



Howard County Council

Zoning Board of Howard County

George Howard Building
3430 Court House Drive
Ellicott City, Maryland 21043-4392

BOARD MEMBERS

Christiana Rigby, Chairperson
Deb Jung, Vice Chairperson
Opel Jones
Liz Walsh
David Yungmann

Ashley Aguilar
Administrator

Minutes (Approved)
Zoning Board Hearing
ZB1126M Howard County Department of Public Works
Wednesday, October 13, 2021, 6:00 p.m.
Banneker Room and Web-based Virtual Meeting
Streamed at <https://cc.howardcountymd.gov/Online-Tools/Watch-Us>
Broadcast Channels 44 (Verizon) and 99 (Comcast)

Members Present: Christiana Mercer Rigby, Zoning Board Chairperson; Deb Jung, Zoning Board Vice Chairperson; Opel Jones, Board Member and Liz Walsh, Board Member.

Staff Present: Ashley Aguilar, Board Administrator; Ann Nicholson, Board Assistant; David Moore, Principal Attorney; Melissa Goldmeier, Counsel to Zoning Board and Eileen Powers, Zoning Counsel.

The Chairperson called the hearing to order at **6:05 p.m.**

Discussion

Ms. Rigby stated that this case was to consider changing the zoning of the former Howard County Courthouse properties totaling 6.19 acres from HO (Historic Office) to HC (Historic Commercial).

Ms. Rigby swore in Geoff Goins, Zoning Division Chief for the Department of Planning and Zoning. He presented the DPZ Staff Report. The Petitioner is Howard County Department of Public Works. They are proposing to re-zone four properties. The properties are: the main Courthouse property at 1.63 acres (89,660 square feet/3 stories); the former detention center at .23 acres (4400 square feet/2 stories); an office building at .19 acres (6000 square feet/4 stories) and a parking lot at 4.14 acres (269 parking spaces). He gave a brief overview of the history of the Courthouse and showed maps of the Courthouse area. He showed a chart of permitted uses in Historic Offices (HC) and a chart with the changes that would occur if Historic Commercial (HC) was approved on the properties.

The first category in the evaluation of the petition is General Plan Policies. The properties are designated as growth and revitalization place type. HC is consistent with this designation. Policy 4.10 is to expand existing programs to enhance historic preservation and create a historic preservation plan. It has an implementing action to prevent demolition and incentivize restoration and adaptive reuse. The proposed HC zoning district is in harmony with the Ellicott City Watershed Master Plan policy related to reuse of the Courthouse property: mixed-use new construction, commercial space inventory and adapted reuse and redevelopment potential. There are two types of zoning districts in the zoning regulations: floating zoning districts and comprehensive

zoning districts. HC is a comprehensive zoning district, the application outside Comprehensive Rezoning is for mistake or change. The petitioner is arguing both.

For the evaluation regarding the change rule, the Petitioner must establish the "neighborhood boundary" and the changes that occurred after the comprehensive zoning that altered the character of the "neighborhood".

[Short break while the presentation is printed out for Board Members].

Mr. Goins resumed the discussion of neighborhood boundary. The petitioner is asserting the Main Street Maryland incentive area designated by the Maryland Department of Housing and Community Development is the neighborhood boundary. In addition, the designated neighborhood survey done by Housing and Community Development coincides with the original incentive area and the map.

Mr. Goins stated DPZ concurs with the Petitioner's assertion that there has been substantial change in the character of the neighborhood since the 2013 Comprehensive Zoning Plan (CZP) due to the following: impacts of the 2016 and 2018 floods; development of the Ellicott City Safe and Sound and Ellicott City Watershed Master Plan; impacts in the loss of four buildings on lower main and the alteration of six others, and the impending relocation of Courthouse operations.

