

**FAIRFAX COUNTY PLANNING COMMISSION
POLICY AND PROCEDURES COMMITTEE
JULY 15, 2004**

COMMITTEE MEMBERS PRESENT:

Walter L. Alcorn, At-Large
John R. Byers, Mount Vernon District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
James Hart, Commissioner At-Large
Nancy Hopkins, Dranesville District
Laurie F. Wilson, At-Large

STAFF PRESENT:

Barbara J. Lippa, Executive Director, Planning Commission (PC)
Sara R. Hardy, Assistant Director, PC
Norma J. Duncan, Associate Clerk, PC
Barbara Byron, Director, Zoning Evaluation Division (ZED), Department
of Planning and Zoning (DPZ)
Kirk Holley, Manager, Park Planning Branch (PPB), Park Authority (PA)
Leslie B. Johnson, Chief, Rezoning Evaluation Branch, ZED, DPZ
Wendy Jia, Transportation Planner, Department of Transportation (DOT)
Lorrie Kirst, Zoning Administration Division (ZAD), DPZ
David Kline, Senior Transportation Planner, DOT
David Marshall, Assistant Director, Planning Division (PD), DPZ
Fred Selden, Director, PD, DPZ
William E. Shoup, Director, ZAD, DPZ
Sandra Stallman, Long Range Planner, PA
Lynn Tadlock, Director, Planning and Development Division, PA
Sterling Wheeler, Chief, Policy Planning & Plan Development Branch, PD, DPZ
Diane Johnson-Quinn, Assistant Zoning Administrator, ZAD, DPZ

OTHERS PRESENT:

Frank A. de la Fe, Hunter Mill District Commissioner
Kenneth Lawrence, Providence District Commissioner
Phil Yates, Dewberry and Davis

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Chairman Janet R. Hall called the meeting to order at 7:02 p.m. in the Board of Supervisors' Conference Room at 12000 Government Center Parkway, Fairfax, VA 22035.

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Chairman Hall referenced the minutes from the February 19, 2004 Committee meeting and called for approval.

Commissioner Alcorn MOVED APPROVAL OF THE MINUTES FOR FEBRUARY 19, 2004.

Commissioner de la Fe seconded the motion which was carried unanimously.

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Chairman Hall asked Diane Johnson-Quinn, Zoning Administration Division, DPZ, to explain the handout distributed May 27, 2004, which is contained in the date file.

Ms. Johnson-Quinn explained that the P District proposal addressed: 1) whether free standing accessory structures could be located outside the building envelope; 2) how to ensure building envelopes were included on grading plans and that houses were built in accordance with the approved Planning Development Plan (PDP); 3) building footprint flexibility; and 4) some minimum yard and building envelope setback requirements for PDPs.

Ms. Johnson-Quinn remarked that staff had discussed accessory structures and proposed that any structures less than 7 feet and sheds less than 8 ½ feet, could be located within the minimum required yard. She noted there was some question about whether anything should go between the building envelope and the lot line. She indicated that staff supported their original position and if further restrictions were desired, they could be negotiated through the rezoning process. Alternatively, she said, staff could also support a limitation for anything below 7 feet, which was the general requirement for other free-standing accessory structures.

Ms. Johnson-Quinn also noted that additional changes were needed in Article 10 regarding the building envelope. She stated that staff wanted to ensure receipt of the approved building envelope early enough and had determined that the grading plan would best achieve this. She indicated that only minor changes to Section 18-602 would be necessary to make that a requirement.

Ms. Johnson-Quinn added that staff had also discussed flexibility of the building footprint, and whether the footprint shown could be changed slightly and still be in substantial conformance with the PDP. They concluded that as long as the change was within the shown building envelope it would likely be fine.

She said there had also been discussion about whether there should be a minimum setback requirement and a requirement for a ten foot separation. Ms. Johnson-Quinn indicated that staff's position was not to support a minimum setback in the P Districts since there was no building fire code requirement. Larger setbacks, she noted, could be negotiated through development conditions or through proffers. She added that staff believed that would be a better approach if used on a case-by-case basis.

