

**FAIRFAX COUNTY PLANNING COMMISSION
ENVIRONMENT COMMITTEE
WEDNESDAY, JUNE 27, 2007**

COMMITTEE MEMBERS PRESENT:

Walter L. Alcorn, At-Large
Frank A. de la Fe, Hunter Mill District
James R. Hart, Commissioner At-large
Kenneth A. Lawrence, Providence District
Rodney L. Lusk, Lee District

COMMITTEE MEMBERS ABSENT:

Nancy Hopkins, Dranesville District
Timothy J. Sargeant, At-Large

OTHER PLANNING COMMISSIONER PRESENT:

Earl L. Flanagan, Mount Vernon District

PLANNING COMMISSION STAFF PRESENT:

Barbara J. Lippa, Executive Director, Planning Commission Office
Linda B. Rodeffer, Clerk to the Planning Commission

DEPARTMENT OF PLANNING AND ZONING STAFF PRESENT:

Noel Kaplan, Senior Environmental Planner, Planning Division (PD)
Pamela Nee, Chief, Environment and Development Review Branch, PD

ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) MEMBER PRESENT:

Chet McLaren, Braddock District

OTHERS PRESENT:

Jennifer Gilbert, Christopher Consultants, Ltd.
Kelly Olsen, student
Pete Rigby, Paciulli Simmons
Thomas Robertson, Public Affairs Specialist, Northern Virginia Building Industry
Association
Lou Sagatov, Sagatov Associates, Inc.

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Chairman James R. Hart called the meeting to order at 7:32 p.m. and noted that the Committee would again discuss the draft Plan Amendment addressing air quality and green building issues. He said the first order of business was approval of minutes.

Commissioner Lawrence MOVED THAT COMMITTEE MINUTES OF MAY 16, 2007 AND MAY 31, 2007 BE APPROVED.

The motion was seconded and carried unanimously.

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Chairman Hart noted that a revised draft of the proposed Policy Plan amendment had been distributed which incorporated suggestions received at the last committee meeting held on May 31, 2007, a copy of which is in the date file.

Noel Kaplan, Senior Environmental Planner, Planning Division, Department of Planning and Zoning (DPZ), said he would review the changes made to the proposed amendment since the last meeting based on comments received and further review by staff.

Objective 1, Policy b, page 3

Mr. Kaplan said this change had been made as the result of a question raised by Commissioner Alcorn about the impact of deleting text on page 5 of 9, the last two paragraphs after Policy h, and above the diagram, concerning auto-related air pollutants and significant new stationary sources of air pollutants. He said it was staff's view that deletion of these paragraphs would not have an adverse impact, but nevertheless thought language could be added in the introductory language in Policy b on page 3 to capture the ideas within the statement regarding auto-related air pollutants. He noted that stationary sources were already addressed by Policy g.

Objective 1, Policy d, page 4

Mr. Kaplan explained that this policy had been revised at Commissioner Lawrence's request that indoor air quality be addressed.

Objective 1, Policy g, page 5

Mr. Kaplan said that he had deleted "and/or reduction" after "minimization" of emissions from stationary sources to clarify this policy.

Objective 13, page 6

Mr. Kaplan said that a concern had been raised about the reference to maintaining and enhancing the efficient use of natural resources without defining natural resources. He said rather than include a definition, since all of the following policy statements focused on green building concepts and energy and water conservation, that objective was intended to focus more specifically on energy and water conservation and minimizing short and long term impacts on the environment and building occupants. He explained that the green building definition had been incorporated into an objective and the term "natural resources" had been deleted because it could be interpreted differently.

Objective 13, Policy a, page 6

Mr. Kaplan said there had been a lot of discussion at the last meeting about this policy leading off with references to incentives for LEED and ENERGY STAR when the focus should be on the end result rather than implementation mechanisms. He said the suggestion to focus on green building practices upfront, citing LEED and ENERGY STAR as examples of how to implement these practices, had been incorporated into Policy a. He pointed out that all of the bullet points following the reference to LEED had been retained on page 7 after best practices. He said that implementation of green building practices and green certification under established green building rating systems was encouraged.

