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DEPARTMENT OF PERMITTING SERVICES
MONTGOMERY COUNTY

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PUBLIC WORK SESSION :
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A meeting in the above-entitled matter was held on
Wednesday, May 21, 2014, commencing at 2:30 p.m., in the
County Office Building, 100 Maryland Avenue, 1st Floor
Auditorium, Rockville, Maryland 20850, before:

MARK NAUMAN



ORIGINAL

INDEX

| <u>STATEMENT OF:</u> | <u>PAGE</u> |
|----------------------|-------------|
| Mark Nauman | 3 |
| Stuart Kaplow | 7 |
| Jerry Garson | 10 |
| Michael Kay | 13 |
| Steve Cook | 15 |

P R O C E E D I N G S

1
2 MR. NAUMAN: I want to thank everybody for
3 attending our second of six introductory sessions for the
4 International Green Construction code.

5 My name is Mark Nauman. This is Bob Kelly. He's
6 our manager for commercial plan review. I'm your contact
7 person for all questions, queries regarding energy code and
8 sustainability codes. I have business cards up here if
9 anybody is interested, if you don't know me, please feel
10 free.

11 Just to let you know, all of these sessions will
12 be transcribed, and we will be making these sessions
13 available on line.

14 The intent of these meetings is to give everyone
15 the ability to comment on the IgCC, the amendments that we
16 are proposing. This process may be a bit confusing for
17 some, since only the proposed amendments are being posted
18 without any additional code content or text. DPS enforces
19 numerous building, electrical, fire, and life-safety codes,
20 which are regularly updated. And due to copyright laws, we
21 cannot publish the codes, only our amendments which are
22 being proposed or made.

23 Code books can be purchased in both hard copy and
24 electronic versions, and they're available from the
25 International Code Council, as well as other sources. And

1 some of the public libraries also have code books in their
2 reference sections.

3 These sessions are not intended to be a debate
4 forum, but they are meant to provide you with the ability to
5 make comment or offer input on the code sections particular
6 to each individual session. Today we are accepting comment
7 and input on Chapters 4 and 5 of the IgCC. Through our on-
8 line survey and sign-up process you can submit written
9 comments, or you can send comments directly to me. I'm
10 providing business cards, as I said.

11 As most of you know, the Montgomery County Green
12 Building law was enacted in 2008. This law requires all new
13 private, commercial construction over 10,000 square feet to
14 be USGBC LEED certified or equivalent. All newly
15 constructed public buildings are to be certified at the LEED
16 Silver level.

17 Recently a Council bill was proposed to amend the
18 Green Building law to require LEED Silver certification for
19 all covered buildings. This proposal was withdrawn for a
20 number of reasons, including the fact that DPS has been
21 extensively reviewing the IgCC, engaging in discussions with
22 stakeholders, and was poised to undertake a public vetting
23 of the IgCC. It is our intent that the IgCC, as it will be
24 amended through this process, and when adopted would
25 supplant the LEED certification requirement. Appropriate

1 legislative changes will follow.

2 Through these public forums, the Department
3 desires to bring all of the potentially impacted agencies
4 and stakeholders together. As you can see from the proposed
5 amendments, the Department is undertaking those areas that
6 fall within its span of control. Chapter 4 contains some
7 very important provisions, some of which may already be
8 addressed through other laws and enforced by other agencies.
9 Where that is the case, the provisions are not carried
10 forward by DPS.

11 Earlier this year the USGBC finalized LEED V4.
12 This version contains significant changes over the previous
13 iteration, which is LEED 2009, aimed at increasing energy
14 and water conservation and sustainable construction
15 standards, as well as reducing greenhouse gas emissions and
16 levels. LEED V4 will become the mandatory certification
17 path within GBCI and USGBC next year.

18 As the USGBC were partners in the development of
19 the IgCC, it comes as no surprise that the mandatory
20 requirements in both LEED V4 and the IGCC share striking
21 similarities. But while the sustainability bar is raised by
22 both approaches, costs associated with the LEED
23 certification process can instead be applied directly to
24 increase the performance and life cycles of the buildings
25 through compliance with the IgCC.