Mr. Goins went on to the evaluation regarding the mistake rule. To substantiate a mistake in zoning, evidence must show that the Zoning Authority erred when it adopted the comprehensive zoning map. DPZ concurs with the Petitioner's assertion that the County Council's assumptions during the 2013 Comprehensive Zoning related to the Courthouse properties have proven invalid with the passage of time.

The claims presented include: the County Council's approval of the 2014 Capital Budget in May 2013, which increased funding for the Courthouse renovation and identified potential future funding up to \$30+ million; this immediately preceded the adoption of the 2013 Comprehensive Zoning legislation in July 2013; the legislative record provides no evidence that the County Council discussed the court closure or applicability of the HO zone to the Properties' during the 2013 CZP process; and the Courthouse properties will be vacated on July 1, 2021.

Regarding the appropriateness of zoning district, Mr. Goins stated the Petitioner asserts that HC zoning district is the most appropriate classification based on the following: the HO and HC zoning categories are closely associated in the zoning code and have similar purposes, permitted, accessory and conditional uses and bulk regulations; only three zones are designated for Historic Ellicott City – RVH, HO and HC; the HC classification predominates along Main Street in close proximity to the properties, and HC is consistent with PlanHoward 2030.

Cross Examination

Mr. David Moore, Office of the County Solicitor on behalf of the Department of Public Works (DPW) asked Mr. Goins if the Technical Staff Report (TSR) of the Department of Planning and Zoning (DPW) identified the location of the subject properties and addressed the neighborhood descriptions proposed in the petition filed by DPW in reference to the change allocation. Mr. Goins said that was correct. Mr. Moore asked if the neighborhood description was simply for conducting analysis in this zoning case and Mr. Goins said that was correct. With regards to changes in the neighborhood, Mr. Moore asked Mr. Goins if there were many large floor plate locations lost to the flooding in the HC District and Mr. Goins said no. Mr. Moore stated that if the historic office area covered by this petition were rezoned to HC would that serve to replace some of the character lost in the HC district and Mr. Goins said yes. Mr. Moore asked if DPZ's analysis of the petition

found that the change argument and mistake argument appeared to be satisfied and Mr. Goins replied yes. Mr. Moore asked if the HC district proposal made by DPW would be consistent with the County planning documents applicable to this area and Mr. Goins replied yes.

Mr. Brent Loveless stated that to look at the intent of this zoning you have to deduce several factors and worst-case scenarios. One factor is what this change enables and why. He said the charts presented comparing permitted uses do not actually match the code. It specifies this change will allow apartments, which is misleading. Mr. Moore objected and said Mr. Loveless had not asked a question of the witness on cross-examination. He wants to be clear if the Board will allow that. Ms. Rigby asked Mr. Loveless to stick to the questions for Mr. Goins or phrase statements as questions. Mr. Loveless asked Mr. Goins if it was accurate that the change from HO to HC zoning enables apartment units outside of historic structures as a matter of right. Mr. Goins replied that was correct. Mr. Loveless asked if there was market analysis provided in this proposal for the potential use of a boutique hotel as an option as a result of the change in zoning from HO to HC. Mr. Goins said he wasn't aware of that.

Mr. Loveless asked if Mr. Goins was aware of the PALS program report for the revitalization of Ellicott City that was generated prior to the two floods and the recommendations that the PALS program made prior to this effort to look for a change in zoning from HO to HC. Mr. Goins replied he was not. Mr. Loveless asked if he was aware that the 2015 PALS program recommended reuse of the Courthouse for apartment uses and Mr. Goins said he was not.

Mr. Loveless asked if he believed that because of statements regarding little intent to this petition to create competing businesses and little support for a hotel that an apartment use would be the most likely outcome of this zoning change. Mr. Goins replied he couldn't speak to that. Mr. Loveless said Mr. Goins displayed a document showing what is considered to be the contiguous historic neighborhood. He asked Mr. Goins if he would consider this a series of historic properties or contiguous historic properties. Mr. Goins said they were separated by rights of way, so they aren't adjoining properties. He added that he wasn't an expert on historic preservation and was there to answer questions on the Staff Report.

