

ECA News

Newsletter of the Eastport Civic Association

May, 2004

General Membership Meeting: Thursday, June 17, 2004

All meetings begin at 7:30 pm and are held at the Eastport Elementary school unless otherwise noted.

ECA Board Members

President

Daryl Roberts
(410) 263 -8148
derannapolis@comcast.net

Vice President

Bob Wohlfarth
(410) 626-0131
Wohlfy@comcast.net

Secretary

Judy Miller
(410) 263-9157
millerat@verizon.net

Treasurer

Dick Franyo
(410) 336-8880
fbaywatch@aol.com

Desiree Bell

(410) 268-8346
desiree@mearsannapolis.com

Newsletter

Ross Arnett
(410) 295-7531
rosses34@aol.com

Programs and Activities

Michael Matthews
(410) 263-5944
MatthewsOpus@aol.com

Joe Haebler

(410) 626-2363
joehaeb@comcast.net

C. Chris Ledoux

(410) 990-0979
cchristopherledoux@yahoo.com

Special Meeting on the Residential Conservation Overlay Proposal May 13 At 7:30 PM

By The Board

There will be a special meeting of the Membership at the Eastport Elementary School on May 13 at 7:30 PM to discuss the proposed revisions to the Eastport Residential Conservation Overlay. The Board will present its understanding of the proposal and its potential impacts. The purpose of the meeting is informational only and the Board proposes no votes on the Overlay. Rather, we will be conducting a survey of the membership. Copies of the survey will be available at the meeting but will also be delivered to your home. Results of the survey will be compiled by the Board and be presented at the June 17 Regular Membership Meeting. See the accompanying article on the Overlay elsewhere in this issue.

June Membership Meeting Agenda Items

From the Board

A large portion of the June Membership meeting will be devoted to the R. C. Overlay, but we will also bring you up to date on developments regarding the proposed revisions to Title 21 Zoning Regulations, the Eastport Yachting Center proposal, 4th Street Revitalization, and the Boatyard Market proposal.

Treasurer's Report

By Dick Franyo

Our cash on hand is \$12,269.54. Membership is currently at 390, down from 493 last year.

Residential Conservation Overlay

By Ross Arnett

The following is a text version of the current Residential Conservation Overlay code.

The purpose of the RC2, residential conservation overlay district 2 is to preserve patterns of design and development in residential neighborhoods characterized by a diversity of styles and to ensure the preservation of a diversity of land uses, together with the protection of buildings, structures or areas the destruction or alteration of which would disrupt the existing scale and architectural character of the neighborhood. The general purpose includes:

Protection of the architectural massing, composition and styles as well as neighborhood scale and character;

Assuring the compatibility of new construction and structural alterations with the existing scale and character of surrounding properties;

Encouragement of existing types of land uses that reflect the mixture and diversity of uses that have historically existed in the community; and

Preservation of streetscapes.

The provisions of the RC2 district apply to new buildings, structures, structural alterations or structural rehabilitations, enlargements or reductions on all property as designated by this overlay in the existing underlying district, with the designation RC2 on the official zoning map. These provisions shall serve to supplement the underlying zoning district regulations in order to support the purpose noted in Section 21.69A.010, and shall control in the event of conflict with any underlying zoning district regulation. In addition to uses permitted in the underlying zone, the following uses are permitted in the RC2, residential conservation overlay district 2: single-family residential attached and detached dwellings and multifamily dwellings of four or fewer units lawfully existing on November 26, 2001 shall be deemed to be conforming and may be expanded for residential use if they otherwise meet the requirements of this district. Under no

circumstances shall unlawful uses occupying such residences on the date of the ordinance from which this section derives as of November 26, 2001 shall be deemed conforming.

In the RC2 district, new construction including new buildings, enlargements to building size or bulk, or structural alterations to existing structures which have an impact upon the street facade shall be reviewed for compliance with this chapter by the department of planning and zoning in accordance with the provisions of Chapter 21.98, Site Design Plan Review; except that this chapter will not apply to new construction, enlargements or structural alterations which occur behind an existing building within the confines of a rearward extension of the side building lines; unless such addition will impair an adequate supply of light and air to adjacent property or will impede the exterior maintenance of adjacent property, in which case the requirements of Section 21.69A.050(A)(2) shall apply.