1 Adoption of the IgCC is one of the numerous
2 pathways that are available to achieve goals established in
3 the climate protection plan which was ratified by Montgomery
4 County in 2008. To arrive at any destination, we must take
5 one step at a time. The IgCC is a significant step towards
6 securing a sustainable way of life for ourselves and our
7 future generations. We welcome your support, and hope that
8 you see the value in many of the suggestions in the IgCC.
9 We look forward to working together with this important code
10 undertaking.

11 So with that I'd like to begin. We have five
12 people that are scheduled to speak. I'm going to go ahead
13 and take them in the order that we have them registered.
14 You're not limited to the number of people who wish to
15 speak. It's not limited to those that are registered.
16 Anyone that has a comment on what our proposals are, or
17 comments on the comments that are being made, you're free to
18 come on up and make a statement. We ask that you come up to
19 this table. Have a seat, speak into the microphone. As I
20 said, these sessions are being transcribed, so we want to
21 make sure that we capture all of this information
22 accurately.

23 So Stuart Kaplow is first on our list.

24 MR. KAPLOW: Greetings, sir. Do you mind if I
25 hand, I've already handed a copy --

1 MR. NAUMAN: Great. Thank you.

2 MR. KELLY: Oh, good.

3 MR. KAPLOW: -- to the stenographer.

4 Thank you. My name is Stuart Kaplow. I'm a green
5 building and sustainability attorney. And while I do this
6 work across the country, I'm always pleased to work on
7 projects here in Maryland because I actually live here and
8 have an office here, so it's exciting to do work here in
9 Maryland.

10 And I guess at the outset I would say that as a
11 law firm that does this work across the country, we are
12 incredibly supportive of this process. We think this is a
13 great move for the citizens of Montgomery County, and we
14 urge you to move forward swiftly. And I would thank you for
15 an opportunity to speak with you for a few minutes.

16 I'm here today on behalf of a coalition known as
17 the Asphalt Institute. It's a national asphalt pavement
18 association, the Maryland asphalt association in particular.
19 And my client is particularly concerned that this version of
20 the IgCC, while generally a good document, unfortunately has
21 the effect of all but banning asphalt pavement. That is, if
22 Montgomery County were to adopt this code without making any
23 modifications at all, it would have the practical effect of
24 not allowing asphalt pavement to be used in projects
25 regulated by this code.

1 And I've written to you. I supplemented my
2 client's earlier correspondence with a letter dated
3 yesterday, describing specific changes that might be made.
4 There certainly are a variety of ways that provision could
5 be modified. I respectfully suggest to you that simply
6 removing Section 408.2 is the best way to go about it.

7 I spent a week in Memphis at the code hearings on
8 the 2015 version of this code, and I'm fairly confident that
9 this provision won't be in the next version of the code.

10 Most important for your consideration, we've
11 provided two alternate paths. I also included in the most
12 recent letter to you yesterday the appropriate language for
13 ASHRAE 189.1, that is dovetailing that language. So if you,
14 if Montgomery County were inclined to make this change,
15 you'd also have a possible path for amending 189.1.

16 The last point I'd make would be to maybe clear up
17 some possible confusion, because I, this issue arises all
18 over the country, because this language is in the form code
19 now. And there's a great deal of confusion, because again I
20 sort of say this jokingly, they didn't hire a bunch of
21 lawyers to write the code, so it's not very clear. And if
22 you read Section 408, it's actually a double negative that
23 requires that more than 50 percent of the site be so paved
24 to meet these requirements. And there are alternatives.
25 You could plant trees over 50 percent. They need to be

1 mature trees, past year eight, less than year 15. I guess
2 that means you have to cut them down, because it doesn't
3 allow for pruning them. Or you can provide a lattice shaded
4 area, or the site can be shaded by two but not more than
5 three adjoining buildings. There are other ways to meet
6 this requirement. There also is a porous concrete
7 provision, and that tends to confuse folks. There are these
8 other options.

9 The alternate we provide you, while it's not my
10 preferred choice, which is simply removing the provision,
11 does allow for a pervious asphalt product. It's another way
12 to skin the cat. Again, it is sort of a crazy code
13 provision. I would simply urge you and anybody who's going
14 to look at it, it's Section 408.2. It's site hardscape.
15 But keep reading, because you need to get all the way down
16 into the third subsection and the double negative where it
17 actually has the effect of banning asphalt. We'd ask that
18 you remove that provision. I think it's in, I think that it
19 would be in the interests of Montgomery County to not make a
20 radical change from what the law is today in Montgomery
21 County that allows the use of asphalt, and we'd urge you to
22 make that change. Thank you.