Mr. Loveless asked Mr. Goins if there was a guideline provided to the community on levels of minor or major change relative to number of properties or other measures and he replied no. Mr. Loveless asked if this zoning wasn't enabled due to the definition of change, mistake (or if the Zoning Board found the definition of potential uses not appropriately marked), what would occur to this parcel as well as the Ellicott City Community. Mr. Goins said he couldn't speculate.

Mr. Loveless asked if there had been any study into the maximum density that could be provided if apartments were enabled and has that study been provided to Howard County's school planning department. Mr. Moore objected and said this was outside the scope of the direct examination and also not relevant to the question before the Zoning Board. This was sustained by Ms. Rigby. Mr. Loveless asked Mr. Goins if he believed that the community was aware of all potential outcomes and impacts based on this report and Mr. Goins said he couldn't speak to that.

Ms. Josephine Nippard said the petition and the TSR only showed up on the website today and were hard to find. She said not a lot of people in the County know about this change in zoning. She said it was just barely done correctly but it is an important property and she cares what happens. She asked Mr. Goins if the County created the mistake or the change. Mr. Goins replied if the County Council at the time of the 2013 comprehensive zoning relied on information that deemed to be incorrect over the passage of time, then that can be ruled a mistake. They allocated funds to renovate the existing Courthouse, but since that time it has relocated and vacated the property, which can be deemed a mistake. Ms. Nippard said there has always been

something in the budget for renovation of the Courthouse. Ms. Nippard asked why the County isn't extending the zoning beyond the Courthouse parking lot. Mr. Goins replied the County doesn't own any other property except what the Petitioner is requesting. Ms. Nippard said there are some things wrong in the application.

Mr. Charles Kyler asked Mr. Goins if he was aware if the Courthouse, the Courthouse parking lot, or any of the buildings can be seen from Main Street. Mr. Goins replied he thought maybe the Courthouse but couldn't say for sure. Mr. Kyler commented about the lack of sightline from Main Street and having to walk to them to see them. Mr. Kyler asked if he was aware if the parking survey done during the Kittleman administration was taken into effect when deciding to repurpose the Courthouse parking lot. Mr. Goins replied he was not aware of it.

Mr. Kyler asked if the Historic Preservation Commission was asked for input on this re-zoning. Mr. Goins replied it was and while he looked for their report Mr. Moore asked if the report was part of the DPZ file. Mr. Goins replied it was an attachment. Mr. Moore suggested to make this report part of the record of this case and therefore part of the evidence so it doesn't need to be read. Mr. Kyler said none of this was available to the public. Ms. Walsh said what obligation does DPZ, DPW and the Zoning Board have to make these documents available. She is concerned about who is responsible to get this information to the public. Mr. Moore replied there is no required timeframe that these reports need to be published into the record. They are available to the public if they want to contact DPZ. This proceeding has been advertised more than once, it is posted on the property, and notice was mailed to 20 adjacent property owners. Ms. Walsh wants the public to have adequate and complete notice. Mr. Goins added the information is on the Planning Board webpage. Ms. Rigby said there was room for improvement. Mr. Kyler disagreed that information about advertising to personal addresses on Main Street was available. Mr. Moore objected that this was getting in to testimony.

