



ARLINGTON COUNTY, VIRGINIA
ARLINGTON COUNTY PLANNING COMMISSION

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February 17, 2015

Arlington County Board
2100 Clarendon Boulevard
Suite 300
Arlington, Virginia 22201

SUBJECT: 5. **U-3401-15-1, COLUMBIA HILLS (N-FBC)** for the development of 229 multi-family dwelling units with a modification for a maximum building footprint under the Columbia Pike Neighborhoods Form Based Code.

RECOMMENDATIONS: **Approve the subject use permit, in accordance with the Columbia Pike Neighborhoods Form Based Code (Article 11.2 of the Zoning Ordinance), to build 229 multi-family dwelling units with a modification for the maximum building footprint, subject to the conditions of the staff report dated February 3, 2015 with the following amendment:**

Request that the Zoning Administrator provide a written determination explaining how the required setback from a given façade to another façade with greater relative height shall be determined.

Dear County Board Members:

The Planning Commission heard these items at its February 11, 2015 public hearing. Matt Mattauszek, CPHD, Planning, gave a presentation on the background of development of the FBC and the related review process, highlighting that a modification on maximum building footprint triggered the Special Exception Use permit and review by the Planning Commission (PC) and County Board (CB). He provided background of the subject site and discussed consistency with the Columbia Pike Neighborhoods Form Based Code Western Sub Area Regulating Plan. Other staff present included Melissa Cohen, CPHD, Housing and Joanne Gabor, DES, Development Services.

Catharine Puskar, Walsh Colucci, represented the applicant, Columbia Grove Apartments Limited Partnership, and spoke about the development of this project throughout the Form Based Code Advisory Working Group (FBC AWG). Brian Earle, Kishimoto Gordon Dalaya PC Architects,

P.C. #28.A.

provided an overview of the building massing, materials, and elevations of the proposed project. Also present was Carmen Romero, Arlington Partnership for Affordable Housing (APAH).

Public Speakers

Antonio Acevedo is a resident and co-owner at 5300 Columbia Pike. He stated the proposed project will encroach on an existing parking lot in the Columbia Grove affordable housing development and has a real footprint of 52,700 square feet which exceeds the allowable size of 25,000 square feet. He believes that the purpose of the FBC and the intent of the community when the code was proposed and discussed did not allow the construction of such a behemoth in a residential neighborhood. Using the FBC for such a structure coupled with the demise of the streetcar is making the FBC obsolete. Making more alterations and modifications to the size of buildings beyond what was originally conceived further invalidates the FBC. There is no guarantee that this project won't be 260 or 280 units once the process is complete. More people in the neighborhood requires more services that currently do not exist and the proposed structure will negatively affect the quality of life, the life of the community in general, and his home in particular. The FBC intent is to "foster a healthy diverse community with a high quality of life". That has become a fallacy and a nightmare with this project. The increasing population density, no mass transportation, increased traffic flow on a very limited street that currently doesn't have any street parking, and a behemoth with 229 units with only 208 parking spots encroaching on a parking lot which is already is full at night in not in compliance with the FBC.

Paul Castels, 12 year Arlington County resident and Carlyle House condominium owner and Board member, spoke in opposition to the project. He said the building, located on a 50,000 square foot site, is not in compliance with the FBC and is 125% of what is allowed, which is an unacceptable major variance. The FBC encourages infill but eliminates open and green spaces and maximizes numbers of units promoting urbanization and high population density. Enforcement of this code is essential because the Columbia Grove property includes four other buildings that will eventually be built with footprints at least as large. This location has a tremendously steep topography and it will be a negative impact. The alleyway is actually a driveway which will have vehicular traffic at all times of night. It will take down the trees behind Carlyle House and will affect the quality of life at the rear of our building. It may be 95 feet between the buildings, but it is 65 feet to the property line. There are many unresolved schools and transportation issues in South Arlington that factor into the viability of even the current FBC, and it would be irresponsible to go beyond its limits for this project especially in light of future projects that may come before the Planning Commission. Please do not approve this modification.