In addition to uses permitted in the underlying zone, single-family attached and detached dwellings and multifamily dwellings of four or fewer units lawfully existing on November 26, 2001 shall be deemed to be conforming. However, under no circumstances shall unlawful uses as of November 26, 2001 be deemed conforming.

Editor's note: detail on "Uses subject to standards" omitted due to space constraints

For each principal permitted use, use subject to standards or special exception located in the RC2 district, yards shall be provided as follows: the front yard shall maintain the established front yard for the block on which it is proposed, or the front yard requirement of the underlying zone whichever is less, except that building additions may maintain the front yard of the existing structure. A side yard of not less than five feet shall be provided except that building additions may maintain the side yard of the existing structure, except if such addition will impair an adequate supply of light and air to adjacent property or will impede the exterior maintenance of adjacent property, five feet shall be required.

If a structure is demolished and replaced by a new construction, the new structure shall maintain either the front yard of the demolished structure or the front yard as required above. The following additional requirements shall apply to buildings accessory to single-family dwellings: the accessory building shall

not be utilized as a dwelling unit, except as specifically provided in this chapter.

The floor area of the accessory building shall not exceed twenty-five percent of the floor area of the principal structure on the lot. The height of accessory buildings shall in no way exceed the height of the principal building. The height of accessory buildings shall be determined, as follows: accessory buildings shall have a cornice height not to exceed eight feet and a ridge height not to exceed sixteen feet, except that the director of planning and zoning may allow an additional two feet to the cornice height and an additional four feet to the ridge height upon making a written finding that: physical constraints exist or that the allowance is necessary in order to achieve compatible design, and (ii) the objectives of this title will not be jeopardized. For all other accessory buildings, the cornice and ridge heights may increase one foot for each one-foot of additional setback beyond two feet up to a maximum cornice height of ten feet and a maximum ridge height of twenty feet.

No principal building shall exceed the lesser of either: the maximum building height in the underlying zone, or the average height of all structures on the block face, except that the director of planning and zoning may allow the building height to exceed the average height of all such structures by no more than ten percent of the average height upon a written finding that: the additional height is necessary to provide for adequate living space; the additional height does not constitute incompatible design or diminish an adequate supply of light and air to adjacent properties; and the additional height does not permit buildings greater in height than the maximum height allowed in the underlying zone. The height of an addition built behind the ridgeline of an existing structure shall not exceed the height limitation of the underlying zone.

The director of planning and zoning may waive the residential off-street parking requirement upon a written finding that requiring compliance with that parking requirement will jeopardize the design objectives of this title.

Site design plan approval shall be required for all new construction, buildings and structures, as well as structural alterations or structural rehabilitations, enlargements, additions and

reductions in the RC2 district. The following guidelines shall be applied at the time of site design plan review and shall control in the event of conflict with the provisions of Chapter 21.98. These guidelines shall be applied to all uses in the RC2 district.

The design shall be consistent with the other structures in the RC2 district, including height and scale of buildings, orientation, spacing, site coverage, and exterior features such as porches, roof pitch and direction and landscaping. All structures shall maintain the setbacks required pursuant to Section 21.69A.050, if any, for the block on which they are proposed. The design shall have bulk, massing and scale similar to the structures on the block face. In addition to the requirements of this chapter, the design shall conform to the design standards established in any neighborhood plan adopted by the city council for the area in which the property is located. Exterior structural alterations along the street frontage shall be allowed only if they contribute to the preservation of the structure. The design shall conform to the guidelines for the relation of proposed structures to adjacent developments established in Section 21.98.050 and shall be compatible with the characteristics of the majority of surrounding properties on the block face. Streetscape improvements, including sidewalks, curbs, planting strips, etc., shall conform to the design standards established in the neighborhood plan adopted by the city council for the area in which the property is located.

