

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

# STAFF REPORT

---

- PROPOSED COUNTY CODE AMENDMENT
- PROPOSED PFM AMENDMENT
- APPEAL OF DECISION
- WAIVER REQUEST

Authorization to Advertise Public Hearings on a Proposed Amendment to the Public Facilities Manual Re: Tysons Corner Urban Center

Authorization to Advertise	<u>February 26, 2013</u>
Planning Commission Hearing	<u>April 4, 2013</u>
Board of Supervisors Hearing	<u>April 30, 2013</u>
Prepared by:	<u>Jan Leavitt, P.E.</u> Code Development and Compliance, DPWES (703) 324-1733 February 26, 2013

## STAFF REPORT

### A. Issue:

Board authorization to advertise public hearings on a proposed amendment to the Public Facilities Manual (PFM). The amendment enhances the flexibility in the PFM regulations to facilitate implementation of the recommendations set forth in the Comprehensive Plan for the Tysons Corner Urban Center.

### B. Recommended Action:

Staff recommends that the Board of Supervisors authorize the advertisement of public hearings on a proposed amendment to the PFM.

### C. Timing:

Board of Supervisors authorization to advertise – February 26, 2013

Planning Commission Public Hearing – April 4, 2013

Board of Supervisors Public Hearing – April 30, 2013 at 4:00 p.m.

Effective Date – May 1, 2013 at 12:01 a.m.

### D. Source:

Department of Public Works and Environmental Services (DPWES)

### E. Coordination:

The proposed amendment has been prepared by the Department of Public Works and Environmental Services (DPWES) and coordinated with the Office of the County Attorney, the Department of Planning and Zoning (DPZ), and the Office of Community Revitalization (OCR). It has also been recommended for approval by the Engineering Standards Review Committee.

### F. Background:

#### Tysons Comprehensive Plan Amendment (Adopted June 22, 2010)

On June 22, 2010, the Fairfax County Board of Supervisors adopted a new Comprehensive Plan (Plan) for Tysons. At the same time, the Board adopted 20 follow-on motions, directing County staff on elements of Plan implementation. The Tysons Plan creates a new vision for future development in Tysons that takes advantage of the four new metro stations now under construction and expected to become operational in December, 2013. The Plan designates the Tysons Corner Urban Center as the

County's new urban center. Much of what exists today in the Tysons area is expected to redevelop in support of this vision for Tysons.

The new Tysons will create a living environment less dependent on the automobile. Density will be highest near the Metro and will be characterized by a more intense mix of housing, shopping, and employment and new types of housing will be designed to meet the needs of a variety of household types. In addition, streets will be transformed by implementing design standards that encourage walking, biking and transit; and parks and open space will be preserved and stream valleys will be restored. Green architecture and site design will lessen the impact of development on the environment. Stormwater measures will be provided that are more extensive than the minimum requirements with the focus on the use of low impact development techniques that evaporate, filter and return water into the ground or reuse it.

#### Zoning Ordinance Amendment (Adopted June 22, 2010)

On June 22, 2010, the Board also adopted an amendment to the Zoning Ordinance creating the Planned Tysons Center (PTC) zoning district. The PTC District regulations are designed to provide the necessary flexibility to transform Tysons Corner Urban Center area from a suburban office park and activity center into an urban, mixed-use, transit, bicycle and pedestrian oriented community. To be granted this zoning district, the applicant must demonstrate the development furthers the vision of the Tysons Plan by meeting, among other things, design objectives outlined in the Ordinance such as furthering the urban grid of streets and prescribed street hierarchy for Tysons, applying specified streetscape and urban design guidelines, and incorporating low impact development strategies as further described below.

#### Transportation Design Standards and Memorandum of Agreement (Executed September 13, 2011)

The Transportation Design Standards (Tysons Standards), developed by the Fairfax County Department of Transportation (DOT) and other county agencies, in partnership with the Virginia Department of Transportation (VDOT), sets forth adopted standards for streets within the Tysons Corner Urban Center. The standards are based on context sensitive design parameters that accommodate low speed urban roadway, pedestrian, bicycle, and transit design. The associated Memorandum of Agreement (MOA) implements the Tysons Standards and establishes a framework for allowing private maintenance of enhanced infrastructure and snow removal. The Tysons Standards are included as Attachment D of the MOA.

#### PFM Amendment #109-11-PFM (Adopted July 12, 2011)

On July 12, 2011, the Board of Supervisors adopted an amendment to the PFM to implement the Tysons Plan with respect to street standards. Specifically, the amendment revised the PFM to allow deviations from the current street standards in the PFM in accordance with the adopted Tysons Standards, for acceptance by VDOT.

