

**FAIRFAX COUNTY PLANNING COMMISSION
ENVIRONMENT COMMITTEE
MONDAY, AUGUST 13, 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
Timothy J. Sargeant, At-Large

COMMITTEE MEMBERS ABSENT:

Nancy Hopkins, Dranesville District
Rodney L. Lusk, Lee District

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:

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)
Meaghan Kiefer, Sully District Supervisor's Office
Charles Bolen, Design and Construction, Fairfax County Public Schools

OTHERS PRESENT:

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

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Chairman James R. Hart called the meeting to order at 7:05 p.m. and said the first order of business was approval of minutes.

Commissioner Alcorn MOVED THAT THE COMMITTEE MINUTES OF JULY 25, 2007 BE APPROVED.

Commissioner de la Fe seconded the motion which carried unanimously.

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Chairman Hart announced that tonight's meeting would be a continuation of the previous discussion regarding the direction given by the Board of Supervisors (BOS) on the proposed Policy Plan amendment on air quality and green building.

Pamela Nee, Chief, Environment and Development Review Branch, Planning Division, Department of Planning and Zoning, said Noel Kaplan was unable to attend the meeting due to illness.

Ms. Nee referred to a memorandum from Anthony H. Griffin, County Executive, to Gerald E. Connolly, Chairman, Board of Supervisors, dated June 27, 2007, subject: Green Building Incentives for the Private Sector. (A copy of the memorandum is in the date file.) She said staff had been directed to review Arlington County's Green Building Program to determine if some or all of it could be applied in Fairfax County. She explained that Arlington County had a process similar to Fairfax County's special exception process, which they called site plan review, whereby bonus density was granted for green building. She said an alternative to that approach was for Fairfax County to simply have an expectation of design excellence without granting bonus density. She noted that if such a program were adopted, a determination would have to be made as to where the policy would apply; i.e., transit-oriented development, transit-station areas, mixed-use development, or Countywide.

Responding to a question from Chairman Hart, Ms. Nee said the Planning Commission would have to decide upon the scope of the proposed amendment; i.e., if bonus density should be pursued or if general language only supporting that approach should be included. She also said it needed to be determined if special study areas, such as Tysons and Merrifield, should be addressed.

In response to a another question from Chairman Hart, Ms. Nee said rather than doing amendments to the Area Plans, a "broad brush" approach could be used to apply the policy to mixed-use centers with the expectation that if an applicant pursued the high end of the density range, green building practices would have to be demonstrated.

Ms. Nee commented that the proposed schedule was ambitious since the BOS desired that this matter be acted upon by year's end. She suggested that staff draft a strawman document to get the discussion started, pointing out that these concepts were not new.

Chairman Hart said the Planning Commission's public hearing had been tentatively postponed from November 1 to either November 7 or 8 and the workshop preliminary scheduled for September 6.

Commissioner Lawrence said in view of the time constraints, it would be helpful to carefully define what types of development would be subject to the proposed amendment.

Barbara Lippa, Executive Director, Planning Commission Office, suggested answering the questions posed in the minutes of the last committee meeting held on July 25, 2007 so the parameters of the amendment would be known and if anything additional needed to be part of the policy. She pointed out that a special exception process would require a Zoning Ordinance amendment. (A copy of the July 25, 2007 minutes is in the date file.)

Chairman Hart said the scope of the air quality amendment had been defined but had become broader when the BOS had requested that green building also be addressed.

Commissioner Flanagan said he understood that Chairman Connolly had said that Fairfax County would establish incentives, not impose regulations. Ms. Nee agreed. He said he would like to see written examples of incentives in other jurisdictions.

Chairman Hart explained that the County had not imposed green building requirements on either the private sector or government and if green technology were used, it was voluntary. He added that at this point it was not known if incentives would be applied Countywide.

Commissioner Sargeant stated that there were three issues: definition of green building; identification of a certification program or best practices; and possible incentives. He noted that the National Association of Home Builders (NAHB) had issued "Green Home Building Guidelines," an excerpt of which had been sent to committee members. He said these guidelines had been recently adopted by the Northern Virginia Building Industry Association (NVBIA) and a two-day course was being offered on September 18 and 19 in Chantilly. He said the industry was moving ahead with their own ideas which incorporated many of the issues the committee had discussed. Commissioner Sargeant pointed out that the County's "Cool County" initiatives also addressed energy efficiency in general and provided green building guidelines which incorporated more than building practices. He said in view of time constraints, these documents should be looked at seriously to see what would fit into this effort. He agreed with concerns expressed at the last meeting by Commissioner Alcorn about the cumulative effect of density as a result of other initiatives such as affordable housing and said best practices could be used as an incentive. (A copy of the NAHB excerpt is in the date file.)