Applications for demolition of buildings or structures within the RC2 district shall be made to the department of planning and zoning. At the time of submittal for demolition approval, the department of planning and zoning shall notify the community association (if any) for the area in which the property is located and all property owners within two hundred feet of the property of the intent to demolish. The applicant shall provide the department of planning and zoning with a set of stamped envelopes for notification. Such notice shall be given by first-class mail, return receipt requested, and shall inform the recipient that any objection to the demolition shall be made in writing to the department of planning and zoning of the structure proposed for demolition within ten days from receipt of notice. Failure to respond in a timely manner shall indicate no objection to the demolition proposal. Additionally, a sign provided by the department of planning and zoning, indicating that demolition approval is being sought and stating

the expected date of decision, shall be posted and maintained on the property in a location readily visible to the public, and shall be removed by the applicant within seven days following the decision.

The director of planning and zoning may grant the application for demolition; provided the director finds of the following based upon reliable information submitted as part of the application. Demolition of the structure will not be adverse to the RC2 district or the public interest by virtue of the structure's uniqueness or its contribution to the streetscape of the district. Demolition of the structure will not have an adverse effect on the character and surrounding environment of the RC2 district. Demolition of the structure is not for the purposes of assembling properties for the construction of a structure or structures on the assembled properties, if such assemblage is determined to be incompatible with the purposes and intent of the RC2 district. The replacement structure is designed and sited in a fashion that reflects the compatibility objectives of this chapter.

The following is the Report of the Ad-hoc Committee to Alderman Cohen and the Public.

Residential Conservation Overlay Ad-hoc Review Committee Report

The general purposes of the Residential Conservation Overlay District (RC Overlay) Ordinance (Section 21.69), enacted in 1990, are stated as follows:

- "A. Protection of the architectural massing, composition and styles as well as neighborhood scale and character;
- B. Compatibility of new construction and structural alterations with the existing scale and character of surrounding properties;
- C. Encouragement of existing types of land uses that reflect the mixture and diversity of uses that have historically existed in the community; and
- D. Preservation of streetscapes."

The Ordinance created preservation and design guidelines and placed limits on the mass and scale of new construction in Eastport. It also

relaxed some of the setback requirements in an effort to maintain the traditional narrow front- and side-yard setbacks in Eastport. In 1996, after review by a citizens' committee, the code was amended to effectively double the boundaries of the Overlay district and make some minor improvements to the body of the code. (See Attachment 1 for the existing Overlay boundaries.)

Ad Hoc Review Committee Formed in Response to Comments of Concern

During and after his campaign for office in 2001, Alderman Cohen, received comments of concern from Eastport residents that some recently built houses under the Overlay Ordinance appeared significantly out of scale with respect to their lot sizes and other houses on their block faces. In response to these concerns, he appointed an ad-hoc committee of nine Eastport residents and business owners in November 2002 to review the comments and assess whether any modifications to the Ordinance might be desirable. The city's Planning and Zoning Department has primary responsibility for interpreting and implementing the Overlay Ordinance. Senior Planner of the Planning & Zoning Department, Dirk Geratz, served as liaison to the committee and provided technical advice and data.

Topics to be Considered

Alderman Cohen asked that the following topics be addressed, as well as any others suggested by the committee:

1. Should the RC Overlay better regulate mass and bulk of new construction and, if so, how?
2. Should the RC Overlay regulate the design of facades facing the water and, if so, how?
3. Should the RC Overlay do more to prevent demolition of existing structures and, if so, how?
4. Should the RC Overlay boundaries be extended and, if so, where?
5. Is the public input process sufficient and fair for the public and the applicant and, if not, how should it be changed?

The committee met 15 times and received public comments at two public forums, on July 17 and Sept. 16, 2003, and through written feedback. Walking tours were also conducted in order to observe first hand a variety of structures in the community as an important part of the evaluation process.

Committee's General Conclusion

The committee considered each of the topics, with much time devoted to bulk and mass, including height, as well as demolition issues. The committee concluded that the ordinance had worked effectively in achieving its purposes, except in a few cases where a structure's bulk and mass appeared excessive for the lot size and in comparison to the average bulk and mass of other structures on the block face. (See Attachment 2 for examples.)

Bulk and Mass Guidelines

It became apparent that in determining the maximum scale of the "bulk and mass" of a proposed project, the Ordinance provided the Planning & Zoning staff with broad discretion within the stated guidelines (Section 21.69.070), as follows:

"All new structures or buildings, enlargement of existing structures or buildings and all substantial rehabilitation, reduction and/or alteration of existing structures or buildings shall have bulk, massing and scale similar to the structures on the block face." (Underscore added).