Mr. Kyler continued with his questioning and asked if there was any signage placed along Main Street or in the Historic District notifying residents of the proceeding. Mr. Goins replied the County code requires a sign be placed on the property that is subject to the petition and that was done. Ms. Jung clarified that no signs were placed on Main Street as they aren't required there. Mr. Kyler asked Mr. Goins if overall decisions from the Planning Board were that this project would affect the entire Historic District. Mr. Goins replied no, the findings were that the Staff Report and recommendations found there was substantial change in the character of the neighborhood since the previous comprehensive zoning and a mistake was made. Mr. Kyler asked how many buildings were destroyed in the 2018 flood. Mr. Goins deferred that question to the Petitioner. Mr. Kyler said the answer was zero. Mr. Kyler asked how many buildings from the 2018 flood would not be saved and Mr. Goins deferred to the Petitioner. Mr. Kyler said four buildings would be removed. He asked if the Courthouse was damaged in either flood and Mr. Goins deferred to the Petitioner. Mr. Kyler instead asked if the building was destroyed and Mr. Goins replied no. Mr. Kyler asked how to justify there has been significant change to the Historic District character when nothing physically has changed. Mr. Goins replied it is a culmination of multiple factors: the closing of the Courthouse, the Master Plan that was adopted, and that all of the buildings haven't been demolished.

Mr. Kyler asked if he was familiar with the Historic District guidelines regarding the sizing and cadence of new development within the Historic District. Mr. Goins replied he was not. Mr. Kyler noted a specific chapter in the guidelines about sizing and cadence that should match the surrounding area. Mr. Moore objected there was no question, and this isn't relevant to the decision before the Zoning Board. The Board has to answer whether there has been a legal change because of an error in the original zoning or based on a change in the character of the neighborhood that merits a new zoning determination be made. Mr. Kyler clarified there has been no physical change to the visual character and therefore a comment that a mistake has been made is incorrect. Mr. Kyler asked if there has been a significant change in the physical structure of that portion of the

Historic District. Mr. Goins replied change isn't necessary physical to the area and there was physical change to the buildings impacted by the flood. Mr. Moore objected that Mr. Kyler was testifying again.

Ms. Diane Butler asked if Mr. Goins stated that high density residential would be allowed in this watershed. Mr. Goins replied he believes he said, "higher density". Currently in HO it allows 15 units per acre. The HC zoning district allows higher density than that, it depends if it is an existing building, which would be 22 units per acre. Ms. Butler asked what thought had been given to the restoration of the historic jail section to keep the character of the neighborhood. Mr. Goins replied this would occur at a later development stage.

Mr. Joel Hurewitz commented that they haven't heard from the Zoning Board Counsel on some of the procedural issues and wanted clarity on who Mr. Moore was speaking for. Ms. Rigby agreed and said that Mr. Moore was representing DPW and Ms. Melissa Goldmeier from Office of Law is counsel for this evening. Ms. Jung asked for counsel to introduce themselves.

Mr. Hurewitz wanted to go over the TSR. [Delay in proceedings while attempting to share his screen.]

Motion and Vote

Board Member Walsh moved to go into closed session in accordance with Section 3-305(b) (7) and (8), General Provisions Article, Annotated Code of Maryland. The motion was seconded by Ms. Rigby.

The roll call vote called by the Administrator on the motion was: Yea: Board Members Jones, Jung, Rigby and Walsh.

The motion passed.

The Zoning Board adjourned to closed session at 7:40 p.m.

Statement of Closed Meeting

The Zoning Board met in closed session at 7:40 p.m. on October 13, 2021 in the C. Vernon Gray conference room.

The Chairperson conducted a roll call of Members. Board Members Opel Jones, Deb Jung, Christiana Rigby and Liz Walsh returned to open session at 8:07 p.m.

Ms. Goldmeier read the following statement: *The Zoning Board intends to adapt this statement and incorporate it as though it were fully set forth at the beginning of this hearing. We are here tonight because Petitioner of Howard County DPW seeks to change the zoning of the former Howard County Courthouse properties totaling approximately 6.19 acres from HO to HC. The property is located as described in the TSR.*

Ms. Goldmeier asked if the notice for the hearing of this case has been advertised, if the subject property has been posted, and if the adjoining property owners have been notified by mail in accordance with Howard County law. Mr. Moore replied yes, and said this question is usually asked by the Administrator.

