

**FAIRFAX COUNTY PLANNING COMMISSION  
ENVIRONMENT COMMITTEE  
WEDNESDAY, JULY 25, 2007**

**COMMITTEE MEMBERS PRESENT:**

Walter L. Alcorn, At-Large  
Frank A. de la Fe, Hunter Mill District  
James R. Hart, Commissioner At-large  
Nancy Hopkins, Dranesville District  
Kenneth A. Lawrence, Providence District  
Timothy J. Sargeant, At-Large

**COMMITTEE MEMBERS ABSENT:**

Rodney L. Lusk, Lee District

**OTHER PLANNING COMMISSIONER PRESENT:**

Peter F. Murphy, Jr., Springfield 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

**OTHER STAFF PRESENT:**

Michelle Brickner, Director, Site Development Services, Department of Public Works  
and Environmental Services (DPWES)  
James Patteson, Director, Land Development Services, DPWES  
Carey Needham, Planning and Design Division, DPWES  
Teresa Lepe, Planning and Design Division, DPWES  
Zack Fields, Board of Supervisors  
Meaghan Kiefer, Sully District Supervisor's Office  
Charles Bolen, Design and Construction, Fairfax County Public Schools

**ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) MEMBER PRESENT:**

Stella Koch, At-Large, Chairman

**OTHERS PRESENT:**

Michael Rolband, Wetland Studies and Solutions, Inc.  
Rob Walker, W. H. Gordon Associates  
Eric Dodson, National Association of Industrial and Office Properties  
Kara Whisler, Walsh, Colucci, Lubeley, Emrich & Walsh, P.C  
Michael Romeo, Walsh, Colucci, Lubeley, Emrich & Walsh, P.C  
Brian Gault, Peterson Companies

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Chairman James R. Hart called the meeting to order at 7:33 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 de la Fe MOVED THAT COMMITTEE MINUTES OF JUNE 27, 2007 BE APPROVED.

The motion was seconded and carried unanimously.

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Noel Kaplan, Senior Environmental Planner, Planning Division (PD), Department of Planning and Zoning (DPZ), said that he proposed to provide a follow-up to the June 27, 2007 Committee meeting and a review of the July 9, 2007 Board of Supervisors' (BOS) actions related to green building; he suggested that this be followed with an identification of the next steps in the process. He noted that a memorandum dated July 18, 2007 from Fred Selden, Director, PD, DPZ, concerning the proposed Plan Amendment, with the current draft of the Plan Amendment text and a copy of a memorandum dated June 27, 2007 from the County Executive to the Chairman of the Board of Supervisors attached, had been distributed. (The memoranda are in the date file.)

Mr. Kaplan said at the request of the Committee, he had consulted with the County Attorney's Office (CAO) regarding two matters: possible anti-trust issues if the Leadership in Energy and Environmental Design (LEED) program was specifically identified in the proposed Amendment; and the extent to which the scope of advertising would allow editing and rewording of the Plan Amendment. He explained that the CAO did not have concerns about how the reference to LEED had been incorporated into the draft Plan Amendment; he added that, even if there were concerns, he had been advised that the County would have immunity from anti-trust actions. He said the second issue, flexibility in advertising, had been overtaken by events because nothing would be advertised immediately per the Board's July 9 actions; nevertheless, the guidance he had received indicated that the advertisement needed to be fairly specific that was detailed enough to describe the proposal to anyone not familiar with the issues. He noted that modifications would be allowed if they flowed logically from the main point that was advertised. Therefore, he believed there would be some flexibility to make modifications within reason as long as the general substance of what had been advertised was not changed.

Chairman Hart emphasized the importance of being able to modify the amendment based on input received through the public hearing process.

Mr. Kaplan noted that at the last meeting, Commissioner de la Fe had suggested the following edits to the proposed amendment 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.

He said the first edit had been made, but the second one had not because the first reference to "transit use" related to smart growth planning and the second was a standalone reference. He said, however, that punctuation had been added for clarification.

Mr. Kaplan explained that the BOS had taken several actions on July 9, 2007 on a Board Matter presented by the Chairman related to the Plan Amendment. First, he said that the BOS had authorized consideration of a Plan Amendment generally consistent with the proposal reviewed by this committee, with an addition, in a separate motion. He said the Board referred to the June 27, 2007 memorandum from the County Executive to the BOS Chairman concerning incentives and requested the Planning Commission's Environment Committee present recommendations on this topic in a time frame that would allow the Board to act by December. Finally, Mr. Kaplan said that the Board had directed the Environment Committee to consider possible ways to promote and encourage green building practices through Comprehensive Plan language.

Mr. Kaplan noted that that the Board had given flexibility in the authorization to make changes to incorporate some incentive ideas and in a series of add-on motions during the discussion, reference had been made to the Council of Governments (COG) interim report on green buildings entitled: "Greening the Washington Metropolitan Region's Built Environment." He said the July 18, 2007 memorandum contained a Web site address to access the document and that a 60-day comment period had been established when the interim report had been accepted (running until September 10). Mr. Kaplan said he would provide hard copies of the report to Committee members if desired.