The Planning & Zoning staff pointed out that this guideline was sometimes difficult to enforce satisfactorily because of the subjective nature of the language. In addition, enforcement was difficult at times because of strong differences of opinion by the project's builders on the projected massing of certain structures. In discussions with the staff, it became clear that more objective standards for determining bulk and mass could result in more predictable results. The committee also points out that a relatively small percentage of houses built under the Overlay Ordinance appeared to be out of scale.

Committee's Initial Proposals and Public Comments

Public comments expressed a variety of views on the questions raised by Alderman Cohen and on the proposals set forth in the committee's initial draft report of June 2003. The report proposed to:

(a) Reduce the current maximum allowable height from 35 feet to the average height

of all roofs on the block face.

(b) Adopt a more objective bulk and mass formula by specifying an allowance of up to 200 square feet of house (excluding the basement) for every 1,000 square feet of property.

Some residents stated that the existing Ordinance was being satisfactorily implemented and that no changes were needed. Others thought the Ordinance should be scaled back or overturned because the existing guidelines were too restrictive to accommodate the larger houses that some home owners/buyers were now seeking. Many believed that the efforts to develop more objective guidelines for determination of bulk and mass could be beneficial if they were fair and balanced to all property owners.

Committee's Conclusions and Recommendations

The committee carefully considered all comments made throughout the year of its study. It concluded that the community has significantly benefited from implementation of the law's purposes and guidelines. The great majority of houses that are accommodated under the Overlay appear to satisfy the owners and, at the same time, fall within the constraints of scale designed to keep them proportionate and compatible with the "existing scale and character of surrounding properties." The committee, however, also concluded that the relatively few cases involving structures that were considered excessive in size warranted continued study of ways to provide more predictability in determining bulk and mass.

These conclusions led the committee to further consider what reasonable objective standards could be developed to provide more predictable and proportionate massing similar to the great majority of houses that have been built or renovated to date. The committee recommends the following:

RECOMMENDATIONS REQUIRING ORDINANCE AMENDMENTS:

Bulk and Mass:

The code be amended to change the general compatibility language of the guidelines (Section 21.69.070) and, instead, provide for a more objective standard for determining maximum bulk and mass, as follows:

Structure Square Footage Ratio:

Establish a maximum structure square footage for house sizes based on the size of the lot. A base house size of 1,500 square feet would be allowed for a minimum lot size of up to 2,000 square feet. For each 1,000 square feet of additional lot size, the size of a house could increase up to 250 square feet. (See Attachment 3 for a table illustrating this proposal.)

This figure was increased from 200 square feet to 250 square feet per 1000 square feet of lot size after numerous comments from the community indicated that the former number was too restrictive. The committee arrived at 250 square feet through extensive analysis. First, the committee studied about a dozen projects that have been approved in accordance with the current Overlay standards for both entirely new houses and houses that have been expanded. It was determined that with a few exceptions many of these projects could still be built under the new proposal, and some further expanded. (See Attachment 4.) Additionally, the committee studied over 50 randomly selected properties throughout Eastport that were built prior to the adoption of the Overlay or have never been expanded. (See Attachment 5). In most cases, it was determined that the proposed new square footage ratio rule would not restrict expansion of houses on these properties provided for under the ratio.* In some cases other existing rules, such as yard setbacks, would limit expansion capabilities. In all cases site design review standards are applicable. [*Also, under existing law a variance allows for an increase in square footage of up to 20% subject to Board of Appeals approval.]

Setback:

A correction to Section 21.69.050(A)(2) is recommended. This would correct the combined total of side yard setbacks on lots 50 feet and wider from 20% to 25% of the lot width. The side yard requirement (based on the underlying R2 zone) is currently 6 feet for lots under 50 feet wide. The total combined side yard setback is increased to 20% of the lot width for lots 50 feet and wider. However, 20% of 50 is only 10 feet (5 feet per side), which is actually, less than the smaller lots. Thus, for this section to work as intended, the percentage needs to increase for lots 50 feet and wider.