Commissioner Alcorn commented that he would like to see all development in Fairfax County follow green building practices to the extent possible, not just in areas planned for high density. He said the original staff proposal laid out a framework that could be adapted to industry standards as well as changing technology. He said he was not convinced that bonus density should be granted as an incentive for green building in Fairfax County, but he was willing to hear the argument for it.

Chairman Hart pointed out that the BOS had asked the Planning Commission to resolve some of these questions and it was possible that the answer might be a recommendation against certain incentives.

Chairman Hart asked the committee to address the questions raised on page 5 of the committee minutes of July 25, 2007:

- Should the policy be applied Countywide or just in certain areas?

After discussion, it was decided that at this time the policy should be applied Countywide.

- Should the policy apply only to non-residential development or should it apply to residential development as well?

After discussion, it was decided that the policy should apply both to residential and non-residential development.

- What is the appropriate threshold of design and green building performance?
- What rating system, if any, should be used?

The following points were raised during the discussion of bullets 3 and 4:

Commissioner de la Fe said he did not think one particular rating system or performance standards should be used.

Commissioner Sargeant commented that NAHB had a green building checklist, modeled after LEED.

Commissioner Lawrence commented that "threshold" meant what level of development had to be attained before green building practices applied. He noted that green building was not just the building, it was the landscaping, design, materials, construction, and operation, i.e., the whole life cycle. He said he thought the entire County should strive to be green.

Commissioner Flanagan said consideration should be given to public perception and that there was merit in establishing a bronze level as the minimum standard, gradually moving up to higher levels.

Commissioner Alcorn agreed but said he was not sure if the Policy Plan should be that specific and suggested it only refer to adequate green building commitments or something similar which could change over time through the administration of the proffer system. He said he thought Mr. Kaplan's question in bullet 3 referred to what size of development green building standards would apply. He said he thought thresholds should be established for both guidance and incentives.

Chairman Hart commented that if specific incentives were created, they should be defined and an objective way of measuring performance was needed that would be fair to everyone.

Commissioner Lawrence said in the absence of standards to which all could ascribe, maybe a process could be outlined in Area Plans indicating that specific measures would be identified by the County and/or the applicant and compared to an objective standard, but that the standard itself not be identified.

Commissioner Sargeant suggested recommending a green building definition to the BOS that would apply to both residential and non-residential development, identify possible incentives, and address landscaping and interior operation of the building after completion. Chairman Hart said he would like to hear more from staff about this suggestion and that the workshop might help to clarify these issues.

Commissioner Alcorn questioned how much detail should be included in the Policy Plan given the fact that standards were evolving. He said he would feel more comfortable with a framework only. He said outreach and other non-regulatory things could also be recommended to the BOS in terms of educating the public, homebuyers, developers, and consultants about green building.

Chairman Hart agreed and said the more specific the guidelines became, the less likely it would be a Policy Plan amendment and would be more appropriate for Area Plans or a Zoning Ordinance. He said he did not know how a certain rating system or certification methodology could be imposed Countywide through the Policy Plan.

Commissioner Sargeant said if specific references were not made to rating systems or performance standards, perhaps language should require adherence to recognized standards which would provide guidance to developers.

Commissioner Lawrence said thresholds could be revisited when the framework had been established. He said he had learned, in discussions with applicants, that there were a whole series of techniques available to accomplish environmentally sound site design. He explained that because he had not had a lot of luck in negotiating green roofs with developers, he had encouraged applicants to make "strong" roofs that could withstand either vegetation or solar panels. However, he said since this would increase the cost of the building, there should be incentives to offset those costs, but he was not certain what they should be or how they should be applied.

Responding to a question from Commissioner Flanagan, regarding bullet 2, Chairman Hart said the recommendation at this time was that green building should apply to both residential and non-residential building, although there could be different standards for different types of development.

- To what extent should bonus density/intensity be provided?
- What mechanism for enforcement would be applied?

The following points were raised regarding bullets 5 and 6:

Commissioner de la Fe said he did not think density or intensity incentives were necessary because green building was for the common good and was cost effective in the long run.. Commissioner Flanagan agreed and said before density bonuses were granted he wanted to be sure they would not be detrimental to the health, safety, and welfare of the public.

Chairman Hart said other incentives which could be considered were fee rebates or shortened review times. He also commented that it was possible staff and the Planning Commission would recommend against incentives, but for the time being they were still on the table. Commissioner Sargeant said it might come down to what could legally be done to initiate and enforce guidelines and tie them to regulatory standards.

Addressing bullet 6, Chairman Hart pointed out that there was nothing to enforce in the Policy Plan, unlike a proffer or Zoning Ordinance. He said perhaps the question referred to implementation.

Michael Rolband, Wetland Studies and Solutions, Inc., said he and Mr. Kaplan had discussed the enforcement issue. He said it was his understanding that the concern was about what recourse would be available if LEED certification had been proffered and diligently pursued but not attained, since it was not granted until building completion and occupancy. He explained that Arlington County required bonds equal to the financial benefit of the increase in density.