Mr. Kaplan said as discussed at the last meeting, ENERGY STAR had been deleted from the incentive discussion since it was on a different order of magnitude than LEED and other green building ratings and language simply stated that commitments to the attainment of ENERGY STAR and LEED were encouraged where applicable.

Mr. Kaplan said "or other similar programs" had been deleted previously because staff felt that it was redundant with the "e.g." within that sentence. He added, however, that concerns had been raised about this deletion by NVBIA and Dr. David Schnare, an Environmental Quality Advisory Council (EQAC) member for the Springfield District. He said staff was now suggesting that "e.g." be removed and "other similar programs" be restored so that it would read: "Encourage commitments to implementation of green building practices through certification under established green building rating systems (U. S. Green Building Council's Leadership in Energy and Environmental Design (LEED)) or other similar programs."

Commissioner de la Fe commented that he had a major concern about certification requirements and would feel more comfortable if the language said: "Encourage commitments to implementation of green building practices under established green building ratings systems such as...." without requiring certification by an organization. He said he assumed that the reviewers would have sufficient knowledge to be able to say whether or not guidelines were met.

Mr. Kaplan responded that the policy encouraged commitments to certification which was not the same as requiring certification and did not preclude implementation of individual green building practices, proffer commitments to them, or proffers which paralleled LEED certification. He added that the County did not have a green building program or staff, although there might be other ways to handle third party certification and build staff capacity over time.

In response to a question from Commissioner Lawrence, Mr. Kaplan said at the present time there was no one in DPZ who could evaluate a LEED package. He said there may be people in the Department of Public Works and Environmental Services (DPWES), Building Plan Review and Site Review, with expertise in these areas, but even if there was some level of expertise within that agency, the resources to provide green building reviews were not available. Commissioner Lawrence expressed concern about the inability of staff to independently judge whether certification requirements were met.

Commissioner Flanagan asked if certifications made by architects and engineers were reviewed by County staff. Mr. Kaplan said he would have to refer that question to DPWES. He said staff felt comfortable with the LEED program which had a rigorous and accountable certification process around the country. He explained that if staff were to look at the certification aspect, it would be for commitments to certification levels. He said there may be other ways to address the "a la carte" approach in looking at LEED certified professionals to make some of those judgments as a third party to provide documentation that demonstrated that commitments had been met. Mr. Kaplan said he did not envision staff having the ability to go through a LEED checklist item by item, compare it with documentation, and pass judgment due to a lack of resources and perhaps a lack of technical expertise also.

Commissioner Alcorn said he thought the purpose of LEED and the NAHB program was that jurisdictions did not have to develop their own expertise. He said such programs would change as new technology became available and hoped that the proposed amendment would be flexible enough to adapt to changing circumstances. He said staff should have the ability to review the program to make sure the monitoring system was sufficient so that worthless proffers were not received.

Commissioner Alcorn suggested substituting "meeting American national standards" for "e.g.," or "other similar programs." He said the American National Standards Institute (ANSI) process was an open and inclusive process that covered both LEED and NAHB. Mr. Kaplan said that LEED had not yet gone through the ANSI process. Pete Rigby, Paciulli, Simmons and Associates, agreed.

Chairman Hart commented that the wording of the proposed amendment did not have to be finalized before it went to the Board of Supervisors for authorization to advertise.

Chairman Hart noted that Dr. Schnare had submitted comments about the proposed amendment, in which he said the "policy should name no specific program or name them all." Dr. Schnare said the LEED program was insufficient under anti-trust law and the County could suffer legal liability by naming it within a policy intended to offer that program above others. Chairman Hart asked staff to consult with the County Attorney's Office regarding this issue. Chairman Hart said he wanted to make sure that the advertisement was flexible enough to change things like this, if necessary. (Dr. Schnare's comments are in the date file.)