Height:

The committee also concluded that the design of some rooflines rising above the average height behind the ridgeline appear out of character, particularly when viewed from the side and could benefit from additional design guidelines. Originally, as noted above, the committee proposed that the current allowable maximum height of 35 feet behind the average setback of ridgelines be eliminated and replaced by limiting all additions to the average height of the block. However, after further consideration and comments from the community, the committee decided to retain the existing allowable maximum height, but recommended adding design criteria applicable to a roof exceeding the average height. These standards are provided to limit the potential negative effects of a tall rear addition on adjacent and nearby properties.

The recommendations regarding height are as follows:

With regard to subsection 2 of 21.69.050 which allows the height of a building behind the ridgeline to extend up to a maximum height of 35 feet, add the following set of criteria by which to judge the design of this additional height:

The new construction will not impair an adequate supply of light and air to adjacent property or will impede the exterior maintenance of adjacent property;

The side facades are not designed as a single plane but are articulated by means of changes in plane, increased setbacks, offsets, and a change in materials among other design solutions which lessen the potential impacts of building height;

Roof and eave design are compatible with adjacent and nearby structures and, in the case of an addition, are compatible with the existing house.

In cases where the average building height is less than 26 feet, the code would be amended to allow a building height of 26 feet, as opposed to the average of the block face. This would allow a two-story house in a block of one-story houses.

Applicability of Site Design Review:

The committee concluded that experience has shown that the scale, massing and height of all

facades can affect not only frontal views from the street, but adjacent property owners, as well as views from the waterside where applicable. Therefore, the committee recommends that the site design guidelines should apply to all facades of new structures and additions to existing structures. To enhance public involvement in site design reviews the committee has recommended increasing the public posting period. In an effort to make the RC Overlay easier to follow and as a result of public comments, the committee has also recommended placing many of the design standards into a checklist format. This would provide for a more consistent and predictable application of the design guidelines and place greater emphasis on their implementation. Specific recommendations are as follows:

Revise Section 21.69.030 to allow for site design review of all exterior facades of an addition or new construction.

Extend the public posting period from 10 to 15 days (similar to most other public posting requirements).

Place review standards in a "checklist" format for a clearer review process. (See Attachment 6).

Demolition:

The committee believes implementation of the provisions governing demolitions (Section 21.69.080) could be improved by introducing more clarity and specificity, and enlarging opportunities for the public to express their view on proposals. Additionally, the committee concluded that a structural evaluation should be completed as part of a demolition request to assess whether a structure can be rehabilitated to a safe condition or not. Specific recommendations include:

Define the term "demolition" and what constitutes a demolition.

"Demolition" is defined as involving the entire removal of more than one exterior wall or the entire removal of the roof structure. These standards do not apply to demolition limited to the interior of a structure.

Increase adjacent property owner notification distance from 200 to 300 feet, and replace the

certified mailing requirement with first class.

Increase the posting period for demolition from 10 to 30 days.

Require, as determined by the Planning & Zoning Director, a structural analysis of a building, by a registered structural engineer, to determine if it is sound and not a threat to public safety.

Place demolition standards in a user-friendly checklist format for a clearer approach to the review process. (See Attachment 7).

Overlay Boundaries:

The committee recommends a modest expansion of the Overlay boundaries to include areas that are architecturally similar to those already in the RC Overlay district. The expansion includes a leg along Bay Ridge Avenue opposite the Eastport shopping center and an area encompassing Windsor Avenue and one block of Wells Avenue as well as the West side of Adams street which is currently not included in the Overlay. These streets have houses that were built at a similar time and in a similar tradition to the nearby areas already located within the boundaries of the Overlay. (The proposed new boundaries are shown on Attachment 1).

RECOMMENDATIONS NOT REQUIRING ORDINANCE AMENDMENTS:

The committee also submits the following recommendations that do not need to be codified, but should also be considered as part of the overall implementation of an improved Overlay process. These policies include:

Improve and update, "A Guide to the Process and Design Guidelines" for public distribution.

Add public notification of site design and demolition review on the city website.

Strengthen enforcement to more closely monitor construction of approved projects during construction.

Editor's note: Please be sure to attend the Special Meeting on May 13 to learn more about the current and proposed rules.



ECA News
PO Box 3539
Annapolis, MD 21403