23 MR. NAUMAN: Thank you. All right, next on our
24 list is Darlene Merry Hamilton. She's not here?

25 MR. KELLY: Going once?

1 MR. NAUMAN: Okay, moving on, Jerry Garson from
2 Seven Locks Civic Association.

3 MR. GARSON: Good afternoon, members of the
4 Permitting Services Department of Montgomery County. I am
5 Jerry Garson, the President of Seven Locks Civic
6 Association, Inc., and offer the following comments to the
7 Department of Permitting Services Public Work Session on
8 proposed amendments to 2012 IgCC.

9 For Chapter 4, Section 402.6, Park Land, the
10 following language should be added to make Montgomery County
11 more pedestrian-friendly. All park land within 3,000 feet
12 on any commercial residential town zone or general retail
13 zone shall have paved sidewalks, walkways, and an off-street
14 bicycle path suitable for bicycles, strollers, pedestrians,
15 and other forms of non-motorized locomotion, connecting a
16 street or path to a park entrance to be located within the
17 parkland. Motorized locomotion for handicapped individuals
18 on scooters or equivalent shall also be allowed on these
19 paths. If we really want to make Montgomery County
20 pedestrian- and bicycle-friendly, we have to start requiring
21 all parks in the County to be accessible to pedestrians,
22 especially from the new proposed commercial residential town
23 centers.

24 Also Chapter 4, Section 407.1, Walkways and
25 Bicycle Paths, this section should be amended to add

1 motorized locomotion for handicapped individuals on scooters
2 or equivalent shall be allowed on these paths. We have to
3 start realizing that in Montgomery County we have a
4 significant number of elderly and handicapped residents.
5 The United States has 14 percent of its vehicles having
6 handicapped plates or tags, yet we only provide two percent
7 of the parking spots reserved for them. If 14 percent of
8 Americans are handicapped, we have to start thinking about
9 them in our building codes. It's very nice to be totally
10 green, but we have to start considering all our elderly
11 people, unless we have other plans of chasing them out of
12 Montgomery County.

13 We also have to look at some of the other things
14 which aren't even mentioned in here. There should be a
15 limit on the parking lot slope in new parking structures so
16 handicapped people on wheelchairs or in walkers and other
17 things can easily transverse the area. The slope might be
18 one percent, two percent. It shouldn't definitely be five
19 or 10 percent like some of the slopes in our parking spots
20 are.

21 We also should be considering global warming and
22 requiring underground power lines, especially transmission
23 lines, on all major reconstruction of commercial large-scale
24 commercial buildings. We should not be putting new overhead
25 power lines on roads like Rockville Pike or any other major

1 thoroughfare. If we're going to do major reconstruction on
2 Rockville Pike, at that point while you're digging the whole
3 thing up, we should consider then putting all new power
4 lines underground, unless we think global warming is not
5 going to occur in this County.

6 I'm sorry to say last night I saw the effects of
7 overhead power lines. I lost power for seven and a half
8 hours last night. It was a major storm. It wasn't the
9 storm of the century or anything else like that.

10 We also have to consider, and I'm not sure exactly
11 how to do it, I was proposing a new Section 402.2.4,
12 development areas with old precast concrete water mains.
13 And basically it would prohibit construction within 80 feet
14 of these large precast construction mains. We are just
15 recently seeing, within the last few months, Park & Planning
16 proposing that the new, if they rebuild the Cabin John
17 center, it be built exactly up to the street line with no
18 parking in front, with no 80-foot setback as WSSC has
19 proposed. Are we thinking about safety or are we building a
20 building like the World Trade Center was built in New York,
21 without adequate fire exits because it was not built to New
22 York City code, which would have required fire exits, but
23 was built by the Port of New York Authority, which was
24 exempt from fire codes. We have to think about public
25 safety whenever we're doing new buildings.

1 Thank you, and if you have any questions I'll be
2 glad to answer them.

3 MR. NAUMAN: Great. Thank you, Mr. Garson. All
4 right, next on the list is Michael Kay.

5 MR. KELLY: Sure, knock everything over.

6 MR. KAY: Yeah. Good afternoon. My name is
7 Michael Kay. I'm with the Montgomery County Department of
8 General Services. And thank you for allowing the public
9 comment on the creation of the codes.