Takis Antonios, Columbia Pike Revitalization Organization, stated this project is compliant with the letter and spirit of the FBC. It was a goal of the FBC to preserve affordable housing on Columbia Pike given the fact that affordable housing has been just slipping away. Affordable housing policies on Columbia Pike are replacement policies. There is no net new addition of affordable housing on Columbia Pike. We lost market rate affordable housing before and now it is converted into committed affordable housing. It is the only form under the current circumstances that can guarantee that we can have the diversity of populations and housing choices that the FBC and Columbia Pike plan promises to deliver. The neighborhoods at the western end of the Pike are very challenged by the new developments and we have to address it, but the one very important complaint that we hear is about the public realm and the way the Pike feels for the neighbors. It's not enough to deliver

housing but also the amenities, the public realm and public spaces which all belongs to a complete delivery of a decent city experience. The fact that we lost the preferred transit alternative is a very tough issue but should not impact the decision making on this project. We support this project and the enhancement of the footprint. The few units that would be gained would be extremely difficult to build later in some other place especially when there is the opportunity to build them now without actually grossly impacting the site.

Mary Rouleau, Alliance for Housing Solutions (AHS), stated this application complies with a community developed plan and it deserves to be honored. It creates a long-term vision. It envisions boomers who will age with dignity with walkability and efficient service delivery. It will benefit the K-12 students who will stay in the same school, in a healthy environment, without overcrowding in their homes. The service and retail employees who will not need cars to get to their jobs that support our economy and provide us with the quality of life that we value as well as those employer prized millennials starting out in the early years of their careers. We are supportive of this application, the site, and the AHIF loan. AHS was very much involved in putting together the Columbia Heights Neighborhood Plan.

Yvonne Aikon stated she has lived in Columbia Grove for 25 years and left only recently to move to Arlington Mill. This project has been well planned out and she supports the affordable housing and the Columbia Hills project. This project will keep people close to the local grocery stores, their jobs, the schools, and the libraries. Due to the natural progression of life, not all of these kids would be crowded in one school because they would graduate and move on. Diversity needs to stay and because of the streetcar not being there, Arlington County is allowing us to have a conversation that we could possibly still have at least one other affordable project coming up. We need places to live. When she thinks of affordable housing, she thinks of who is in affordable housing. She thinks of her daughter moving on and becoming all that she can be because her mother is not stressed trying to raise her, then she is going to come back to this community and give back. At one of the community meetings, she heard people speak about the sun and how the building and incline might block some of the other buildings. But one thing about the sun is that it seems to rise and set on everyone so it is free. I think that we can all live there under the sun together and as far as having a good neighborhood with good people, you've got it because I'm just as good as they come.

Nada Chadli, Carlyle House resident, stated that the project is six stories with an additional two stories on Frederick Street, however at the lowest elevation on Frederick Street and along the north side of the building, it is 11 stories plus the mechanical, the loading dock, garage gate, and parking entries. Many factors will impact Carlyle House including the building structure which will cast a shadow, a buffer zone that is nonexistent, and green space that is taken away. The intent of the FBC is to transform the Pike into a walkable and environmentally friendly community anchored by a lovely main street that is lined with restaurants, parks, businesses, and attractive public space. But overriding the codes every time will not give us a decent life, including the people who will live in the Columbia Hills building.

Pam Pryor, Carlyle House resident and Board president, urged the Planning Commission to rethink the Columbia Hills project because it does not conform to the FBC in size and height and ignores the treacherous traffic on Frederick Street. There is a lack of infrastructure for new residents such as schools, fire stations, and parking, and it will impact our southern exposure. She has been an

Arlington resident for 24 years and likes the community and the ethnic and income diversity of her specific community. It seems that the western end of the Pike has not seen the kind of diverse development as the eastern end of the Pike. There still is no retail, but there are high concentrations of affordable housing right on the Pike. It does not make sense to start building off the Pike and create high-rises right next to well-established communities and single family homes. In addition, Frederick Street is a horribly old engineered street with an incredible pitch which will make the addition of 300-500 more residents quite dangerous. There is little or no parking now, and it is our understanding that the structure does not allow for adequate parking. She asked the Planning Commission to slow this project down in order to satisfy their concerns and questions and it would be helpful for them to feel like their questions have been addressed. What is important is the long term quality of life for all residents and the livability of this neighborhood, and she asked the Planning Commission to vote no or at a minimum delay a decision.