## Tysons Corner Urban Design Guidelines (Endorsed by BOS on January 15, 2012)

The Comprehensive Plan recommends that detailed urban design guidelines and standards be developed for Tysons that elaborate on the Plan's recommendations. This task was also included as follow-on motion #18. In response to the motion, the "Tysons Corner Urban Design Guidelines" (Guidelines) were developed by OCR, working with staff from various departments including DPWES, DPZ, and Transportation; VDOT; and the Tysons Corner Urban Design Guidelines Advisory Group, a nine member group consisting of urban planners, landscape architects, architects and developers. In addition, the Tysons Partnership, a private group of landowners, community members and others, was actively involved in the preparation of the Guidelines.

The Guidelines offer general direction and principles on how Tysons should look and feel, and contain detailed recommendations on how the public space should be accomplished. Because there is little historic architectural precedent to draw from for the new Tysons, it's expected that Tysons' identity will emerge over time. For this reason, the Guidelines do not regulate or dictate urban design or a particular architectural style. Rather, the Guidelines recognize that a wide variety of conditions exist in Tysons and flexibility is necessary, as long as the outcome furthers the vision set forth in the Plan.

### Plan Implementation

Implementation of the vision to transform Tysons has begun. Regulations are in place to implement the key land use and transportation elements of the Plan. Specified urban design guidelines have been approved to augment the guidelines provided in the Plan. As of February 5, 2013, fifteen zoning applications have been submitted to rezone almost 230 acres within Tysons to the newly established PTC zoning district. The following applications have been approved by the Board on these dates: MITRE 4 on June 7, 2011; Spring Hill Station (A and B) on September 27, 2011; Capital One on September 25, 2012; Arbor Row on November 20, 2012; and Spring Hill Station (D and E) on February 12, 2013, with the remaining applications currently under review. It's anticipated that a majority of these applications will be acted upon by the Planning Commission and Board of Supervisors throughout 2013. Additional information on the individual zoning cases approved or currently under review can be found in the "Report to the Board of Supervisors on Tysons Corner", which is available on the County website at <http://www.fairfaxcounty.gov/tysons>.

DPWES has been actively involved in reviewing rezoning applications to the PTC district and several site plans submitted for construction approval. This involvement has provided staff a clearer understanding of the issues faced by architects and engineers in designing the urban infrastructure. One of the major issues discussed during implementation is that the PFM regulations should not be an impediment to achieving the vision planned for Tysons.

Achieving the vision will require flexibility in the implementing regulations of the PFM. Flexibility is needed in circumstances where strict application of the PFM standards is difficult to achieve for a particular site or redevelopment in Tysons, and in circumstances where new or creative designs warrant some degree of flexibility in determining compliance with the PFM. Without flexibility in the regulations, development projects will be forced to be approved with variances which can cause processing delays and uncertainties in the regulatory approval process. The proposed amendment enhances the flexibility in the PFM regulations as further discussed below.

G. Proposed Amendment:

To implement the Tysons Plan, designers will need the flexibility to use urban design guidelines and streetscape standards that are not consistent with or addressed in the current PFM. If approved by the Board, the proposed amendment would permit the Director to approve alternative standards, including but not limited to street lights, landscaping, utilities, drainage and stormwater management, that differ from the requirements set forth in the PFM based upon the unique characteristics of the urban environment. Alternatives may be considered by the Director in circumstances where strict application of the PFM standard can not be met for a particular site and where new or creative urban designs are proposed. Alternatives, when approved by the Director, shall be subject to the following criteria:

- Alternatives shall be in substantial conformance with the development plans and associated proffers and conditions; or approved Special Exception or approved Special Permit Plat; and
- Alternatives shall be consistent with any specific urban design guidelines and streetscape plans for the area; and
- Full details and supporting data shall be provided on the plan including design computations, material specifications, technical details, structural calculations, procedures for installation, inspection and/or testing, and procedures for operation and maintenance; and
- A detailed description shall be provided of the applicable provisions of the PFM and why they cannot be met; and
- Any decision to approve an alternative shall take into consideration possible impacts on public safety, the environment, aesthetics and the burden placed on prospective owners for maintenance of any facility; and
- Reasonable and appropriate conditions may be imposed as deemed appropriate by the Director; and
- Any alternative shall comply with specific requirements set forth in the United States Code, Virginia Code, and County Code, and all other applicable regulations, resolutions and policies, as well as specific standards of VDOT and

requirements of other reviewing agencies, such as the water utilities, from which variances may not be granted at the local level; and

- Notwithstanding the foregoing, where a PFM provision requires Board of Supervisors' approval of a waiver or modification of its terms, the Director shall have no authority to approve an alternative absent Board approval.

