for sending comments by June 1.

Lois Villemaire

Project Manager, Zoning Code Rewrite

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From: Villemaire, Lois
Sent: Monday, May 03, 2010 12:52 PM
To: 'Weisburger, Douglas'; 'Zyontz, Jeffrey'; 'Diane M. Cameron'; 'Rothblum, Corinne'; 'steve.silverman@montgomerycountymd.gov'; 'montgomery.group@maryland.sierraclub.org'; 'jbonomo@audubon.org'; 'dcameron@audubonnaturalist.org'; Bradford, Mary
Cc: Dolan, Mary; Witte, Peter; Sloan, Joshua; Diane Conway; Brule, Rina; Krasnow, Rose; Lee Einsweiler; 'Colin Scarff'
Subject: Review of the Sustainability Audit for the New Zoning Code

To the Sustainability Working Group, Green Economy Task Force, ZTA Group, Audubon Society, Sierra Club and other interested parties,

A Zoning Code Rewrite project was initiated in the spring of 2008 and within a year an in-house diagnosis, the Zoning Discovery was published. The Planning Board named a Zoning Advisory Panel, a 23-member board that meets monthly, to provide feedback and advice on the project. A consultant team, led by Code Studio, joined staff in July 2009 and submitted a Project Approach & Annotated Outline Report setting out proposed elements, organization, and contents of a new zoning code.

The Council and Planning Board have given the rewrite team the "go-ahead" to begin drafting the code based on this document, which also contains a **Sustainability Audit**. For your review, we have excerpted the **zoning solutions** in the audit into a matrix, including the description of nine general topics as a foundation for regulations to include in the new zoning code. We have also attached comments on the approach/outline by the Environmental Planning Division.

Over the past year we have been involved with several task forces, committees, and working groups related to sustainability issues to try to ensure consistency and completeness. These groups and several other stakeholder groups have been selected to provide a final look at these issues before draft regulations are published for general public comment.

> **Now what do we need from you?** We ask that you provide comments on the sustainability concepts included in the attached matrix as it directly relates to **zoning solutions.** Specifically, what are the priority pieces of the audit that should be incorporated into the new zoning code? A second round of comments will be solicited after the first draft zoning code module is completed.
> Comments received by **June 1, 2010** will be presented to the Zoning Advisory Panel with the specific regulatory impacts at the June 16th meeting. Please send comments to Lois.Villemaire@mncppc-mc.org

Visit our webpage at www.zoningmontgomery.org to stay informed.

Lois Villemaire

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MemoThirdDraftCodeReview121409.pdf

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