Ms. Johnson-Quinn also commented that if a developer's plan did not exactly match the approved development plan, but was in substantial conformance as deemed by staff, a minor modification would be allowed administratively. The other option, she offered, entailed public hearings by the Planning Commission and the Board of Supervisors. While recognizing that these processes were costly in time and money for applicants, she noted that changes would warrant careful consideration, including interests of neighboring properties. As a result, she said, staff favored the procedure as offered, but would also consider balancing interests.

In discussing the General and Design Standards, Ms. Johnson-Quinn conceded that staff had incorporated some language directly from the Residential Development Criteria and Comprehensive Plan to strengthen the requirements. She noted that staff did not support greater detail, because the standards in Article 16 also affected the PRC, and they did not wish to adversely impact the PRC District or discourage flexibility.

Additionally, she said, they wanted to discuss the definition of deck and whether they should consider deleting the word "patio" from the deck definition. She advised that the term had an impact throughout every district and recommended it be addressed separately.

Ms. Johnson-Quinn concluded by asking if there were any question on the issues addressed.

Commissioner Wilson acknowledged staff's interest in maintaining flexibility in design, but questioned whether there would be a need for minor modification provisions if the entire building was within the building envelope. She stated her concern that applicants would make the building footprint as big as possible to avoid future modifications.

Ms. Johnson-Quinn clarified that there were two separate things: the building envelope and footprint which could, theoretically, be deemed to be in substantial conformance. She pointed out that it was not the building envelope, but footprint that could be moved around.

Commissioner Wilson asked if they would make it explicit that the building envelope was not subject to minor modifications. Ms. Johnson-Quinn replied that the envelope was set with specific dimensions and intended to be the minimum required yard.

Lorrie Kirst commented that the new definition of a building envelope defined minimum required yards. Barbara Byron stated that it should be reviewed again because anything on the development plan, as was currently structured, would be subject to minor modification. She noted that that staff should be clear that the minor modification provisions had to be separate.

Chairman Hall agreed that the language should be as clear as possible. Commissioner Harsel confirmed with staff that the building envelope included decks, sunrooms, and bumpouts. She also confirmed with Ms. Byron that a gazebo could go right to the lot line, as long as it was only 7 ½ feet from the lowest or highest point of the structure.

Responding to Commissioner Byers, Ms. Johnson-Quinn explained that flag poles were exempt from the height limitation. In further response to Commissioner Byers' question as to where that rule was located, she stated it was in Article 2 of the Ordinance and noted it was a general regulation that applied to multiple districts.

Referencing the number of structures per property, as questioned by Chairman Hall, Ms. Johnson-Quinn indicated that any number were allowed as long as they did not cover more than 30% of the rear yard. Commissioner Harsel asked about side yard limitations to which Ms. Johnson-Quinn replied that there none other than the 7 foot height requirement. She reaffirmed that all accessory structures must be below the 7 foot height requirement except for sheds, which could be up to 8 ½ feet.

Commissioner Hart commented on staff consideration of the difference between the 7 and 8 ½ foot height limitations for sheds and suggested that if the standard size sold was greater than 7 feet, changing the height limitation from 8 ½ feet to 7 feet could cause problems.

Mr Shoup explained that the height requirement came from an amendment in the mid-80's when the standard height of sheds sold was 8 ½ feet. Staff confirmed that the current height limitation of 8 ½ feet for sheds applied to all residential districts, but that they were willing to consider lowering it to 7 feet in P Districts only.

Chairman Hall asked if staff felt strongly about the need to leave sheds in this amendment to which Ms. Johnson-Quinn affirmed. Commissioner Alcorn interjected that his instinct was that if they changed shed requirements, they should be changed in all districts, not just the P Districts.

Ms. Johnson-Quinn alternatively suggested that sheds and free-standing accessory structures would be allowed in the minimum required rear and side yards as long as there were no development conditions or proffers that would otherwise restrict it.

In response to Commissioner Wilson's question of why there was a different definition for height with accessory structures than for dwelling units, Mr. Shoup said accessory structures could be located closer to lot lines and necessitated a more strict measurement basis from ground level to the highest point.