Examples of urban standards and guidelines that differ from the PFM standards and may be considered by the Director as an alternative under the proposed amendment include:

- Pavers for sidewalks
- Reduced utility clearances
- Utilities located under sidewalks
- Sanitary sewer lines
- Trash and recycling location
- Reduction of minimum planting areas
- Minimal soil mixture and volume for street tree box filters
- Street trees counting toward the tree cover requirement
- Modified access to underground detention vaults
- Innovative LID techniques
- Use of infiltration rate less than 0.52 in/hr.
- Location of infiltration practices on in-situ fill, provided the rate is acceptable
- Connection of smaller bmp and bioretention facilities without a manhole
- Use of in-line stormwater systems in the event that off-line cannot fit

Examples of existing PFM provisions that require Board of Supervisors' approval of a waiver or modification of its terms are listed below. Under the proposed amendment, the Director shall have no authority to approve alternatives of these standards absent Board approval. ‘

- Locating private sanitary pump facilities in an unapproved sewer area
- Use of a nonstandard street light system
- Locating underground detention facilities in a residential development
- Locating pervious pavement in single family attached or single family detached residential areas

In addition, listed below for clarity are some site requirements that are not PFM provisions and shall not be considered by the Director or be eligible as an alternative under the proposed amendment:

- Maximum private street length
- Transitional screening and barrier
- Interior parking lot landscaping
- Location and size of loading dock
- Minimum standards of the Statewide Fire Prevention Code

Project submissions are moving forward and DPWES is committed to keeping the lines of communication open to make sure that the flexibility provided under the proposed amendment continues to meet stakeholder needs. DPWES will continue to be involved with the individual rezoning cases giving staff the opportunity to collaborate with the designers and developers early in the process to identify and work out the challenges of redeveloping Tysons. Individual amendments to the PFM and County Code may be necessary aimed at streamlining the waiver and modification process further. Staff intends to collaborate on this issue and be judicious in making any future changes to the PFM.

#### H. REGULATORY IMPACT:

The ability to achieve the vision for Tysons will require consistency between the adopted vision for the Tysons Corner Urban Center and the implementing regulations. Due to the flexibility provided in the Tysons Plan and the PTC District regulations, the PFM is being revised accordingly. If approved by the Board, the proposed amendment will:

##### 1. Provide Flexibility in the PFM Regulations to Align with the Tysons Plan

One way to support the vision for Tysons is to provide flexibility in the regulations to be able to design and build the planned urban environment. The proposed amendment enhances flexibility in the PFM regulations by permitting the use of alternative standards that differ from the regulations in the current PFM. A copy of the proposed amendment is included as Attachment A.

##### 2. Make it Easier to Use Innovative, Alternative Standards to Achieve the Vision

Pursuant to PFM §1-0601, designers are able to vary from the PFM standards as his own judgment and knowledge of a specific problem dictates. The current process for requesting a variance of the PFM places the onus on the developer to submit a separate request letter and justification of why the standard contained in the PFM is not appropriate. Generally, variance requests are considered by the Director on a case by case basis.

The proposed amendment acknowledges that the use of alternative standards that are not covered in the PFM are warranted, or even beneficial, in Tysons. The proposed amendment makes it easier to use alternative standards by allowing designers to propose alternative designs directly on the plan without the requirement to obtain upfront and separate approval from the Director.

It's anticipated that proposed alternatives will require different levels of review and evaluation. Minor alternatives, such as the use of pavers for sidewalks, would have little or no impact upon the environment or public safety. Other alternatives would be more complex and may require staff to perform an engineering analysis to understand the impacts of the proposed design changes. Staff is in the process of considering how to process the different types of alternatives effectively.

### 3. Promote Environmental Stewardship and Use of Low Impact Development Strategies

The Tysons Plan sets high standards for environmental stewardship. It lays out a vision for protecting the natural environment by establishing, among other things, stormwater goals expected of all applicants. To be granted rezoning to a PTC district, applicants must demonstrate that the development furthers the vision of the Tysons Plan by incorporating low impact development (LID) strategies throughout a site. LID is an innovative stormwater management approach with a basic principle that is modeled after nature: manage rainfall at the source using distributed micro-scale controls to reduce runoff from a site. Runoff reduction is the primary stormwater design objective of the Tysons Plan and it's expected that all rezoning applications reduce runoff by retaining at least the first inch of rainfall on-site through infiltration, evapotranspiration, and/or reuse.

Almost all components of the urban environment can be modified to serve as a LID control. This includes not only open space, but also rooftops, streetscapes, parking lots and sidewalks. The more LID techniques that are applied onsite, the closer to the natural hydrologic function one gets. The proposed amendment enhances the flexibility in the PFM to promote the use of LID's. In this way, designers have the opportunity to choose from a full spectrum of available techniques to create a customized site design for managing runoff from a site. Using a three-tier approach, designers can be effective in selecting stormwater controls that can be used to meet the 1-inch stormwater goal expected of all applicants in Tysons. Discussion on the three-tier approach is provided below.