Planning Commission Committee Report

Inta Malis, former Planning Commissioner and Chair of the Form-Based Code Working Group (FBC AWG), gave a report on the review of this project. She stated the FBC AWG met in December to review this project. The FBC AWG is comprised of 10 Civic Association representatives along Columbia Pike. The group was formed in 2004, chartered by the County Board, staffed by the Planning Department and they propose changes to the FBC, and review projects to determine the level of compliance. The meetings consist of a staff presentation, applicant presentation, and then evaluation of the FBC checklist. In this case, the project is compliant with the FBC. There are two issues that have been raised. One is the footprint size, which was not an issue for the FBC AWG at all. It is an allowable modification, therefore the group does not object. It can be discussed and reviewed, but there was nothing in the FBC AWG that indicated there was any type of problem with this project. The second is a trigger. The neighborhoods plan and the commercial code have triggers for FBC review. In the commercial code, site size can simply be a trigger that says because it is a large site, it requires additional review for mostly off-site conditions. The second item is the trigger for the additional two story bonus. Both codes have instances where bonus is permitted. In the commercial code, bonus is granted for historic preservation. In the neighborhood code, a bonus is granted for affordable housing preservation or creation. In both cases, the site has been vetted. In the planning process, the site was determined to be suitable for additional height. The review really comes down to whether what the applicant has offered warrants the bonus. In the FBC, the commercial code there is a process of whether the historic preservation has been done correctly and then the HALRB and the Board determine it has met that threshold in order to warrant additional stories. In this case the threshold is sufficient affordable housing being offered in exchange for the two story bonus. Since all of the units are affordable, there can be no greater bonus asked for. In that sense there was no concern from the FBC AWG that there was anything inappropriate or out of line. It is not an exception but really a trigger. The other elements were found to be conforming. It is unusual that there is a group of people that were not aware of this because the Columbia Pike planning process took many years. The FBC AWG operates by consensus and there were no dissenting voices in moving forward with this project.

Planning Commission Discussion

Commissioner Forinash asked the PC to focus on the key determination of whether the modification for footprint is acceptable and asked staff if the PC has the ability to ask questions and suggest modifications to the set of conditions, even if there is no direct relationship to the requested modification. Commissioner Ciotti clarified that staff welcomes discussion of the other conditions. Mr. Mattauszek responded that most of the other conditions are not related to the FBC but are a mechanism used to document and record the details of the proposed plans and address timing related to implementation and permits needed for the construction phase. The other intent is to implement some County policies which do resemble site plan conditions, but to a much lesser degree for FBC use permits.

Commissioner Forinash clarified that the use permit conditions for every FBC project that goes through without requesting a modification would be administratively approved. Mr. Mattauszek responded in the event there is a project that could be approved administratively using an approval letter generated by the ZA, that letter replaces a staff report and associated conditions and is essentially treated as a by-right project. It does not have any condition language. In the absence of condition language, once the applicant proceeds to the permitting stage, several meetings occur where essentially the same information is relayed to the applicant in terms of the timing and what is required before each permit can be obtained.

Commissioner Forinash referred to the challenging parking in the neighborhood and pointed out that this project complies with the FBC standards for parking, and while the Planning Commission may sympathize with comments made about the challenges of parking in the neighborhood, there is not a role for the Planning Commission to play.

Commissioner Gutshall referred to the issue of the height and how that was evaluated by the FBC AWG, since it seems they did not object to the height, was supportive of the modification with additional height, and found the bonus to be compliant. He wanted to be clear of the role of the FBC AWG and that there was no objection to the increased footprint, and if that implies withholding judgment on whether it is a good idea.

Ms. Malis responded that the “good idea phase” was in the planning phase and at this point, it is a regulation. This is what was planned and adopted. It's the first plan, adopted in 2012, and then there was another year long community process where the FBC was written to implement the plan. The role of the FBC AWG is to determine whether it is compliant. There was no concern expressed that it was not compliant.

Height

Commissioner Siegel asked Ms. Malis if the trigger with respect to height triggers a review including a review of off-site conditions and if these conversations occur during the review of the project at the FBC AWG. Ms. Malis responded that when there is a Use Permit, there is a public conversation. Anything that is brought up can be introduced but it does not affect whether the project itself meets the Form Based Code. It is whether the County should think about the surrounding area and make a judgment. Ms. Malis added that those conversations occur in the community meeting, at the PC hearing, and at the County Board. The FBC AWG does not serve that purpose.