Ms. Goldmeier stated: *Pursuant to the Zoning Board rules of procedure, the following reports and official documents pertaining to the petition are incorporated into the record of this hearing: certifications of advertising and posting, and mailing to adjoining property owners; the Howard County Code and Charter; the General Plan of Howard County; the Howard County Zoning map and regulations; the Planning Board*

recommendations: the TSR of DPZ including all attachments, and the reports of responding reviewing agencies. DPZ and the Planning Board recommended approved of this petition.

Members Present: Christiana Rigby; Opel Jones; Deb Jung and Liz Walsh.

Staff Present: Melissa Goldmeier, Counsel to Zoning Board, and Eileen Powers, Zoning Counsel

Continuation of Cross-examination

Mr. Hurewitz continued with his cross-examination. Ms. Rigby encouraged him to be specific when sharing his documents. Mr. Hurewitz objected that some of the properties are not mentioned in the TSR and not posted on the Zoning Board website. Mr. Moore said Mr. Hurewitz should raise his objection at the time appropriate. He added the Board just accepted into the record that advertising posting and notices were accomplished. Mr. Hurewitz said he would look for the notices. Mr. Moore said he doesn't know what standing he has to raise an objection since he isn't an adjoining property owner.

Mr. Hurewitz had the TSR put up on the screen. He asked Mr. Goins how many parcels were outlined in red on the map and he replied four. Mr. Hurewitz asked how many parcels appeared to be outlined on the map and Mr. Goins replied 5, that they were actually one property that looked like two. Mr. Hurewitz asked if there was any designation for lots in the records differentiating between the two and Mr. Goins replied no.

Mr. Hurewitz asked to clarify where the jail was on the map and vicinal properties, and how the rear of Park Avenue is related to the parking lot. Mr. Hurewitz sent tax maps and wanted Parcel 83 identified and Mr. Goins did not see the relevance. Mr. Hurewitz asked about another parcel and Mr. Goins said there was an error in the parcel alignment and to disregard. Mr. Hurewitz asked if another property on the map was County-owned and Mr. Goins replied he wasn't sure. Mr. Moore objected to the relevance of that property since it isn't the subject of the petition. The motion was sustained by Ms. Rigby. Ms. Walsh asked about the adjacent properties and Mr. Hurewitz said he wanted to point out that everything wasn't labeled. Mr. Goins clarified this section of the map doesn't establish the neighborhood boundary. This is just a general listing of properties.

Mr. Hurewitz asked which parcels are included in the TSR. Mr. Moore stated the TSR document speaks for itself. Mr. Hurewitz asked where Parcel 213 was on the map. Mr. Goins replied it should be 231 and that is a typo. This map does not have all the parcels. Mr. Moore objected to the relevance and Ms. Rigby agreed. Mr. Hurewitz is pointing out discrepancies in the TSR that were adapted into the record. Mr. Hurewitz asked how the lots in 181 front Main Street in addition to Court Avenue. Mr. Goins said he didn't know. Mr. Hurewitz asked if there was a significant elevation drop between Court Avenue and Main Street and Mr. Moore objected to the relevance.

Mr. Hurewitz asked if any of the adjoining properties are discussed in the TSR and Mr. Goins replied no. Mr. Hurewitz asked if any buildings on Park Avenue (parcels specified) are discussed in the TSR and Mr. Goins replied no. He said vicinal properties are just informational. Mr. Hurewitz asked if Parcel 242 was an error and Mr. Goins said he couldn't say. Mr. Hurewitz asked if there were any large floor plates in the office building of Parcel 230, the jail in Parcel 243 or unbuilt properties on Parcel 286 and Mr. Goins replied no. Mr. Hurewitz asked if this was a presentation of just the office building, what would be the change or mistake to that building by itself. Mr. Goins replied it is not a petition for only that property and he can't speculate.