Mr. Kaplan stated that the Board had also directed staff to include cost data on green building implementation within the context of green building incentives and to consult with the building industry. He pointed out that a presentation by the Northern Virginia Building Industry Association had been given to the committee and that earlier this evening an informal, productive discussion with National Association of Industrial and Office Properties had taken place. He said staff would continue to involve interested industry groups.

Mr. Kaplan said the direction staff received initially from the Chairman was to look at Arlington County's Green Building Incentives Program and determine to what extent some of those concepts could be applied in Fairfax County. He presented an overview of the Arlington County program as follows:

- Arlington County Green Building Incentive Program was adopted in 1999 as a pilot with one level of bonus density for projects with LEED certification;
- Program was expanded in 2003 to establish a sliding scale for bonus densities and building height increases allowed for LEED certification;

- The 2003 program expansion established the requirement for developers in subject areas to submit checklists showing what they were doing under the LEED program;
- The County's Green Building Fund was also established through the 2003 program expansion;
- The green building incentive program applied only to the County's "site plan" process (comparable to Fairfax County's special exception process), excluding by-right development and was applicable to certain zoning districts only, generally (but not exclusively) within a Metro station and high-density, mixed-use growth centers.
- All site plan projects are subject to the public hearing process.
- In recent years, there have been an average of 12 site plan projects per year; however, there has been a recent and substantial increase in case load (12 site plan projects in the last six months).
- Density bonuses are based on a sliding scale depending upon the level of certification under THE LEED program: up to .15 FAR for certification; up to .25 FAR for Silver level certification; and up to .35 FAR for Gold or Platinum certification.
- The Arlington County Board can grant up to three additional stories as part of the incentives program on a case-by-case basis but is not required to do so. To date, all projects acted upon by the Board, for which bonus density had been sought, have received some level of bonus density.

Mr. Kaplan noted that since it was not known if a building met LEED certification until after completion, Arlington County enforced its incentive program with the posting of additional bond funds based on the value of the bonus density. He said staff checked with the Assessments Office on occasion to get information about square footage value of space in certain areas and then applied that to the bonus density granted. He noted at the present time, the figures used were \$24.00 to \$40.00 per square foot, depending upon the area. He added that, to date, no project had yet defaulted on a density bonus-related bond.

Mr. Kaplan said a Green Building Fund contribution was required for all projects submitted for site plan review regardless of whether or not bonus density was being sought. He noted that the contribution, three cents a square foot, was based on the entry cost for LEED review. He said if LEED certification was obtained within one year of building occupancy, the contribution was refunded; if not the money stayed in the fund. He explained that because the funds were not a reliable source of income they were not used to support staff positions but instead were used for training outreach such as seminars and publications.

Mr. Kaplan began his review of density and green building fund-related incentives by noting that, in the initial draft staff report that was circulated in January, the suggestion was made that during the Area Plans Review of special studies such as Tysons Corner or revitalization areas,

the County could consider, on a site-specific basis, whether or not it would be desirable to apply incentives for additional density related to green building performance; the density incentive could be linked to attainment of Plan density options. He explained that the concept behind Plan density options was to grant higher density as a reward for excellence in design. He said another option was not to have any incentives at all.

Mr. Kaplan stated that new ideas included 1) a broader link of green building performance to Comprehensive Plan options through Policy Plan text (similar to the proposed Plan Amendment on workforce housing); 2) establishing bonus density considerations within the Policy Plan that would specify the extent to which additional densities could be considered during the zoning process for a certain level or levels of green building performance; and 3) a new special exception process that would allow for the granting of bonus density for green building performance on a case-by-case basis. He noted that the third approach would be the closest to what Arlington County has done, although this would require an amendment to the Zoning Ordinance to implement. He said all of the options would be implemented through the zoning process and would not apply to by-right development.

Mr. Kaplan explained that a series of considerations were outlined in the memorandum dated June 27, 2007 for each of the alternatives and for each option there was a broad range of issues that needed to be considered and a number of decisions made, such as:

- Should the policy be applied Countywide or just in certain areas?
- Should the policy apply only to non-residential development or should it apply to residential development as well?
- What is the appropriate threshold of design and green building performance?
- What rating system, if any, should be used?
- To what extent should bonus density/intensity be provided?
- What mechanism for enforcement would be applied?

Mr. Kaplan said staff had also discussed the implications of additional density and intensity on a number of issues including transportation, compatibility, utilities, housing, parks and recreation, schools and the environment. He noted other factors to be considered were:

- Cumulative impacts of density bonuses (e.g., affordable/workforce housing);
- Ability to accommodate density bonuses within existing zoning districts;
- Extent to which linking green building performance to existing Plan ranges and options could dissuade developers from pursuing high density/intensity Plan options;

- Possible expectations that if bonus densities were allowed they would be granted;
- The extent to which there would be a need to verify implementation of green building practices through site inspections;
- Impact of implementation of the special exception approach on the case loads of staff, the Planning Commission, and the Board of Supervisors.