Commissioner Harner asked if the footprint trigger allows a conversation about anything other than traffic. Ms. Malis responded the footprint trigger may or may not create a discussion. Commissioner Harner responded there is a very narrow range of considerations for the project.

Commissioner Forinash clarified that under the commercial FBC, exceeding the site size triggers Use Permit review but for the residential FBC, we are talking about building footprint size. Mr. Mattauszek responded that Section 205 describes the criteria that the County Board would use to evaluate its appropriateness. There are several instances where the questions are asked about whether or not the proposal is better off with the requested modification, if it helping us stay true to the FBC, and if it meets the intent and vision of the Neighborhoods Area Plan. Staff believes the answer is yes based on the staff's and FBC AWG's interpretation work reviewing those plans. On the health and safety of the neighborhood, whether or not it is detrimental, or if it goes against any Master Plans of the County, neither staff nor the FBC AWG has found that to be the case with the requested modification.

Mr. Mattauszek added that if the discussion goes in the direction of bringing the footprint down further to 25,000 square feet, it is not written anywhere in the FBC or in the Neighborhoods Plan how that should happen. It would be purely up to the applicant to adjust their proposal to bring it down to that maximum square footage. In staff's opinion, it would not change the height of the building and it would not necessarily involve any changes to how the northern facade would look and ultimately would not impact the concerns heard in the public testimony.

Commissioner Harner referred to one of the public speaker's statements that the height of the building is 11 stories plus mechanical units on the north side of the building. When looking at the garage plus the eight stories, plus the rooftop terrace, and a fairly tall mechanical unit, it seems the large footprint with average grades tends to diminish the technical definition of height on the 11 story side. This is compliant because it meets affordable housing goals, but there is a relevant height discussion to the degree that there is an interpretation about how height is measured and the degree to which the size of the footprint starts to affect where the impact of the height occurs

Mr. Mattauszek clarified how height is measured in the FBC. The site has two facades identified as parts of the building facing a public street, whether existing or planned. Facades do not face alleys, private property lines, or the back of the site. In this case, the building front that follows South Frederick Street and then the building wall along what will be the future street per this regulating plan represents the two facades. Facades are not located along the property line or the western edge of a building. FBC says a high percentage of the building has to be located at the build-to line. Once that is taken into account, it is necessary to apply the topography which has a significant change on Frederick Street and going east and west. Height in the FBC is measured at each of the facades. Staff and the applicant took one measurement along the Frederick Street frontage and a separate one along the south facade. To determine allowable height and where the first story is located in order to count to eight is determined by the average grade. The ground story in the FBC as confirmed by the ZA is the first fully occupiable level that is at or above the average grade for each of those facades. Therefore as the building begins to turn from South Frederick Street, that partially exposed level could not represent the ground story and you go to the next story and start counting eight to achieve the maximum allowed in the FBC. That same calculation when it is conducted on Frederick Street indicates an even greater difference where the line representing the average grade on that frontage

clearly has two partially exposed levels that go into the ground. Based on the ZA interpretation, those could not represent the ground story as defined in the FBC. Staff then looks to the next level which could be considered the third level and counts up eight. The location of the rooftop terrace offset represents what the eight story would look like on the south facade. The FBC does not specify the ultimate height for mechanical equipment, but only that it needs to be on the roof and screened from view.

Commissioner Harner said the irony is that the average height is measured off of a space that is not currently a street but a planned street, where the other side of the building which most people would say is close to being a street but is actually an alley does not count for measuring the average height. He expressed frustration with the way these rules are being applied to yield the total height of this building and feels a lot of sympathy for some of the concerns that the neighbors have expressed. It is a future planned street and the plan does not call the alley a street, but it is a technical definition that does not seem to fit the actual condition. Mr. Mattauszek responded that most sites as coded in the Neighborhoods Area Plan identify where the fronts of the buildings need to be and those are always guided by the required building lines. Everything that is not facing the building line is considered the back of the building. Carrying this rationale to the Carlyle House, the front of that building is along Columbia Pike and ultimately these buildings are back to back. Commissioner Harner stated he can understand the residents may not have realized when the code was implemented that it would yield this height facing their property.