Mr. Hurewitz asked if this was a private property would the analysis be the same as a government property and Mr. Moore objected. A private property is not before the Zoning Board. This was sustained by Ms. Rigby. Mr. Hurewitz asked if the use of the undeveloped area of Parcel 302 had the same use as the Courthouse building property and Mr. Goins replied no. Mr. Hurewitz asked if Parcel 302 was a separate parcel number would he accept the Petitioner's request to re-zone all their properties in the area. Mr. Moore objected that he didn't understand the question. Mr. Hurewitz asked whether Parcel 302 would have different analysis and Mr. Moore objected as it was cause for speculation. Mr. Hurewitz asked if part of Parcel 286 was north of Courthouse Road and Mr. Goins said it looked like it. Mr. Hurewitz asked if that parcel area had more in common with Parcel 285 than the parking lot and Mr. Moore objected that this was vague. The objection was sustained by Ms. Rigby. Mr. Hurewitz asked if the portion across the street was used as a parking lot and Mr. Goins replied no.

Mr. Hurewitz asked if Parcel 302 would be used for Courthouse purposes and Mr. Goins said he didn't know. Mr. Hurewitz asked if there was any consideration of Parcel 302 and its relationship to the museum properties and Mr. Moore objected this was vague and beyond the scope. The objection was sustained by Ms. Rigby. Mr. Hurewitz asked if there were any thought processes for Parcel 286 related to Parcel 285 and Mr. Goins replied the criteria was mistake or change and his question isn't relevant. Mr. Hurewitz asked if the biggest change was the vacating of the Courthouse and Mr. Goins replied there were multiple factors.

Mr. Hurewitz asked if DPZ just accepted the presentation by DPW of these four parcels. Ms. Rigby clarified that for the TSR, DPZ is charged with evaluating what the Petitioner submits. Mr. Moore stipulated that DPZ analyzed the petition that was filed. Ms. Rigby asked Mr. Goins if DPZ processed the petition as required by the code and he replied yes. Mr. Hurewitz started to ask if a different petition with more parking lots was presented but Mr. Moore objected based on speculation which was sustained by Ms. Rigby.

Mr. Hurewitz said what if lot F was included in the petition and Mr. Moore objected based on speculation which was sustained by Ms. Rigby. Mr. Hurewitz asked what the obligation of DPZ was to process the petition presented by DPW. Mr. Goins replied they review the petition and prepare a staff report. Mr. Hurewitz asked about the analysis of the use of the jail related to the change of mistake. Mr. Goins replied the request was to rezone it to HC and they did not analyze use for each individual building on the site. Mr. Hurewitz asked if some of the uses are incompatible or unlikely in the jail building and Mr. Goins said he couldn't speak to that. Mr. Hurewitz asked if there was analysis in the TSR of why the jail alone should be re-zoned under change or mistake and Mr. Moore objected that had been asked and answered. The objection was sustained by Ms. Rigby. Mr. Hurewitz said he couldn't ask anything else without Mr. Moore objecting.

Questions from the Zoning Board

Ms. Walsh asked Mr. Goins about floor plates and whether a concept of those were in the TSR. Mr. Goins showed a reference in his presentation. Ms. Walsh asked if it was DPZ's position that additional floor plates are needed in old Ellicott City and Mr. Goins replied it is referenced in the Ellicott City Watershed Master Plan. Ms. Walsh asked if he testified that floor plates would be lost by the DPW plan to destroy certain buildings and Mr. Goins said yes. Ms. Walsh asked if he was familiar with the demolition plan and Mr. Goins replied no. Ms. Walsh asked Mr. Goins if he was familiar with the plan to change the rear of some buildings to commercial and he replied no. Ms. Walsh asked about the zoning maps being incorrect and Mr. Goins replied the interactive map is incorrect. Ms. Walsh asked about other properties in Ellicott City being split-zoned and Mr. Goins said the intent is to only zone the parking lot as HO. Ms. Walsh asked if he spoke to anyone at the State Department of Assessments and Taxation and Mr. Goins replied that wasn't relevant.