10 Specifically regarding Sections 4 and 5, a couple
11 key points, that when discussing --

12 MR. NAUMAN: Mike, is that Section 4.5?

13 MR. KAY: Oh, I'm sorry. No, I'm sorry. Okay,
14 404.1, you're recommending the change to the landscape
15 irrigation systems, and you're recommending that landscaping
16 plans be provided as part of the construction permit
17 drawings. But Park & Planning under Chapter 59 actually
18 requires landscape plans, so the question is how is that
19 going to be coordinated with another regulatory agency.

20 MR. KELLY: You want to answer that?

21 MR. NAUMAN: Michael, can I address that real
22 briefly?

23 MR. KAY: Yes.

24 MR. NAUMAN: Because the intent is for landscape
25 irrigation systems, not the landscape plan itself.

1 MR. KAY: Okay, so you're not reviewing the
2 landscaping, just the irrigation system.

3 MR. NAUMAN: That's correct. Yes, sir.

4 MR. KAY: Okay.

5 MR. KELLY: The other thing is we're making a
6 concerned effort to not have overlap, so if something's
7 already addressed by Park & Planning, or you know, site
8 review and so forth, it won't be duplicated in the IgCC.

9 MR. NAUMAN: State of Maryland, WSSC as well?

10 MR. KELLY: Right.

11 MR. KAY: Okay, good, because that's, a lot of my
12 comments are --

13 MR. KELLY: That might help

14 MR. KAY: -- that you did not delete that Sections
15 like 402.4, 402.5, 402.6, 402.7, and I could probably go on
16 a couple more, are all regulated by others.

17 MR. NAUMAN: And that's, part of the intent of
18 this is to draw in comments from other agencies, to be able
19 to help incorporate this.

20 MR. KAY: One other item on, you label it Section
21 12, I believe, or you, Section 12?

22 MR. NAUMAN: Right.

23 MR. KAY: I believe it should be, it should be
24 405.1.6.

25 MR. NAUMAN: And what is it labeled now?

1 MR. KAY: Documentation. It says after the last,
2 it's discussing test results --

3 MS. ROSENBLUM: There's a typo.

4 MR. KAY: Right, it's a typo.

5 MR. NAUMAN: Oh, okay. Got you. Understood. All
6 right. Thank you.

7 MR. KAY: Sure. And I think you've, if you're
8 going to take out, if you're either taking out what's
9 regulated by others, or going to be coordinating with those
10 regulatory agencies, then my comments have been addressed.

11 MR. NAUMAN: Okay. Good.

12 MR. KAY: Thank you very much.

13 MR. NAUMAN: Michael, thank you. Next is Stephen
14 Cook with VIKA Maryland.

15 MR. COOK: Good afternoon.

16 MR. NAUMAN: Good afternoon.

17 MR. COOK: Thank you. Yeah, my comments are
18 brief. I'm Steve Cook with VIKA. I'm a landscape
19 architect, and I've also been on the technical advisory
20 group for USGBC, and also sites. And I'm just going to
21 address Sections 404.1. Most of it's just the wording where
22 you talk about replace, you know, landscaping plans. I
23 think the term planting plans is more accurate, rather than
24 landscaping, because landscaping can sometimes mean a much
25 broader term than planting only.

1 Also when you refer to plans shall be designed by
2 a registered design professional, in the State of Maryland
3 they're licensed design professionals, so licensed landscape
4 architects or licensed architects. And I think it would be
5 good to add or, after design professional, or certified
6 irrigation professional, because oftentimes it's the
7 irrigation professionals that are more knowledgeable about
8 the systems and can design them much more accurately than, I
9 hate to say, a landscape architect. They're very technical
10 systems.

11 And below that, again I'd like to just say
12 exterior plant material, rather than exterior landscaping,
13 shall comply.

14 Under 404.1.1 again, you know in the landscape and
15 turf irrigation community they refer to it as such
16 landscape/turf irrigation systems, just to reduce confusion.

17 And I think it would also be good to, you know,
18 prior to the 50 percent comments, say maybe at least 50
19 percent, because in many, many cases it's easy to achieve
20 much greater water use reduction than that. And something
21 to consider down the road, too, regarding, you know,
22 landscape irrigation is the negative side effects that turf
23 can have in general with regard to poor soil quality, the
24 use of fertilizers and pesticides and herbicides. I think
25 it would be good at some point in the future to consider

1 maybe setting a limit on the amount of turf on a site. V4
2 (phonetic sp.) is doing that. So I'm anxious to see that.
3 So I'd urge you guys to consider that. Thank you for your
4 time.