Commissioner Gutshall clarified that the eighth floor does not come all the way to the Frederick Street east elevation which would throw off the height calculations on the Frederick Street façade and asked how the setback is determined. Mr. Mattauszek responded there is not a specific setback in the FBC. Staff determined the setback by looking at the double loaded corridor of the building, and the eastern corridor is replaced with a rooftop terrace. The extent of that corridor facing east represents the setback but it is not prescribed in the FBC.

Commissioner Gutshall asked if staff sought a determination by the ZA because it seems the proposed form of the building is actually conforming to the intended design, where in the FBC the design is supposed to conform to the allowable form.

Mr. Mattauszek responded it was raised with the ZA during the review process and the FBC is specific in how height is calculated along each facade. When looking at the Frederick Street façade, you are only counting eight stories. There are not any units facing South Frederick Street, however around the corner at the south elevation, eight stories will look different and at some point it will have to stop. Commissioner Gutshall asked how that point was determined. Mr. Mattauszek responded the ZA did not have any issues with the proposed design. Commissioner Gutshall interjected that the ZA did not issue specific criteria that could be applied to future applications and documents. Mr. Mattauszek replied that she did not and that there were no issues.

Commissioner Gutshall asked if staff believed the FBC contemplated a site with two RBL's two facades with very divergent topography or was this an unusual condition. Mr. Mattauszek said the existing topography was contemplated during the Neighborhoods Plan. The western end of the Pike was evaluated and it influenced and guided potential building footprints that were shown on illustrative plans and the urban form vision map. Based on that information and complimented with

outreach during the charrette and workshops with the community, it was implemented with the FBC that to the best degree possible addressed topography in the FBC.

Commissioner Iacomini asked the applicant to talk about the penthouse and what appears to be a community room and occupiable space above the allowed eight stories. Mr. Earle explained the community room is on the eighth floor and not in the penthouse. Mr. Earle explained that the community room is off the terrace in the top right corner. This terrace is on the eighth floor from the future 10th Road. She also asked the distance between the two building faces on the alley. Mr. Mattauszek responded 95 feet.

Commissioner Forinash asked how the demise of the streetcar project might impact the FBC and asked staff to give a brief update on the County's efforts in reassessing transit options on the Pike and how it may or may not affect land use plans. Mr. Mattauszek responded that County staff is in the process of evaluating multiple plans in the Columbia Pike and Crystal City area for potential impacts of the streetcar decision. The first deliverable of that process will include a summary of which plans and documents may need potential study to confirm whether something needs to change. We need to confirm which documents the streetcar was referenced in and then start a much longer process that reevaluates to the extent in which the streetcar played a significant role in those plans to better understand what, if any, changes are necessary. That would likely include the Columbia Pike Neighborhoods Plan and the FBC. Clearly they would be impacted, but whether or not any regulations or guidance needs to be changed is a much more difficult question that will take time to answer.

Building Footprint

Commissioner Cole asked Ms. Pryor whether they asked for or had meetings with staff. Ms. Pryor responded they had a meeting on January 21st in their building, and that people would say they have been meeting since time began on the actual development of the Pike. There is a thought that people can take part, but Boards change and people have busy lives. Commissioner Cole asked if APAH approached them to talk about what was happening. Ms. Pryor replied no and there was a thought that there would be some major development but it is surprising when you actually see it.

Commissioner Cole said several of the speakers referenced a size of 52,700 square feet and staff's report stated the size of the footprint was just over 31,000, and asked staff for information on the discrepancy. Mr. Mattauszek responded that the building footprint is the gross square footage that's occupied by the building excluding the actual garage that is located below. That number is 31,000 square feet, which is 6,000 above the maximum in the FBC. The 52,700 number may be representing the entire lot area which includes streetscape improvements, the sidewalk along the two frontages, the alley, and fire access turnaround area located to the west.

Commissioner Iacomini noted that in the Neighborhoods Plan there is a list of allowable "asks" for changes, one of them being for building footprint. It has also been reported that this exception has been asked for in the past, but she clarified this has not been requested before in the Neighborhoods Plan area and previous requests have been in the commercial plan. Mr. Mattauszek agreed this is the case and reiterated this is the first project in the Neighborhoods Plan.