With respect to a Green Building Fund, Mr. Kaplan pointed out that unlike Fairfax County, Arlington County had a Green Building Program with staff to gather information, develop training sessions, workshops, etc. He indicated that the lack of a green building program in the County raised the question regarding who would administer the fund and how the fund would be used. He commented that one option would be to seek commitments to contributions to the existing fund for Fairfax County's Environmental Improvement Program, which funded projects identified as supporting the Board environmental agenda. He indicated that preliminary guidance from the CAO suggested that this could be a viable approach; he noted that, with the orientation of the approach to zoning cases rather than by-right development, contributions would be addressed through proffered commitments and development conditions. He explained that Arlington County had nothing in its Code or Plan that explicitly identified density bonuses or the Green Building Fund contributions but that these items were addressed during the course of the discretionary site plan approval process.

Mr. Kaplan said other decisions that needed to be made with respect to a fund included:

- An appropriate level of contribution;
- Eligibility period for refund;
- Whether or not a case could be denied based on an unwillingness of an applicant to participate in the program;
- Use of funds generated.

Mr. Kaplan reiterated that the committee had been directed to consider these issues in a time frame that would allow the Board consideration by December. He noted a BOS public hearing on the Policy Plan amendment had been scheduled on the Board's agenda for the last meeting of the year, December 3, 2007, and that a Planning Commission public hearing had been tentatively scheduled for November 1 which would allow time to consider testimony before the Board hearing. To meet that date, he said advertisement would have to occur by October 4; therefore, a decision would have to be made before then about the advertisement.

In response to a question from Chairman Hart about what action needed to be taken before authorization of a November 1 public hearing, Mr. Kaplan said it depended upon the direction the committee wanted to take. He explained that a Policy Plan amendment would not address

Area Plan amendments or only reference them in a very broad sense. However, he said if it was determined that a separate special exception process was desirable, a Zoning Ordinance amendment would have to be put on the Zoning Ordinance Amendment Work Program. He said another option was to encourage green building through some kind of Policy Plan guidance, with a comprehensive Countywide bonus density incorporated into the Policy Plan or linkage to some level of Plan option, which could be incorporated into this amendment. Mr. Kaplan noted that a Policy Plan amendment had already been authorized and that this authorization action did not require a staff report with specific text; rather, the Board's authorization action referenced advertisement of an amendment that would be generally consistent with the proposed amendment discussed by the committee. Mr. Kaplan expressed his view that there was, therefore, considerable flexibility to revise the text to be advertised consistent with the Board's authorization, particularly in light of the Board's direction to consider ways to promote and encourage green building practices through Comprehensive Plan guidance. He said the key issue before the Committee was to determine the extent to which the amendment could be modified to incorporate green building incentives into the Comprehensive Plan.

Commissioner Alcorn said he had been involved in developing the Residential Development Criteria and more recently, had served on the High-Rise Affordability Panel, both of which had considered granting density bonuses for certain types of development. He said he had serious concerns about the ability to use density bonuses for green building because there were limitations on how much the County could use density to get the kind of development it wanted. He pointed out that during the Panel's deliberations to get affordable housing in high-rise buildings, an exceptional amount of economic analysis had been done about the appropriate amount of bonus density. He said it was extremely controversial, and may continue to be so, but had been boiled down to one primary variable and that was the cost of land. He said the variables involved in green building were much more complicated and he was not sure how to arrive at a rational basis to apply bonus density other than just making it up. Commissioner Alcorn commented although someone might know how, he did not know how that nexus could be made. He said he would be more comfortable with a Policy Plan amendment similar to the one the committee had been discussing, referencing a certification program or laying out criteria, because green building technology was advancing very rapidly and he would hate to see proscribed bonus densities.

Commissioner de la Fe agreed with Commissioner Alcorn on the density issue. He expressed concern about expediting the process and said he would rather do it right instead of trying to meet a strict timeline.

Chairman Hart agreed that the timeline was ambitious. He said changing Area Plans would be a lengthy process but thought the proposed Policy Plan amendment could go forward. He emphasized that an objective way to verify green building was necessary if incentives were offered.

After discussion, it was decided that dates for another committee meeting in August and a workshop in September would be announced via e-mail.<sup>1</sup> Mr. Kaplan said staff would draft a strawman of proposed incentives.

Commissioner Alcorn thanked Mr. Kaplan for a very thorough presentation.

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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: August 13, 2007

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Linda B. Rodeffer, Clerk  
Fairfax County Planning Commission

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<sup>1</sup> An Environment Committee Meeting has been scheduled for Monday, August 13, 2007 and a Workshop on Thursday, September 6, 2007.