

Summary Presentation – Greg Walker

The Role of The Planning Commission and the Annapolis Comprehensive Plan as Regards the Proposed Crystal Springs Development

Planning Commission Role With Respect to Implementing and Enforcing the Annapolis Comprehensive Plan (the “ACP”) *(See Tab 26 for Details and Specific Statute Citations for this topic)*

- Prepare and recommend for approval and thereafter implement
- “The City will maintain a commitment to the ongoing, successful implementation... The City’s management and staff, together with its boards and commissions, have essential roles in implementing the plan...”
- A City policy document with a “primary means of implementation” to include “incorporation...into daily decisions guiding development,...preservation, infrastructure, transportation, economic development, growth and a myriad of other issues.”
- “A planning commission shall consult with public officials and agencies, public utility companies, civic, educational, professional, and other organizations, and citizens about protecting or executing the plan”.
- “...a planning commission shall implement the [12] visions through the comprehensive plan...:
 - quality of life and sustainability - universal stewardship of the land, water, and air
 - community design: preservation and enhancement of natural systems, open spaces
 - infrastructure: infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner
 - environmental protection: land and water resources, including the Chesapeake and coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems, and living resource
 - resource conservation: waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved
 - implementation: strategies, policies, programs, and funding for growth are integrated across the local, regional, State, and interstate levels to achieve these visions

Information, data, plans and support are needed to enforce and implement the ACP

Broad Powers Granted By The State of Maryland to Ensure Success

- “shall have the powers necessary” to enable the commission to fulfill its functions, promote planning, and execute the comprehensive plan
- May enter on any land and make examinations and surveys
- May accept and use gifts and public or private grants to perform functions
- The City shall provide the funds necessary for the performance of functions
- A planning Commission can appoint employees and hire contractors

The Role of the ACP in Decision Making With Respect to Development of the Crystal Spring Project *(See Tabs 27 and 28 for Details and Specific Statute Citations)*

- **State Perspective - Smart and Sustainable Growth Act of 2009:**

WHEREAS, ...Maryland requires a local jurisdiction to implement the provisions of its local comprehensive plan through...the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, ... and other land use ordinances and regulations that are consistent with the plan; and

WHEREAS, The people of Maryland are best served if land use decisions are consistent with locally adopted comprehensive plans; and . . .

WHEREAS, It is the intent of the General Assembly . . . that comprehensive plans should be followed as closely as possible ...and that deviations from the plan should be rare...

- **Annapolis has chosen to give the Comprehensive Plan the force of Law**

“Thus, because the City of Annapolis has linked its Comprehensive Plan, by Ordinance, with the Zoning Code, the Plan is implemented with the full force and effect of law.” See, *July 25, 2014 memorandum for Annapolis Office of Law to Alderman Littmann. (See a detailed discussion of the conclusion that the ACP has the force of law in Tab 28)*

- **Even if the ACP does not have the force of law under the Annapolis City Code, The Planning Commission still must determine if the Crystal Spring Development is “consistent” with its provisions** *(see Tab 27 for legal citations)*

Crystal Spring may not be authorized or constructed until the planning commission has approved the location, character, and extent of the development as consistent with the ACP.

- **State also requires that Annapolis’ laws and regulations related to assessing Crystal Spring be consistent with the ACP, and they are not.** *(see Tab 27 for legal citations)*

1) Annapolis’ zoning laws, planned development ordinances and regulations, and other land use ordinances and regulations must be “consistent with” the ACP

2) In order to be “consistent with” the ACP, Annapolis must adopt laws and regulations that will further, and not be contrary to, the following items in the ACP:

Policies (many stated in the ACP are not followed or ignored)

Timing of the implementation of the plan (e.g., see priority action items in ACP, page 140 – complete sector studies and new traffic impact regs by 2012)

Timing of development (e.g., see priority action items in ACP, page 140 - complete sector studies and new traffic impact regs by 2012)

Development patterns (e.g., Opportunity Areas built as outlined in the ACP with respect to location, size, type of development, infrastructure improvements, etc...)

Some Key “Policies” and Other Aspects of The ACP Relevant to the Crystal Spring Development -- and Growth Generally – Which are not being followed (see Tab 29 for more detailed discussion and full citations)

Chapter 3 - Land Use and Economic Development, Page 33

Policy 1. the City **will** formulate detailed land use and urban design plans or sector studies for each of the four opportunity areas.