**TOP TIER:** Traditional non-proprietary LID practices, such as infiltration devices and bioretention, and newer practices, such as downspout disconnection, that are either included in the PFM or have already been approved by the State for use in Virginia.

The PFM includes detailed provisions for six stormwater practices: percolation trench, pervious pavement, green roof, vegetated swale, tree box filter and reforestation pursuant to § 6-1300. In addition, the State provides technical guidance on a variety of stormwater practices approved by the Department of Conservation and Recreation (DCR) for use in Virginia for complying with the Virginia Stormwater Management Regulations. Technical design standards and specifications for top-tier stormwater techniques can be found on the County's website at <http://www.fairfaxcounty.gov/dpwes/publications/pfm/chapter6.pdf> and on the Virginia Stormwater Management BMP Clearinghouse's website at: <http://vwrrc.vt.edu/SWC/NonProprietaryBMPs.html>.

**SECOND TIER:** Other LID's that have successfully been used across the country and have design standards and specifications including assigned runoff reduction percentages are included in this tier. Second-tier stormwater techniques may be permitted under the proposed amendment upon verification by the Director.

**THIRD TIER:** Other new and evolving stormwater techniques, and modifications to approved standards and specifications and assigned efficiencies, may be permitted by

the Director. Requests for use of innovative techniques will be reviewed on a case by case basis and be approved by the Director as appropriate.

The proposed amendment applies to properties lying within the Tysons Corner Urban Center. This includes applications seeking the redevelopment option to the PTC zoning district; applications for properties which are located within the Tysons Corner Urban Center but not rezoned to the PTC district; and approved special exception and approved special permit plats. Application of the proposed amendment to by-right development proposals lying within the Tysons Corner Urban Center is necessary for any by-right project that is required to provide street frontage improvements, in accordance with the adopted street standards for Tysons, and any project seeking to fit in better with the surrounding properties being developed in accordance with the Tysons Plan.

I. Attachment:

Attachment A: Proposed PFM Amendment

## Proposed Amendment to Public Facilities Manual

**Amend the Public Facilities Manual (PFM), by revising Chapter 2 (General Subdivision and Site Plan Information), by adding § 1200 (Tysons Corner Urban Center), to read as follows:**

### **2-1200 TYSONS CORNER URBAN CENTER**

2-1200.1 Urban design guidelines and streetscape standards in the Tysons Corner Urban Center, as designated in the adopted Comprehensive Plan, including but not limited to street lights, landscaping, utilities, drainage and stormwater management, may differ from the requirements set forth in the PFM based upon the unique characteristics of the urban environment. Alternatives shall be listed on the plan for consideration by the Director in circumstances where strict application of the PFM standard can not be met for a particular site and where new or creative urban designs are proposed. Alternatives, when approved by the Director, shall be subject to the following criteria:

2-1200.1A Alternatives shall be in substantial conformance with the development plans and associated proffers and conditions; or approved Special Exception or approved Special Permit Plat; and

2-1200.1B Alternatives shall be consistent with any specific urban design guidelines and streetscape plans for the area; and

2-1200.1C Full details and supporting data shall be provided on the plan including design computations, material specifications, technical details, structural calculations, procedures for installation, inspection and/or testing, and procedures for operation and maintenance; and

2-1200.1D A detailed description shall be provided of the applicable provisions of the PFM and why they cannot be met, and the rationale to demonstrate that all criteria set forth in 1A – 1H have been met; and

2-1200.1E Any decision to approve an alternative shall take into consideration possible impacts on public safety, the environment, aesthetics and the burden placed on prospective owners for maintenance of any facility; and

2-1200.1F Reasonable and appropriate conditions may be imposed as deemed appropriate by the Director; and

2-1200.1G Any alternative shall comply with specific requirements set forth in the United States Code, Virginia Code, and County Code, and all other applicable regulations, resolutions and policies, as well as specific standards of VDOT and requirements of other reviewing agencies, such as the water utilities, from which variances may not be granted at the local level.

2-1200.1H Notwithstanding the foregoing, where a PFM provision requires Board of Supervisors' approval of a waiver or modification of its terms, the Director shall have no authority to approve an alternative absent Board approval.

2-1200.2 Acting on a specific request by the developer, urban design and streetscape standards may be considered by the Director within by-right development proposals lying within the Tysons Corner Urban Center in accordance with 2-1200.1 and subject to the criteria set forth in 2-1200.1B through 2-1200.1H.