Commissioner Wilson commented that houses in P Districts could be as close to the lot lines as the accessory structures could go. Ms. Byron responded that because the P Districts were proffer-controlled, you could create a definition for a particular P District. When Commissioner Wilson asked if they could create it in the current proposal, Ms. Byron responded negatively because, as with sheds, that would create ripple effects.

Commissioner Wilson voiced her concern on the definition of a dwelling structure since nobody could figure out the height unless they were a civil engineer. She added that enforcement would be a problem.

In response to Commissioner Alcorn's question of whether the County was limiting P District proposals currently or requiring that the building envelope be delineated, Ms. Johnson-Quinn acknowledged that it would be delineated on the plan.

Chairman Hall asked if there were concerns about the building envelope on the grading plan, which was item B on the memo. Commissioner Wilson asked if there would be a unique line showing this on the plan that would make finding it easier.

Ms. Kirst asserted that this was required when no other site plan was necessary. She noted it was under the building permit section of the Zoning Ordinance and the plan had specific submission requirements, which included showing the structures.

Ms. Byron added that one reason this requirement was helpful was when a house had gone through the subdivision process and then was changed. The new homeowner might change something only

to discover it did not fit the setback requirement, so the intent was to make sure they were cognizant of the restrictions at building permit.

Chairman Hall concluded the discussion on grading plans and moved to item C, Building Footprint Flexibility.

Responding to Commissioner Harsel, Ms. Johnson-Quinn clarified that the building envelope did not move; however, the footprint could be altered as long as all elements stayed within the envelope.

Ms. Byron stated that the building envelope was important because that set the parameter. She further stated that the building envelope was more illustrative, giving an idea of size and orientation. She agreed that the envelope governed and the footprint could be moved as long as the orientations were clear.

In response to Commissioner Alcorn's question about building out to the edge of the building envelope, Ms. Byron verified the possibility. Ms. Johnson-Quinn added that the conditions or proffers could further limit the location of the building.

Chairman Hall suggested it would help the Commission if they had a building footprint to look at to better visualize what was being proposed.

Commissioner Byers asked what would happen if a developer built on the edge of the building envelope and a subsequent owner wanted to add a fireplace. Ms. Byron explained that there was a misconception that this type of case would need to go before the BZA for a variance. In actuality, she said, the owner would need to file a proffered condition amendment.

Using another example, Commissioner Byers asked what would happen if the owner hired a contractor to build the fireplace. Ms. Byron said a neighbor would call zoning enforcement and the owner would have the choice of taking it out, suing the contractor, or asking the Board for relief. Ms. Johnson-Quinn noted that the information should be on the location plat and when staff pulled the permit, the street file would show that the house was already at the boundary of the envelope, and should not be approved. There was consensus that this procedure would make the process easier.

Commissioner Harsel asked about the possibility of submitting a building envelope with a zero lot line. Ms. Johnson-Quinn noted that it was possible, but would then be up to staff, the Planning Commission, and the Board to evaluate the proposal.

Commissioner Wilson asked how a zero lot line could be approved since the Fire Marshal had said anything with less than a 5 foot minimum side yard was not to building code. Ms. Byron clarified that as long as there was a fire-rated wall and no doors and windows on the lot line, it would meet code requirements.

Moving onto Minimum Yards/Building Envelopes, Commissioner Byers stated he had major problems with the comment that minimum yard requirements would discourage creativity. He noted that the only thing it would discourage was jamming as many houses onto a lot as possible. Several other Commissioners agreed. He recommended that staff look at all approved PDH's to see how many were really creative in design.

Commissioner Alcorn offered a different perspective. He said he had a problem with hard coding things and suggested that if the Commissioners did not agree with a proposal, then they should not approve it. He asked what obligation the Commission had to approve any P District application. Commissioner Byers explained that years earlier the Board had decided to limit the amount of development by establishing a sewer moratorium. Then, he said, the developers sued the County, and the Virginia Supreme Court ruled that if the developer met the Zoning Ordinance requirements and the description in the Comprehensive Plan, then a developer could develop whatever he requested without any proffers.

Commissioner Alcorn suggested they invite the County Attorney to talk to them about the issue, because he understood that Commissioners were under no legal obligation to rezone a piece of property. He further declared the need to be careful before hard coding anything into the P District because that action implied that Commissioners could not be trusted to hold firm on design guidelines they believed were important.