1.1 The detailed area plans should identify the necessary role of the City and other public entities in facilitating infrastructure improvements

1.2 Each of the four opportunity areas should be developed as models for ecologically sustainable urban development.

- sector studies were priority action items to be completed by the end of 2012
- No sector study exists for the Forest Drive Opportunity Area -- absent such, it is hard to assess if Crystals Springs’ “location, character and extent” is “consistent with” the ACP

Chapter 4 - Transportation, Page 60

Policy 9. Conventional methods for evaluating a development project’s traffic impacts will be replaced with a more coherent and balanced urban planning-based evaluation of accessibility and mobility. “A Planning Commission which relies on the results of a conventional traffic impact study might actually act to deny the very development projects which are needed to convert an underutilized suburban pattern into a more economically vibrant one”.

9.1 The City will adopt an area-wide approach to the study and monitoring of traffic conditions. This will be a plan-based approach and will provide the basis for understanding how future development projects should contribute to an area’s transportation performance.

9.2 From a regulatory approach, future development projects will be evaluated against their contribution to an area’s transportation performance broadly defined to include safety, cost effectiveness, automobile congestion, and the existing nature and purpose of the surrounding road network. The City will develop regulations to implement this provision.

- new traffic impact regulations were identified as a priority action item to be completed by the end of 2012
- The new traffic impact assessment regulations do not exist -- absent such, it is hard even to assess if Crystals Springs' "location, character and extent" is "consistent with" the ACP
- City is required to pass "planned development ordinances and regulations" and other "land use ordinances and regulations" that will further the "Policies," the "timing of the implementation of the plan," the "timing of development" and the "development patterns" as described in the ACP. The promised new traffic impact regulations are needed properly to assess a project with the scope of Crystal Spring.
- Critical to have in place for the Planning Commission to implement the twelve "Visions" as required by statute. The required sector study supports this goal.

Chapter 7- Environment, Page 96

Policy 2.5 To help achieve the City's environmental goals and ensure high quality development, the City **will** create a Site Design Manual that will replace the 1986 Parking and Landscaping Manual. The Site Design Manual will provide guidance on design of the landscape on private development sites. This will include planting, rainwater management, tree preservation, and soil management. Best management practices for handling the impacts of development, use of pervious and impervious paving materials, design of parking areas, and other matters related to site\development should also be addressed in the Manual.

The Site Design Manual will aim to make the site design process more predictable.

- The new Site Design Manual does not exist -- as such it is very hard even to assess if Crystals Springs' "location, character and extent" is "consistent with" the ACP
- City is required to pass "planned development ordinances and regulations" and other "land use ordinances and regulations" that will further the "Policies," the "timing of the implementation of the plan," the "timing of development" and the "development patterns" as described in the ACP. The Site Design Manual is needed properly to assess a project with the scope of Crystal Spring.
- Critical to have in place for the Planning Commission to implement the twelve "Visions" as required by statute.

What is the “character,” “extent” and “development pattern” for *Crystal Spring* which would be “consistent with” the Annapolis Comprehensive Plan (ACP)? (See Tabs 30 and 31 for Details and Specific Citations)

- The land use-based projections for the Opportunity Areas “assume a maximum build-out scenario”, i.e. making the assumption that the “opportunity areas redevelop to the full extent and at the maximum density”
- “As direction to future master planning”, the ACP anticipates that new mixed use development could yield **162,000 square feet of new commercial** space and **about 140 housing units**.
- The estimates of future housing units and commercial space ... “should guide the City as it conducts master planning for the Opportunity Areas with the participation of local residents and property owners.”
- Current Crystal Spring proposal: **over 500 residential units** and closer to **200,000 square feet** of commercial space if hotel/spa is considered

Open Questions Regarding the Current Proposed Scope?

- The Planning Commission should not find that “the location, character, and extent of the development as consistent with the plan.”
 - The City’s Office of Law has stated: “... for purposes of considering whether a [Crystal Spring] is consistent with the Comp Plan, I doubt whether anything or[sic] much more [than 140 residential units] would be tolerated.” (See detailed analysis in Tab 31)
- State law requires that the City’s zoning laws “further, and not be contrary to” the “development patterns” described in the ACP.
 - The City is now asserting that the residential units at the retirement community are not to be considered residential units. It is argued that “dwellings” and “institutions for care of the aged” have distinct definitions in the Zoning Code.
 - The facilities at Crystal Spring have to be either residential or commercial
 - This reading of the Zoning Code is inconsistent with the development pattern for the Forest Drive Opportunity area described in the ACP.
 - This reading of the Zoning Code ignores past opinions saying the ACP has force of law.

(See a more detailed analysis critiquing this position of the City in Tab 31)