Rewriting the county zoning code
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Over ten years ago, Montgomery County officials embarked on what was then referred to as the Comprehensive Zoning Ordinance Re-Write Project. Even though the county zoning laws had been comprehensively revised in 1977, "smart growth" or what is now referred to as transit oriented development had come into vogue in the mid-1990s. And so the Re-Write Project was designed, at least in part, to revise the county's zoning laws to be consistent with the smart growth principle of focusing density of development in transit center areas, in mixed use projects containing residential, office and retail space.

Apparently it was also thought that a complete overhaul of the zoning laws was needed because the ordinance, through continual amending, had become too complicated. The number of individual zones has grown to well over one hundred, each allowing specific uses and each imposing a specific set of building standards such as maximum height and minimum setbacks from property lines. However, some argue that the refinements enacted over the years have resulted in an improved and refined, albeit lengthier, set of zoning laws.

While there must have been a Phase I of the Re-Write Project, I have not been able to find a copy of any report detailing what it involved. In 2001, Clarion Associates, a consulting company in Colorado, was engaged to write a report for Phase II addressing the Commercial, Industrial and Mixed Use Zones. The Phase II report was released in February 2003. It contained an analysis of existing zoning laws, as well as long term goals for the rewrite process. It also suggested interim actions which could be taken to improve and clarify the zoning code, since it was felt at the time that there was not sufficient funding or staff available to accomplish the drafting of an entirely rewritten set of zoning laws.

Fast forward to early last year when, with no acknowledgement of or reference to the 2003 report, the Planning Department began to focus on creation of a new mixed use zoning category which could replace several existing mixed use zones that are each applicable only in certain types of locations such as Central Business Districts, or Metro Station areas with no CBD, or Town Centers like Olney. Then, last spring, the Planning Board appointed a Zoning Advisory Panel comprised of developers, lawyers, residents and planners, to provide advice on the proposed new mixed use zone category, now known as CR (Commercial Residential) zoning, as well as on revision of the entire zoning code.

By the end of July last year, the Board had finished honing draft legislation to create the new CR zoning and sent it to the County Council for introduction, even though the Zoning Advisory Panel was still in the process of refining their recommendations on it. Then last August the Board hired The Code Studio, a consulting firm from Austin, Texas, to advise on the zoning ordinance re-write project. It seems odd they weren't hired to help write the CR zoning, the first of the new categories.

The 100-page draft consultant's report, entitled "Zoning Montgomery, Approach and Annotated Outline Report," was released on February 15. It can be accessed online on the Planning Department's website at www.zoningmontgomery.org.

But if you want to read and comment on it before it is refined and finalized, you had better hurry. The deadline for comments on the draft is March 17. After considering, analyzing and debating the complete rewrite of the county zoning laws for more than ten years, residents have been given 30 days to comment on the draft report of the consultant paid to recommend an approach to, and structure for, the new zoning code.

The Code Studio has made some sound general recommendations in their draft report, such as that the zoning code should be "...clearly written, intuitive to users, and organized around a framework that will allow the document to adapt to the changing needs of Montgomery County in the future." They advise the rewrite should take a "...plain language approach to drafting, eliminating the often verbose and convoluted legal phraseology and replacing it with clear and succinct text."

The draft Zoning Montgomery report recommends the revision of the zoning code start off with General Provisions, followed by a list of the new zoning Districts, a single table of Permitted Uses for all zones, and then sections addressing regulations, development standards, project review and enforcement procedures, and a glossary of definitions. The proposed zoning categories, also referred to as districts, include the Agricultural, Residential, Mixed Use, Mixed Campus, Industrial, Planned Development, and Overlay Districts.

The consultant's draft also includes a Sustainability audit section to encourage greener environments, addressing issues such as parking, stormwater, tree canopy, and energy. A matrix containing a sample audit is included, which lists objectives, references them to sections of existing law, and proposes code language that could be used to promote more sustainable choices.

This draft report is an important document that, when finalized, will guide the revision of our zoning code--the laws used to shape the future look of our communities. Give it a look...and soon, because you only have another two weeks to provide your comments.

The views expressed in this column do not necessarily reflect formal positions adopted by the Federation. To submit an 800-1000 word column for consideration, send as an email attachment to theelms518@earthlink.net