Commissioner Wilson responded to the idea of the sewer moratorium by stating that it was one thing to set pre-conditions that must be met for any approvals, but a different thing to not approve rezonings if they did not like the conditions being offered. She mentioned three occasions when the County Attorney had previously indicated that nobody was entitled to a rezoning. She said, as long as the reason for denying a rezoning was verbalized, it could be denied for any reason, and was, therefore, discretionary.

Ms. Byron agreed with Commissioners Alcorn and Wilson and added that the County had won most lawsuits brought against the Board for disapprovals. She said her concern was that it was essentially the same as a conventional zoning district and implied that you don't want a P District which existed because of features such as no yards. She noted there were many unpredictable circumstances and using hard and fast rules prevented options on more difficult sites that needed creativity.

Commissioner Harsel agreed with the way the firewall phrase was written. Her concern was how staff planned to ensure that all buildings were in compliance in these massive P Districts, especially with the limited number of building inspectors. She recommended that windows not be allowed on zero lot lines.

Commissioner Hart observed that although Commissioners were under no obligation to approve rezonings, the court had identified certain impermissible reasons for denials, such as infrastructure. Referencing paragraph D, he said his sense of what frustrated people, was that enormous houses were being built on tiny lots in P Districts and there was no real way to restrict that disproportionate relationship. He suggested several measures that could be implemented to address this, such as a percentage of lot coverage for the structure, some sort of FAR, or computation of the volume of area that could be built within the building envelope. He indicated there might be other ways of setting an upper limit to what could be done without necessarily placing the house at the center of the lot and, at the same time, not declaring open season on giant houses on 4000 square foot lots. He recommended that some cap on size might address this issue while maintaining flexibility.

Ms. Kirst responded that she called it the "big house issue" because that was how the Board referred to it and stated that it was an item that the Board had requested staff to research. Staff was

beginning to examine the various possibilities, she said, but pointed out that to make changes, they would need to apply across the board, not just in P Districts.

Commissioner Hart asked why it could not just be applied to the P Districts. Ms. Byron recalled that discussion from the last meeting and stated her belief that the time was coming for that type of change. She suggested that staff should think more about it, especially since Supervisor Hyland had brought up the issue regarding lot coverage. She agreed with Ms. Kirst that there was a group already working on the problem, but wanted to think more about doing something in the context of the P Districts, particularly for the smaller lots, and return to the Committee on that issue.

Commissioner Wilson added that she understood concerns about hard coding things and still wanting flexibility, but advised that an issue everyone insisted upon in recent years was a minimum 18-foot driveway, which in affect, meant a minimum 18 foot yard. She believed that if there were going to be garages, there should be an 18 foot minimum on driveways. Ms. Kirst responded that DPZ staff had been discussing that issue as well.

Commissioner Harsel added her concern about shared driveways. Ms. Byron responded that the County was also against shared driveways and the developers were getting away from that concept.

When addressing the house size issue, Commissioner Alcorn suggested that Ms. Byron and staff review what was done with the Infill Study in relation to overlay districts. Ms. Kirst replied that there were questions regarding how much enabling authority the County has on the issue of overlay districts and that they might need additional legislation.

Commissioner Harsel asked for a definition of a PRC district and its minimum size. Others replied that examples were Reston and Burke and the minimum size was 750 acres. She then asked how many more were available and why there was hesitation in touching the PRC District. Ms. Byron replied that they were still doing redevelopment and amendments in those districts and as long as they were still there, the regulations should remain as is.

Commissioner Wilson questioned whether the adoption of specific design standards for P Districts could be adopted while leaving the PRC as it was. She added that if there was a concern about unintended consequences, why not leave the PRC alone and apply the design standards only to other P Districts. Ms. Kirst responded that it was something to consider.

Commissioner Harsel asked for clarification as to whether the new P District being proposed would have one plan and what the group category verbiage used throughout the document was. Ms. Byron explained that a group was a special permit and category was a special exception. Ms. Kirst added that it referred to Articles 8 and 9 and was for specific types of uses.