Commissioner Flanagan said performance should be tracked.

Chairman Hart pointed out that wording of proffers would be extremely important if a performance standard was to be achieved and said conformance would have to be monitored.

Commissioner Lawrence agreed with Mr. Rolband, noting that there were two enforcement mechanisms, one a penalty in a multi-phased development and the second, posting of a surety bond. He said he agreed with Commissioner Flanagan that performance should be tracked. Chairman Hart said there would be staffing implications for tracking.

Commissioner Sargeant said it would be helpful if it was determined what the BOS could do to enforce higher standards applicable to policy initiatives, noting that the proposed amendment had words such as "promote," "support," and "maximize;" not "enforce," "regulate," or "control." He said if this was something to be measured in the aggregate, it must be able to be enforced.

Commissioner Alcorn suggested enforcement could begin as an aggregate review and if expected outcomes were not realized, bond requirements could be considered. He said it might be appropriate to require bonds, on a case-by-case basis, if proffers requiring specific ratings were not met.

Chairman Hart said perhaps additional density/intensity should not be considered a bonus, but a way of achieving an overlay. Commissioner Lawrence agreed, citing a recent case in which amenities for people beyond the development itself were expected in return for higher density and was an example of a provision already in the Plan. Commissioner Lawrence emphasized

that proffers had to be enforceable and that counting in the aggregate on the whole, while still allowing for specifics, addressed what needed to be done.

Responding to a question from Ms. Nee, Chairman Hart said the strawman should be similar to a draft staff report with a strong disclaimer that it was not the staff report, only an outline to be used for discussion with the public. Commissioner Alcorn said he would like to see the strawman address fast-tracking applications and fee structures for by-right development, as well as applications with a green building commitment.

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Chairman Hart said the committee would next discuss the workshop format. After discussion, it was decided that the workshop would be held on September 6, 2007 at 7:00 p.m., in the Board Auditorium.

Commissioner Hart requested that outreach be as broad as possible and include notification to listserv members, supervisors' offices, and website posting. Ms. Nee said that Mr. Kaplan would also notify industry associations. Commissioner Flanagan said to make sure the local chapter of NAHB was notified also.

Responding to a question from Commissioner Lawrence, Ms. Lipa said that Channel 16 did not use banners but posted a list of meetings. She said a banner would run on the Planning Commission's website.

Commissioner Alcorn asked that the Office of Public Affairs be requested to issue a press release.

In response to a question from Ms. Lipa, Chairman Hart said he would have no objection to televising the workshop on Channel 16 if feasible.

Responding to a question from Commissioner Flanagan, Chairman Hart said the time allotted to each speaker would depend upon the number of people in attendance. He suggested that the workshop begin with a staff presentation followed by questions from Commissioners and the public.

Commissioner Hart suggested that questions which could not be answered immediately be compiled for a follow-up response and that time limits for comments be imposed as well as the number of times a person would be allowed to speak. Commissioner Alcorn said the rules should be announced at the beginning of the workshop and that the number of total questions should be limited if attendance was large.

Commissioner Sargeant said it was important to make sure that the public knew they had an opportunity to contribute to the drafting of the document and that as soon as the strawman was available it be posted on the website and a press release issued. He suggested after the staff

report and commissioners' questions, a ten-minute break be provided so participants could ask questions to staff and commissioners on a one-to-one basis.

Commissioner Lawrence suggested that it be announced that all unanswered questions could be emailed for a response.

Commissioner Flanagan said the procedure for the Transit-Oriented Development Committee meetings had worked very well and comments could be followed up in writing.

Chairman Hart said it should be made clear that the meeting was a workshop, not a public hearing. Commissioner Sargeant said it should also be made clear that citizens would have an opportunity to comment or ask questions.

Ms. Nee said it should be emphasized that the strawman was an outline of concepts and not set in concrete.

Commissioner Alcorn requested that non-regulatory approaches also be addressed, including outreach and educational initiatives, that could help facilitate green building and did not apply to the land process only.

Mr. Rolband suggested that a procedure used in Bar Association seminars be considered whereby questions were solicited in advance so that they could be consolidated beforehand.

Commissioner Alcorn said index cards could be distributed so questions could be written down.

Commissioner Sargeant said the committee chair could be more interactive with the audience if he did not sit behind the dais, but stood closer to the audience near the podium with a portable microphone.

In response to a question from Commissioner Sargeant, Chairman Hart said there would be an opportunity for input after the workshop, but the time would be limited due to the scheduled public hearings.

Mr. Rolband requested that if time allowed, staff meet informally before the workshop with NAIOP and NVBIA, two of the biggest stakeholders, noting that their support would be invaluable.

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The meeting was adjourned at 8:50 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: September 6, 2007

Linda B. Rodeffer, Clerk
Fairfax County Planning Commission