Commissioner Iacomini asked staff to discuss the genesis of the 25,000 square foot maximum footprint, the purpose for it, and why one did not want to see it exceeded. Mr. Mattauszek responded that number was generated by the study done by consultants during development of the FBC and the intent really applies to many of the sites in the western half of Columbia Pike that do not follow a simple street grid network that might be found on the east end. The irregular block structure on the west end lends itself to many of the sites having a limited frontage along public streets whether existing or future, however they also have a very deep property boundary. Some of the concerns raised during development of the FBC wanted to prevent buildings with a limited public frontage that continued endlessly into the back of the property. That number is perhaps not perfect. In this particular situation the intent is still being met and the building is not continuing endlessly to the back of the property. There is still a significant amount of space to the west beyond the building face and it is in the spirit of the FBC.

Commissioner Gutshall asked staff to explain the intent of the 25,000 square foot limit. Mr. Mattauszek said it is another measure to capture building size. Some sites that have a significant property that is able to consolidate and come forward with a redevelopment proposal already have additional restrictions that limit the building face, lot length, and facades. There are already a lot of controls in place to manage the urban form of the resulting development. Building footprint was just another way to address that again on the western Pike properties that have irregular block structures and fairly narrow frontages along public streets but are very deep.

Commissioner Gutshall restated staff's response to say that it is sufficiently regulated by all of the other form controlling requirements and that the footprint limit was not needed to control the ultimate size and density of this site. Mr. Mattauszek agreed.

Commissioner Gutshall stated he was unable to find the 31,000 square foot number or how it is calculated and suggested it be added to the staff report for the County Board. Mr. Mattauszek responded staff can further explain the regulation that is in place which says that it applies to the structure excluding the parking garage. Beyond that, there is not much in the FBC that further explains the definition for maximum building footprint.

Parking

There was no discussion on parking.

Other

Commissioner Cole asked about the extent to which the FBC creates an exception to what seems to be a general requirement in other parts of the County, which is the incorporation of the in-building wireless communications system into residential buildings. He stated this building does not have that and asked whether the Pike will ultimately be an area without the most sophisticated communication system and one that the fire department has said that it needs. Mr. Mattauszek responded that condition was included with the Arlington Mill Community Center project and there is a draft condition in this report that is still being finalized.

Commissioner Gutshall asked applicant if they wanted to characterize their outreach to the community. Carmen Romero, APAH, responded they met with the Columbia Forest Civic Association as early as late May to let them know they were starting the planning process and shared

our conceptual plans. They received today a letter of support from that Civic Association which includes the Carlyle House. There was a member of the Carlyle House at that meeting. Beyond that, they have had the FBC AWG, which was the prescribed community process for FBC projects as well as a community meeting that was held at the Carlyle House on January 21st.

Commissioner Gutshall asked if they reached out to the Carlyle House specifically or went through the civic association. Ms. Romero responded the civic association was the protocol followed. Mr. Mattauszek added the applicant has followed the required process for notifying the community and has followed the process for FBC review. Notifications were sent as typical with any other site plan or use permit project. The result of the number of the public meetings that have taken place with this review strictly reflects the fact that much more community outreach occurred up front and is specifically the reason why FBC review process is different from site plan.

Commissioner Forinash asked what guarantees exist under the FBC that 229 units would be the maximum or exact number of units that would be delivered as part of this project. Mr. Mattauszek responded that the FBC requires those units to be provided on-site. There are no other contributions allowed under the FBC. More importantly there is an affordable housing plan submitted that captures the unit types and levels of affordability as well as additional details related to the tax credits in place and the associated AHIF request for this project. Those are very specifically noted and continued through condition language in the back of the report. There will be 229 units when this is completed.

Commissioner Iacomini said the footprint of the proposed building is one multiplier of how much bulk there is to a building on the site. The Planning Commission is contemplating the appropriateness of the eight stories on this site, weighing the benefits that would accrue to the community, and if the additional affordable housing the two stories would contribute are in keeping with the goals of the plan. She noted that this means both factors in bulk are being asked for on this site. During the site plan process, such a request for increased bulk is accompanied by conditions that mitigate or smooth out the edges when there is something proposed by an applicant that is not quite what is in an adopted community plan. In this case, since it is a form based code project, she asked if staff discussed with the applicant a way to mitigate the size of the footprint and the height by modifying the building in some way. She wondered if in the course of discussing the project if some sculpting of the building with stepbacks perhaps away from the neighboring Carlyle were mentioned. She asked if perhaps some other measure to work with the shape to mitigate the bulk is created from the additional height and the additional footprint had been contemplated.

