

Meeting Notes
Infill Task Force
Tuesday, October 25, 2007
City Hall Room 2000
7:00 p.m.

Members Present

Stew Dunn (Chair)
Lisa May
Maria Wasowski
Mary Konsoulis
Lee Weber
Gaver Nichols
Dave Brown
Ken Billingsley
Stephen Koenig

City Staff Present

Steve Milone
Mary Christesen
Ignacio Pessoa
Valerie Peterson
Hal Phipps (Consultant)

Welcome

Stew Dunn, Chair, opened the meeting welcoming Task Force members and the public. Stew mentioned that a copy of the “Summary of Member Observations and Reflections from the September 8, 2007 Field Trip” was available for member review.

Presentation from City Attorney Ignacio Pessoa

Ignacio presented a brief history of zoning before describing how zoning can be used to address infill issues in the City. The first zoning regulations in this country were in 1916. One of the earliest Supreme Court cases involved the City of Roanoke in 1926. An Alexandria court case in 1937 affirmed the City’s right to use zoning powers to prohibit the expansion of a brick yard. In the late 60s and early 70s, the state court came down hard on the rights of local government to use zoning to solve local land issues, particularly in Fairfax County. In the late 70s and early 80s the state courts shifted back to allowing local flexibility in zoning. But then the state legislature reacted and the courts came down hard on the local jurisdictions because they thought that local governments were becoming too intrusive. This is the same pattern that occurred nationally, but Virginia has always been more conservative than other states. The Dillon

Rule issue where the local government is only allowed to do what the state explicitly grants is more a philosophy than legislation. The majority of states are Home Rule states. Alexandria has expressed local authority in its City charter and has relied on its charter.

Historically, zoning regulations were based on the need for health and safety - light and air and to prevent the danger of fire spreading. But now it is recognized that zoning can be used to regulate aesthetics to ensure that neighborhoods are attractive and livable.

There are two approaches to regulating infill issues: change the zoning regulations or use an overlay district. The traditional zoning tools are: use, height, setback, and density. An historic district is a type of overlay zone where projects are subject to design review.

Arlington recently chose to change the zoning regulations, reducing lot coverage on a sliding scale with incentives for front porches and rear detached garages. The advantage of this zoning approach is that you know what the rules are and they are detailed. The disadvantage is that you can still do what you want, which may be at variance with neighborhood compatibility. Arlington's approach was very controversial and took years to develop and get adopted.

Atlanta defined a new use category "residential infill" and had an administrative review process for approvals.

Roanoke, VA, has a conservation district that has administrative review. It is similar to an historic district because it is an overlay district, but a historic district has a design review board. There are two sources of law in Virginia, general assembly and local charter. Roanoke received general assembly authority to have a conservation district. A "permit by rule" means that an applicant would have to go to a design review board if they did not meet administrative standards. This is similar to the administrative permit in Alexandria's Mount Vernon Avenue Overlay District.

Overlay districts are okay to use with administrative standards to handle infill issues, but there needs to be a design review board. Such a board could be a new one or the existing Planning Commission, Board of Architectural Review, or Board of Zoning Appeals. Regardless, Ignacio felt that the design review board needs to include design professionals. There was a question about whether there could be variances granted for desired deviations from the standards. Ignacio said there could be, but it would make more sense to use a special exception, because the standard proof is not as high as with a variance.

Stephen Koenig mentioned the advantage of overlay districts is that they can be specific and tailored to a particular neighborhood. Whereas, zoning regulation changes are simple, but would apply to areas throughout the City. He mentioned that we have to be careful about applying a new overlay zone over a flawed underlying zone with out-of-date regulations.

Final Thoughts and Comments on Developed Substandard Lots

Valerie Peterson explained that the Task Force did not finish its discussion of developed substandard lots at the last meeting. She said that this issue was one that the members could discuss now, but that any action on this and other issues raised in the next few meetings would be deferred so that all proposals to address infill could be considered together.

Dave Brown made available to the Task Force the North Ridge Citizens Association 1989 guidelines for responding to SUPs for residential development on substandard lots and an updated 2006 set of guidelines to respond to teardown proposals on substandard lots. He said that they included both process standards and substantive standards. The guidelines were used on a case-by-case basis for evaluating 4 – 6 vacant substandard lot proposals from 1989 to the present. There have been only 2 relatively recent properties where there were teardowns on substandard lots.

Hal Phipps reviewed the sample design standards that were distributed at the last meeting. He said that these were for discussion only and standards like this could be incorporated into an overlay zone or used for administrative review of projects. He said that there is a need for standards that are strong enough so that the community is comfortable with an administrative review. If an applicant wanted to exceed standards, then he could go through a public process. Ignacio said that some of the standards would work better as part of an overlay zone than as a zoning requirement. Zoning requirements should be mechanistic or mathematical.

Introduction to Bulk Controls

Hal Phipps described two handouts available at the meeting: selected zoning ordinance definitions and a set of tables and diagrams. He used these handouts to brief the Task Force on setbacks, yards, height, FAR, lot size, lot width, and lot frontage.

Dave Brown asked why the setback height for a hip roof was not measured to the same point as the building height. (The setback height is used to determine the setback for the structure using the setback ratio.) Hal explained that setback height is measured to the eaves because the hip roof naturally begins at that point to move inward from the sides of the building. Dave said that there was no definition of setback height and this point needed to be clarified. Stephen Koenig said that he would prefer that the City use bulk plane rather than a setback ratio and minimum setback. He said the current system and diagrams are confusing and a burden to architects and staff. Bulk plane would allow more design freedom and at the same time ensure that no part of the structure is outside the plane. Gaver Nichols agreed that the Task Force should look at bulk plane. Steve Milone cautioned that there may be problems moving to using bulk plane.

Stephen Koenig said that the 7' 6" language should be eliminated from the FAR definition. He said that FAR is a massing measure and that the City should not be measuring interior space, but outside massing and volume. Stew Dunn said that he was

on the zoning task force in 1992 and recommended eliminating the 7' 6" language. He said there was a firestorm against doing that and the City Council rejected changing the language.

Lisa May said that Fairfax County defined addition vs. teardown.

Review of Infill Strategies from Neighboring Jurisdictions

Hal Phipps went over the handout "Summary of Infill Activities & Implementation in Surrounding Jurisdictions" and responded to questions.

Public Comments

- Appreciate what the Task Force is doing.
- Should use a gross FAR rather than net to reduce the size of houses.
- Concern about the metric to use for bulk plane and how it will be applied.
- Concern that a design review board not just include design professionals.

Next Meeting

The next Infill Task Force meeting will be held December 6, 2007 in City Hall.

The Community Forum on Infill will be held on Thursday, November 15 at Minnie Howard School. Stew selected Maria Wasowski to act as chair at the meeting in his absence.