

Task Force to Study Mulching, Composting, and Wood Processing

Approved Minutes

October 21, 2014

The co-chairs called the meeting to order at 6:09 p.m. in the C. Vernon Gray Conference Room in the Howard Building, 3430 Court House Drive, Ellicott City, MD.

Members Present: Zach Brendel, Martha Clark, Jeff Dannis, Robert Ensor, Gary Felton, Richard Goldman, Sean Harbaugh, Cathy Hudson, Stu Kohn, Theodore Mariani, Lynn Moore, James Nickel, Bert Nixon, Robert Orndorff, Brent Rutley, Jacquie Sentell, John Tegeris, and Kathy Zimmerman.

Others Present: Marsha McLaughlin, Joy Levy, and Cindy Hamilton, Department of Planning and Zoning; David Moore, Office of Law, and Jeff Meyers, Task Force staff. Several members of the public were in attendance.

Mr. Felton moved to approve the minutes. Mr. Kohn suggested that the minutes be amended to include a notation that MDE should attend a Task Force meeting. Mr. Meyers indicated that he would include that in the October 21 minutes because that matter was not part of the October 14 meeting. Mr. Goldman seconded and the minutes were approved. The Task Force notes that MDE should attend a Task Force meeting and is disappointed that a representative has not done so.

Joy Levy, Administrator, Agricultural Land Preservation Program (ALPP) for Howard County, briefed the Task Force about the Program, the similar State Program (Maryland Agricultural Land Preservation Foundation (MALPF)), and other kinds of preservation easements. About 42% of the rural western part of the County is protected from development through easement or in-fee land acquisition. Ms. McLaughlin noted that recent State legislation has significantly reduced the development potential of uncommitted RC zoned parcels. Ms. Levy estimated that about 8,000 acres of the 96,000 acres in the rural west are considered uncommitted and may possibly be developed.

The legal framework for the ALPP, which started in 1984, has changed little since a major overhaul to the program in 1993. Minor amendments over the years continue to refine the program as agriculture evolves. The recent Comprehensive Rezoning sought to implement the policies set out in the General Plan 2030 (adopted in 2013) including increasing the kinds of uses that are allowed on property in agricultural preservation. See Zoning Regulations Section 106.1. MALPF has recently adopted a similar Guidelines document. Ms. Levy displayed language from sample County and State agricultural preservation easements, which generally permit agricultural, horticultural, silvicultural, and aquacultural activities without explicitly defining those terms or specific uses.

Ms. Levy noted that because Howard County is a geographically small County with significant urbanization, the County seeks to allow diverse uses to ensure that farms are economically viable. These uses include equine activities, pick-your-own, and community supported agriculture. MALPF guidelines limit certain activities to specified percentages of the easement areas, for example, parking for agro-tourism is limited to the smaller of 2 acres or 2% of the easement area. Similarly, per Section 106.1 of the Zoning Regulations, conditional uses are limited in most cases to 2% of the easement area. Ms. Zimmerman noted that the “on-farm wineries” use was subsequently added to the Zoning Regulations through the public ZRA process.

The Task Force discussed the limitations that apply to agricultural preservation parcels where composting or similar activities may occur. Ms. Levy noted that MALPF guidelines cover firewood/mulch activities, which are allowed subject to certain conditions. Ms. McLaughlin noted that under Zoning Regulations some activities are allowed by right, some require administrative approval from DPZ, and some require permission by the Hearing Examiner after a public hearing process. The duty of the Task Force is to recommend how composting and natural wood waste processing should be fit into that scheme.

Mr. Rutley asked for clarification on setback requirements. Ms. McLaughlin indicated that there are use and structure setbacks that vary for conditional uses. Mr. Goldman sought clarification on how those setbacks seeming disappeared for the RLO operation in Elkridge. Ms. McLaughlin indicated that it was thought that the RLO site would be developed as a mixed use parcel within the CAC Zone, thus no setback would be required to the adjacent parcel. But since the RLO site has not developed, its current non-conforming use is allowed to continue.

Mr. Dannis sought to continue the discussion of the recommendations that the Task Force would be sending to the County Council. After considerable discussion, a consensus emerged that the Zoning Regulations should by right allow a farmer to process compost if (1) the feedstock is generated on site and (2) the product is used on site, a situation that would not require an MDE permit. See whiteboard photos below.

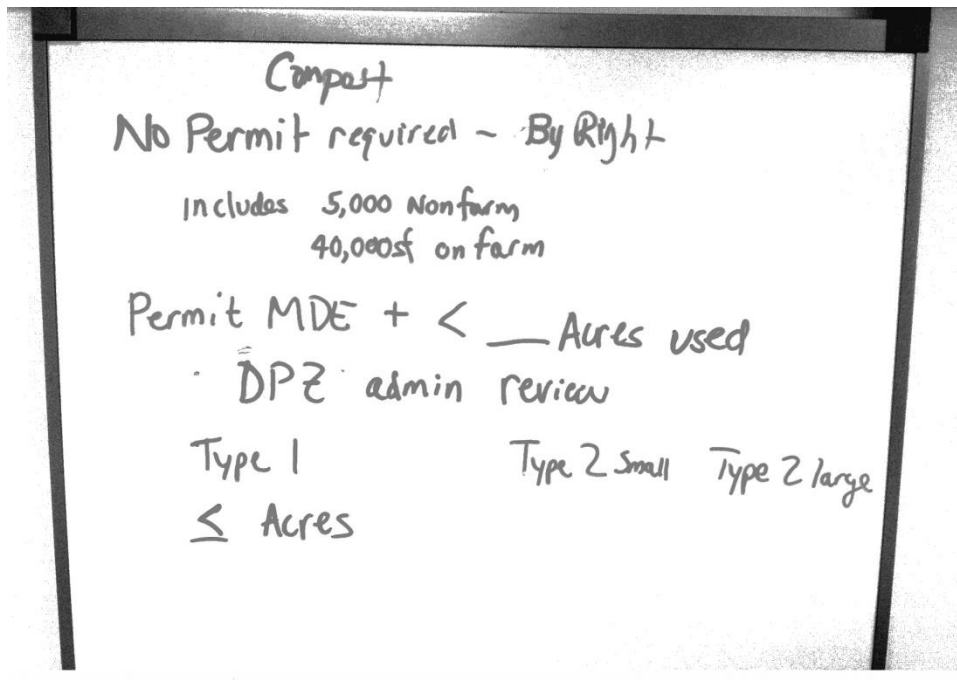
Also by consensus, the Task Force recommends that the Zoning Regulations should by right allow for a farm that (1) does not generate all of the feedstock on site but (2) uses all of the product on site, regardless of whether an MDE permit was required.

No consensus was found where not all of the product was used on site, i.e., where some product is distributed. Some members wished to allow DPZ to grant administrative approval for this scenario if the area dedicated to the activity did not exceed a specified size. Various members had different ideas about what the size limit should be.

Dr. Tegeris noted that land subject to an Agricultural Preservation easement should be treated differently in the Zoning Regulations and that industrial mulching activities be prohibited for the many reasons that had been noted in previous meetings. Ms. Moore and Ms. Zimmerman noted that there is no bright line that separates a farmer’s processes from the similar activities

of a non-farmer. Thus, in some years a farmer may need to import feedstocks or export product or both. That circumstance could cause the farmer to run afoul of any restrictions aimed at industrial mulching activities.

Photographs of whiteboard at end of the meeting:



Feedstock Internal
100% Product internal
No limits By Right

Feedstock Imported By Right
100% Product Internal.

Feedstock Internal
— % Product Internal