Barbara Lippa, Executive Director, Planning Commission, said that flexibility in advertising a Policy Plan Amendment was not as problematic as in a Zoning Ordinance amendment.

Mr. Kaplan asked Chairman Hart to reiterate the questions he wanted raised with the County Attorney's Office. Chairman Hart said the first was to determine if anti-trust issues would be involved if LEED was specifically identified and the second was to find out if the scope of advertising would allow edits and rewording.

Commissioner Lawrence said the concern he mentioned earlier about the County not having the resources or expertise to review certifications was a practical, not a theoretical problem. He said

he had no argument with a policy putting forward desirable outcomes or using a shorthand way of determining if those outcomes were achieved.

Chairman Hart commented if it was necessary to verify certifications in-house, the Board of Supervisors could authorize hiring additional staff. Commissioner Lawrence agreed and said this situation was similar to DPWES' verification of stormwater management calculations.

In response to a question from Chairman Hart, Mr. Kaplan reiterated that DPZ did not have the resources in-house to go through a checklist and confirm whether someone was on target or not and that he would consult with DPWES on the standpoint of technical expertise. Mr. Kaplan explained that the County had recently joined the U. S. Green Building Council and DPWES was going to send staff to LEED training. He said staff's knowledge would be enhanced over time, but he understood, in discussions with DPWES staff, that at the present time the critical issue was resources because they were having a hard enough time reviewing the building plans they now had in addition to keeping abreast of building codes which were updated every three years. He said, however, that he would defer that question to DPWES staff instead of speaking on their behalf.

Commissioner Lawrence commented that policy included goals and aspirations and that perhaps this was not the time to discuss the practical application of the policy.

Commissioner Flanagan noted that a recent applicant seeking approval for a restaurant in the Mount Vernon District had wanted the Planning Commission to overlook the fact that they were not in compliance with certain policies because they were going to use green building techniques. Commissioner de la Fe commented that he had requested that the applicant proffer to green building. Mr. Kaplan said they had ultimately proffered to get LEED certification prior to release of bond. Commissioner Alcorn said he hoped that this section of the Policy Plan would be applied similarly to the Residential Development Criteria and that meeting green building guidelines would not excuse non-compliance with other guidance in the Comprehensive Plan. Mr. Kaplan noted that it was the responsibility of the Planning Commission and the Board of Supervisors to weigh issues and draw conclusions about an appropriate balance.

Residential Development Criteria, 3. Environment, g) Energy, page 9

Mr. Kaplan explained that Commissioner Lawrence had recommended changing the Residential Development Criteria by adding a sentence to parallel the policy in Objective 13 referencing design and construction of buildings. He said he thought this was a good suggestion because the Environment Protection Agency required a home energy rater to conduct inspections of houses that applied for the ENERGY STAR rating, not only to verify the energy performance and that the building design elements had been satisfied, but also that construction techniques had been done in a way to ensure tightness of seals and duct work, etc. Therefore, he said he recommended adding the words "and construction" after "building design" to the last sentence of g).

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Commissioner de la Fe suggested the following edits be made:

Page 1 of 9, Air Quality – first paragraph, line 6: add "(EPA)" after "U. S. Environmental Protection Agency."

Page 2 of 9, second paragraph, line 10: delete the second "transit use" in the fifth sentence.

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Chairman Hart asked if it was the consensus of the committee that staff pursue further analysis of the proposed amendment based on the discussion tonight but at the same time prepare a request for authorization to advertise it to the Board. Committee members agreed without objection. Chairman Hart requested that Mr. Kaplan keep the committee posted on the status of the request and said another committee meeting would be scheduled at a later date.

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The meeting was adjourned at 8:15 p.m.
James R. Hart, Chairman

For a verbatim record of this meeting, reference may be made to the audio recording which can be found in the Planning Commission Office.

Minutes by: Linda B. Rodeffer

Approved: July 25, 2007

Linda B. Rodeffer, Clerk
Fairfax County Planning Commission