Mr. Mattauszek responded that in contrast to the site plan process, the level of detail and the prescriptive nature of the FBC allows for that negotiation to not take place because the FBC covers every element from building form, height, parking, architecture, to streetscape improvements and is specifically outlined in terms of regulations that have to be followed. The simple process to summarize the review is that as long as the applicant follows the regulations that everyone in the community has bought into, the project is going to get approved. The purpose of condition language with these projects is to capture and record the specific details of the proposed plans and carefully address their timing with regard to acquiring permits during construction during the next phase of review. The FBC is prescriptive enough that things like setbacks, height, and bulk are already captured and identified in that document.

Commissioner Iacomini responded she appreciates the answer and the prescriptive nature of the FBC. All of the discussion has happened up front during public consideration of the Neighborhoods Plan, and now, as in the Commercial Plan, the applicant goes through a checklist. She understands they comply with code, and they are done. But it seems there are cases where applicants will ask for something that needs modification of the code and allowable footprint is one of those. This is the first one in the Neighborhoods Plan and it seems like it would not necessarily be out of line for an applicant to say they would like a larger footprint and asking for additional height because it is permitted and there is a specific community benefit identified. But, Commissioner Iacomini continued, it would not be conceivable that the applicant shouldn't seem to modify the building a little bit to reduce the bulk and scale.

Mr. Mattauszek responded that the discussion of a compromise to address everyone's needs while still continuing to move forward makes sense but staff struggles with the idea of the precedent it would set in that there is a prescriptive FBC and a clear and predictable review process. The applicant could get to the end of that review process and really a lot of design features that were already approved and discussed would be up for debate, which takes away a lot of the predictability that was built in and understood by the community.

Commissioner Iacomini said that she does not think in the Use Permit process, either the Planning Commission or the County Board would look askance at an applicant that might be asking for an increased footprint and decided to sculpt their building in a way that perhaps might work better with an adjacent building. It is certainly something to consider and would be nice for applicants to think about.

Planning Commission Motion

Commissioner Ciotti moved that the Planning Commission recommend to the County Board approval of the subject use permit, in accordance with the Columbia Pike Neighborhoods Form Based Code (Article 11.2 of the Zoning Ordinance), to build 229 multi-family dwelling units with a modification for the maximum building footprint, subject to the conditions of the staff report dated February 3, 2015. Commissioner Cole seconded the motion.

Commissioner Iacomini said she suspects we could get a building that would be under the 25,000 square foot footprint but that the applicant would probably choose to lessen or eliminate the portion along S. Frederick Street and so not mitigate the impact of the new structure on the Carlyle. Commissioner Iacomini noted there are several pages of the plans in the applicants' submission that present future notions about how this whole parcel may have developed. She noted the parcels that are in the part of the site coded for six stories have two possible building footprints that at this moment exceed 25,000 sq. ft. She noted redevelopment of this portion of the site might be way in the future because of the encumbrance of the buildings by AHIF loans. It seems to be clear, however, the applicant is already thinking they are going to ask for even more exceptions to building footprints on their site. This is very distressing. If indeed this is the case, and it seems from the conceptual drawing in the 2008 Neighborhoods Plan as well as the drawings before us that it is the case, then these will no longer be "exceptions" but normative. If so, then a discussion about the coding of this site to allow for larger footprints should have been had when the Plan was being debated and formulated. The community and near neighbors should have had that debate then and

not presented piecemeal as exceptions as time goes on. It is not in the spirit of Commissioner Iacomini's understanding of form based code or good planning.

Commissioner Gutshall made a motion that the Planning Commission recommend that the County Board request that the Zoning Administrator provide a written determination explaining how the required setback from a given façade to another façade with greater relative height shall be determined. Commissioner Forinash seconded that motion.