Commissioner Alcorn commented that he had to review the language more carefully, but had discussed with Commissioner Lawrence recently the importance of visualization of developments, as they received more detail. He said he wanted to encourage applicants to submit better visualization renderings to indicate how it would be integrated with the surrounding topography, highways, and other landmarks. He commented that since the whole idea behind P Districts was to foster creativity, he would like to see that and asked staff to think about that issue also.

Commissioner Wilson observed that when applicants came to the public hearings they would bring color renderings, which helped the Commissioners to visualize the development better and asked why color renderings could not be required. Ms. Byron stated that they do ask, but do not always get them for the packages.

Chairman Hall commented that in the Mason District land-use committee, when people came to talk, they required pictures and elevations. She said it was not unusual for an applicant to return three or four times, partly because they asked for additional information. She stated that she had never had an applicant turn down her request for more information.

Commissioner Alcorn suggested that although there was the issue of developers not wanting to be locked into specific architectural renderings, under the framework of substantial conformance they could request other information as part of the submission. Ms. Byron noted that she was hearing him ask for architectural, but also a three-dimensional bulk drawing at an angle. Chairman Hall noted that once you received the elevations and drawings you could also ask to see the design carried through on all four sides or ask for other pertinent information. Commissioner Alcorn added that he wanted to see more since available technology was improving, but did not want to specifically require a 3D image at this point. Ms. Byron agreed that the technology was coming soon.

Commissioner Wilson acknowledged the difficulty of trying to define what the Commissioners needed in terms of color renderings. She acknowledged that they had already received two-dimensional overhead plans showing layouts, landscapes, and sidewalks, and a side view which showed the complete layout of the building or a row of houses, which were sometimes helpful. Ms. Byron explained that there were other techniques available, and noted that David Marshall often received simulations with 2232 applications.

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Chairman Hall asked Fred Selden, Director of the Planning Division, DPZ to address the Committee on the next topic.

Mr. Selden noted his intent to brief the committee on the status of the parks and transportation plans. He indicated that Sterling Wheeler would present the status report on the Transportation Plan review and update and that Lynn Tadlock, Kirk Holley, and Sandy Stallman were there from the Park Authority to brief the Committee on the Parks Plan Review. He turned the presentation over to Ms. Tadlock, Director of the Planning and Development Division of the Park Authority.

Ms. Tadlock referred to a failed attempt to adopt an amendment for parks in 1996. Since that time she said they had reviewed the issue again and recently completed a needs assessment process. She acknowledged that one thing they had learned was to involve more people in the process and that a major element of success was stakeholder groups. She said they had also just completed a natural resource management plan for their agency and had developed good relationships with their interest groups, and hoped to capitalize on those relationships with this process as well. She said that Sandy Stallman, long range planner for the Park Authority, would walk the Commissioners through the Parks proposed approach.

Chairman Hall asked how they were going to get buy-in from the Board of Supervisors, since that was where it failed the last time. Commissioner de la Fe commented that he did not believe they would get buy-in from the Supervisors on black and white issues like the proposed amendment, because the Supervisors liked lots of flexibility.

Ms. Stallman noted that the Park Authority Board had approved the proposal but asked staff to review it with the Planning Commission. She said they were taking a system-wide approach, including both the policies and objectives concerning parks, and then updating them for relevancy and consistency with park agency policies. She said they wanted to incorporate the County-wide facility service standards that were adopted during the needs assessment study as Appendix 2 to the Policy Plan. She added that the current appendix had rather vague standards. The first appendix, she continued, was the park classification system, which would also be reviewed with possible revisions to that classification system as well.

There was a deferred OTPA in 2002, she added, in which Commissioner Alcorn was key, that addressed language that provided guidance about the types of properties appropriate for public park use, which also required addressing.

Ms. Stallman said they wanted to also review the park charts in the area plans to update them with current inventories, review the recommendations in the sector charts for relevancy and identify specific areas that were deficient in park resources so that those could be addressed. She also said the Comprehensive Plan Map would be updated.

Ms. Stallman indicated that they were looking at a process with three main groups of participants. She said they had assembled a staff team of 15 individuals representing cross-agency and cross-divisions, which included the Regional Park Authority, to meet weekly to draft text, identify issues, liaison with stakeholders, and to participate in the public hearings.