Ms. Walsh referenced Mr. Goins presentation and asked who prepared the HO versus HC Permitted Uses chart and Mr. Goins replied Clarion and that these types of charts was custom. She asked when it was created and why it wasn't in the TSR. Mr. Goins replied 2017 and that it was more of a visual aid that just shows the changes. Ms. Walsh asked if these were the only changes and Mr. Goins replied yes. Ms. Walsh asked how this chart was verified and Mr. Goins said he checked the regulations. Ms. Walsh referred to the regulations and cross-referenced uses in the code that don't appear in this chart. Ms. Walsh asked about the adjacent buildings and why they weren't in the TSR. Mr. Goins replied the largest properties were included. Ms. Walsh asked why DPZ wasn't the Petitioner in this case and Mr. Goins replied DPW is the owner of the properties and has more information. Ms. Walsh asked who has information about the adjoining properties and Mr. Goins replied it was in public records. Ms. Walsh asked who engaged Clarion and Mr. Goins replied they responded to the RFP. Ms. Walsh asked why DPZ isn't making a petition like this for more properties and Mr. Goins replied no one requested they do that.

Ms. Walsh asked where condominiums fall in permitted uses and Mr. Goins replied that is not a use as it is ownership. Ms. Walsh asked if there were other differences in HC and HO zoning and Mr. Goins said the density was higher in HC with no limitation except for existing structures which have 22 units per acre. Ms. Walsh asked how many parking spaces were on Parcel 302 and if that was considered and Mr. Goins said he didn't know and that it wasn't relevant to the criteria. Ms. Walsh asked if DPZ or DPW could answer when the notices were sent, and Mr. Goins replied DPW. Ms. Walsh asked why they didn't wait for the rewrite of the general plan and Mr. Goins asked to defer to the Petitioner. Mr. Goins said there was concern that comprehensive zoning would take several years with a vacant Courthouse. Ms. Walsh asked why this petition was filed so late and Mr. Goins said he would defer to DPW.

Ms. Walsh referred to a letter in the TSR and asked who made a presentation to the Historic Preservation Commission and Mr. Goins replied DPZ. She would like to see the presentation that was made. Ms. Walsh asked how long it took DPZ to issue a TSR. Mr. Goins replied it depends on the complexity, information and scheduling and could take from a month to a few months. He does not consider this petition to be complex. Ms. Walsh asked how long it took DPZ to prepare this TSR and Mr. Goins said a few weeks.

Ms. Walsh asked who DPZ consulted with and Mr. Goins replied they met with the Petitioner in this case (Mr. Hollenbeck, Mr. Moore and Mr. Stromdahl). Ms. Walsh asked if DPZ met with anyone else from the County and Mr. Goins said no. Ms. Walsh asked if they met with adjoining land owners and Mr. Goins said no, but there was a presubmission community meeting and neighbors came to speak. Ms. Walsh asked who prepared the TSR and Mr. Goins said Peter Conrad did, Mr. Goins edited part of it, and then it is sent to Brian Shepter and then Amy Gowan.

Ms. Walsh asked if anyone from Office of Law was involved in this process and Mr. Goins replied yes and the assigned attorney is either Ms. Goldmeier or Mr. Moore. Ms. Rigby said this was problematic as the same staff attorneys are used for the Zoning Board. Ms. Goldmeier clarified her role with DPZ, and said she wasn't the legal counsel for this case. Ms. Walsh asked what Office of Law attorney was used as part of drafting this TSR and Mr. Goins said it was Mr. Moore. Mr. Moore said he was representing DPW as the Petitioner for this case. Ms. Walsh asked if there were other instances of this happening and Mr. Goins said every ZRA that DPZ prepares as the Petitioner gets reviewed by Mr. Moore. Mr. Moore said this is not a conflict of interest. Ms. Walsh asked Mr. Moore why he reviewed the TSR and he said he wouldn't waive his client's privilege on what advice he may have given. Ms. Rigby asked for clarification and Mr. Goins said Office of Law doesn't review staff reports. Ms. Walsh asked who provided legal advice to DPZ in preparation of the TSR Mr. Moore objected that she was asking for substance of advice and seeking privileged information. Ms. Rigby asked Mr. Goins to provide the name and he answered it was Mr. Moore

and this was standard practice. Ms. Walsh asked Mr. Goins who DPZ consulted with other than DPW, DPZ staff and Mr. Moore as it prepared the TSR and he replied that was it.