5 MR. NAUMAN: All right. Thank you.

6 Okay, number six, anybody that would like to
7 speak.

8 Any comments on what has been discussed, or the
9 input so far? No? Well, this is going to be even shorter
10 than the last session.

11 Next week is going to be simply Chapter 6. It's
12 going to be, oh, two weeks, I'm sorry. Will be Chapter 6.
13 I anticipate a lot of comments on it because this is delving
14 deeply into energy as it relates to the building energy use,
15 HVAC systems, appliances, so on and so forth.

16 As I said, anybody that does not have a copy of
17 the IgCC, in order to be able to, you know, make informed
18 comments on it, I urge you to try to procure a copy. Like I
19 said, the public libraries frequently have copies of it.
20 Yes.

21 MS. ROSENBLUM: You can access it online for free,
22 but it's by section by section, so you'll have to copy it
23 out.

24 MR. NAUMAN: Annette, thank you. You're
25 absolutely correct.

1 MS. ROSENBLUM: Just Google it and you'll find it.

2 MR. NAUMAN: Right, right. See, unfortunately
3 because of copyright laws it makes it very difficult to be
4 able to get this stuff for free, so.

5 MS. ROSENBLUM: However, ASHRAE, you can read it
6 if you can't copy it.

7 MR. NAUMAN: You can't copy it, right. Yeah, or
8 forward it or anything.

9 MS. ROSENBLUM: A copy on line.

10 MR. NAUMAN: Yeah, so same thing. Well, you know,
11 you've got to face it, everybody's in the market for making
12 money, so commerce must move forward, so all right. Well --

13 MR. JETTER: So the next session is June 11th from
14 2:00 to 4:00, and all the sessions after this will be from
15 2:00 to 4:00.

16 MR. NAUMAN: Just to finalize this, this process,
17 as I've stated previously and tried to reiterate today, this
18 is for stakeholder input. This will all be digested, and
19 this will be presented once again in at least one additional
20 public forum in more of a hearing type setting, where this
21 will be developed and placed into actual legislative and
22 code language. And at that time what we're proposing will
23 be refined and will likely include a lot of the comments
24 that, and input that has been made so far. We have had
25 several groups, stakeholders, principally Montgomery County

1 agencies, which have done a lot of work to provide input so
2 far.

3 And I want to assure everyone that this is not
4 being ignored. But we, like I said, we need to have time to
5 digest all of this, refine it, compile it, and we will have
6 additional sessions that will be more intense and more
7 detailed.

8 So I want to thank everybody for taking their time
9 to come out today, and hopefully we'll see all of you in two
10 weeks, okay?

11 MR. JETTER: And also you can, the comments that
12 we received, the written comments will be posted on line, as
13 well as the minutes from every session.

14 MS. ANDERSON: When will you have your amendments
15 for the next --

16 MR. NAUMAN: I'm sorry, Karen.

17 MS. ANDERSON: When will you have your amendments
18 out for the next --

19 MR. NAUMAN: Reggie usually posts them a week
20 ahead of time. This time it'll be two weeks ahead, but you
21 should have them up by Friday, I would assume.

22 MR. JETTER: Yeah, I'll get them --

23 MR. NAUMAN: I'll get them to you either today or
24 tomorrow.

25 MR. JETTER: Yeah, as soon as you get them to me,

1 I can put them up the same day.

2 MR. NAUMAN: Okay.

3 MS. ANDERSON: So we have time to do our homework.

4 MR. NAUMAN: Yes.

5 MS. ANDERSON: Thank you.

6 (Whereupon, at 2:55 p.m., the meeting was
7 adjourned.)

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√ Digitally signed by Margaret L. vanEkeren

ELECTRONIC CERTIFICATE

DEPOSITION SERVICES, INC., hereby certifies that the foregoing pages represent an accurate transcript of the electronic sound recording of the proceedings before the Montgomery County Department of Permitting Services, in the matter of:

PUBLIC WORK SESSION

Margaret L. vanEkeren

Margaret L. vanEkeren

June 5, 2014