Ms. Stallman said they had also identified the stakeholders groups that were engaged in other processes, with the intent to keep them engaged. She reiterated that there was a list of these groups she identified as the Park Authority Board, the Regional Park Authority Board, the Planning Commission, and the Board of Supervisors which would hopefully address the concern of obtaining buy-in through their representatives.

She also identified the Green Team being assembled in conjunction with their bond program, the Athletic Council, the Non-motorized Transportation Committee, the Trails Committee, the Park Friends group which was an umbrella group of all the different park friends groups, and a few environmental advocates as stakeholder groups that would work with Parks staff to develop text. Ms. Stallman added that the third group of participants would include the senior staff from the different agencies, the Commission's Parks Committee and the full Commission.

Ms. Stallman summarized the process and noted that staff would revise the proposal and forward it to the Planning Commission and Board for public hearings and recommendations. She noted that the calendar of proposed events was attached to the handout, a copy of which is contained in the date file. She stated an intent to complete the process before APR started.

Ms. Tadlock added that staff was interested to know whether there were elements in the proposed process that they should take on or not, including park classification. She asked if they should attempt to do something more with that or just put in the standards they had adopted for the needs assessment and revise the policy language.

Chairman Hall proposed that, the Parks Committee should be constituted since it sounded as though there was a need for dialogue with staff. She asked Barbara Lippa, Executive Director of the Planning Commission Office, to coordinate such a meeting.

Commissioner de la Fe questioned the schedule and expressed concern about holding public hearings prior to the APR. Chairman Hall suggested they address that at a later time.

Commissioner Wilson said she did not have any concerns with the proposed schedule but wanted to know if all the members, agendas, and work products generated would be on the Parks website. Ms. Tadlock advised that they need to know whether the information should be posted to the Parks website or the DPZ website but recommended that it be on the DPZ website since it was really a planning process. Chairman Hall suggested the Parks Committee address that concern.

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Chairman Hall then recognized Sterling Wheeler, Chief of the Policy Planning and Plan Development Branch, Planning Division, DPZ, to address the last issue on the agenda.

Mr. Wheeler explained that the distributed handout, contained in the date file, had been prepared by the Transportation Department and was usually covered in about 30 minutes by Leonard Wolfenstein, Chief, Transportation and Planning Section of FCDOT, who had a conflict. He introduced Wendy Jia and David Cline, transportation planners, who would be heavily involved in the Transportation Plan update.

Mr. Wheeler quickly reviewed the slides noting that the most critical as five and six, with slide five showing the conceptual process and slide six showing a schedule of the process. He noted that the middle box on slide five, called Plan Revisions, formulated potential transportation plan changes that dealt with both the map and guidelines that follow the policies in the Policy Plan.

The end part was the public hearing process, he said, and remarked that through all three components, public involvement was outlined. He pointed out the conceptual drawing showing public involvement on the right side of slide five and stakeholders involvement on the left side.

Moving to slides seven and eight, Mr. Wheeler identified the consultant as Cambridge Systematics, Incorporated. He then explained their current work was to substantially refine the COG model. He reiterated that the first six months of effort would be development and use of the new model, with the first aspect of citizen participation to begin by fall, achieving public outreach by use of the same approaches used in APR, such as list serve, webpage, email and newsletters.

In response to Chairman Hall's question as to whether Mr. Wheeler would attend the land-use committees, Mr. Wheeler stated they would not in the initial phase, but in early 2005 they would

start having meetings to get public input and provide some findings. He did not anticipate public hearings prior to fall/winter 2005.

Chairman Hall stated an assumption that they would be working with Commissioner de la Fe and the Transportation Committee, and Commissioner de la Fe mentioned that committee would meet next week

Wendy Jia noted that the Chairman of the TSC wanted to talk with someone from the Commission, and told Commissioner de la Fe that she would tell the Chairman to contact him.

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The meeting was adjourned at 8:25 p.m.
Janet R. Hall, Chairman

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

Minutes by: Norma Duncan

Approved: December 9, 2004

Linda Rodeffer, Clerk
Fairfax County Planning Commission