Ms. Jung asked about the change or mistake on the Courthouse no longer being used. She asked how this aspect is a mistake. Mr. Goins replied if the County Council relied upon information that is proven false over the passage of time, that is a mistake. Ms. Jung asked if it was considered a mistake in 2013 and Mr. Goins said it wasn't. Ms. Jung asked when the conversation started about moving the Courthouse and Mr. Goins deferred to the Petitioner. Ms. Jung clarified that in 2013 the County Council voted to spend 30 million to renovate the Courthouse. Mr. Goins said it started at 1 million and over the years would rise. Ms. Jung asked ultimately what happened on the cost of the renovation and Mr. Goins said he couldn't speak to that and DPW would have more information. Ms. Jung needs more evidence that this is a mistake.

Ms. Jung continued the questioning to the topic of change. She asked Mr. Goins how change and mistake are distinguished. Mr. Goins replied change and mistake are separate. Mistake is based on factual issues. Change deals with establishing neighborhood boundary and whether significant changes occurred to warrant re-zoning. The floods and the Ellicott City Master Plan caused change. Ms. Jung asked if every Ellicott City business could come to the Zoning Board and ask for a zoning change based on change. Mr. Goins replied it would depend on their situation. Ms. Jung asked for more clarification on change. Mr. Goins referred back to the items he had mentioned. The Courthouse property is unique, and the HO is depriving the County of reasonable use of that property. Ms. Jung asked about what HC offers that HO doesn't offer and Mr. Goins replied HO doesn't allow many uses but HC allows the properties to be redeveloped for commercial uses. Ms. Jung asked if there was no possibility of creating office uses in that building and Mr. Goins replied the financial cost to renovate that building is beyond what is reasonable. Ms. Jung asked why someone would want to buy it and Mr. Goins said a hotel would generate more revenue than an office.

Ms. Rigby asked Mr. Goins what the underlying density would be for a residential building that was outside of the existing structures. He replied it would be limited by parking requirements, the setbacks, the height and how many units could fit. Ms. Rigby asked if there were parking minimums in HC and Mr. Goins said the uses are still required but there is discretion by DPZ. Ms. Rigby asked to clarify change or mistake. Mr. Goins said if the County Council knew the Courthouse would sit vacant, they might not have kept it HO. Ms. Rigby asked if it was required to determine the neighborhood boundaries if the Petitioner was requesting a change and Mr. Goins said yes. Ms. Rigby asked if the neighborhood boundaries are looked at when the changes occur in the larger area rather than the immediate area and Mr. Goins replied yes, the purpose of the neighborhood boundary is to be specific about the area.

Ms. Rigby asked how the Zoning Board could obtain the presentation to the Historic Preservation Commission. Ms. Goldmeier isn't sure who gave the presentation, but it should be on public record and Mr. Goins said DPZ should have it and will provide it.

Ms. Jung asked how far back does "mistake" go. At what point is it just a change in circumstance. Mr. Goins replied it's based on mistake in the previous comprehensive zoning, in this case it was 2013. Mr. Moore added there would be further discussion on this topic and Zoning Counsel will address it. Ms. Eileen Powers added she will ask questions for the witness at the next hearing that will answer these questions from the Board members.

Ms. Rigby said the next holds are for November 10th and November 24th. Ms. Powers is not available on the 10th. Dr Jones said in the past the 24th may be a half day. Ms. Rigby said they would find an alternative date.

Adjourned: **10:27** p.m.