Commissioner Gutshall said he thinks that as the first project in the Neighborhood Plan it is an important precedent and principle. This is driving the form and we want to make sure this is form based and not user based in the way that it is applied or at least clearly delineated so the community can have a reasonable understanding of what to expect. It is a matter of law because the FBC is an ordinance and the job of the ZA is to interpret that law as it is applied.

The Planning Commission voted to support the amendment to the main motion 6-1-1 with Commissioners Siegel, Iacomini, Forinash, Cole, Sockwell, Gutshall, in support, Commissioner Ciotti opposed, and Commissioner Harner abstaining.

Commissioner Harner said he would not support the motion because he is concerned that the footprint is 25% over the trigger and the concerns of the neighbors are real. The building is craftily called eight stories, but is effectively 11 on the north side. It is an interesting part of Arlington when you consider the topography, the park across the street, the stream, and the way that the historic buildings on Columbia Pike to the east work with the topography. Because of its size, this building does not work with the topography. It literally obliterates the topography, which is why we get a building that technically fits the definition of the height limit but is 11 stories tall. Commissioner Harner doesn't see any reason not to honor the neighbors' request for some consideration of the building mass and bulk and height that relates to the footprint. The building is not appropriate for this site and if the footprint is the one trigger that we have that allows us to understand that, then it's very important. There is a reason why that 25,000 square foot limit exists, and it merits consideration. He cannot support it and hopes there might be a possibility for deferral.

Commissioner Cole clarified that a vote for this is a finding that this project is completely in compliance with the FBC and a vote against it is a finding that it is not in compliance. Mr. Mattauszek responded it is a recommendation of approval that finds this proposal is compliant with the FBC and that the requested modification is appropriate.

Commissioner Harner stated his objection to the approval is that he does not find the requested modification to be appropriate.

Commissioner Cole asked if the finding of whether it is appropriate is based on whether it furthers the goals of the Columbia Pike Neighborhoods Plan. Mr. Mattauszek said it is one of the elements. Commissioner Cole asked if there are any other elements for concluding that the increased footprint is not justifiable. Mr. Mattauszek responded Section 205 of the FBC captures the three areas used to determine appropriateness for requested modifications.

Commissioner Cole said it is whether or not this additional space furthers the purposes and intent of the code. One of the principle purposes and intent of the FBC is to provide for affordable housing and the footprint does in fact accommodate additional affordable housing that would not be accommodated otherwise. He may not like the way it sits in the setting, but he does not see how the law allows him to make that judgment.

Commissioner Sockwell said he sees the PC scope of review as relatively narrow. The discussion raised by Commissioner Harner about the height is incredibly useful. Commissioner Cole analyzed our responsibility and view and I'll support it because I think at this point in the process we are past the point where we can deal with these sort of concerns that the citizens are raising, although he is sympathetic in terms of the height. The Planning Commission at this point is relatively narrowly constricted in the process.

Commissioner Harner responded that the first point in Section 205 is to better accomplish the purpose and intent of this code and asked if Commissioner Cole is arguing that the only purpose and intent is affordable housing, or are there other purposes and intent of the code that might be considered. Additionally, he would argue that on the third point, the health and safety of the neighborhood and detrimental to the public welfare certainly falls within the realm of his objection to the increased footprint.

Commissioner Iacomini stated she appreciated Commissioner Harner's discussion about the height and Commissioner Gutshall's amendment and the discussion about the footprint. She has great disquiet about this particular project. She thinks that even if the footprint were modified, it would not mitigate the concerns of the near neighbors. She reiterated her hope that future requests for new construction on the larger portion of the whole parcel does not follow the example of the first foray of the applicant.

Commissioner Gutshall said he would support the main motion and appreciates Commissioner Iacomini's comments. The applicant is a non-profit that has demonstrated themselves to be a great neighbor and a good steward of some of our affordable housing stock, which overall is a plus and is a significant goal of the FBC. In terms of raising the bar for next time, the applicant had indicated the civic association that they reached out to had written a letter of support and it is not surprising that the people with whom you have a dialogue usually come around and support you. While the FBC was not intended to be of the kind of citizen review as our site plan areas, neither was it intended, particularly in these areas with modifications and triggers, to be as cursory as this project may have been. Commissioner Gutshall agrees in principle with Commissioner Harner that it is hard to understand that we have a FBC that would have these triggers for citizen review, and it comes through the Planning Commission and the notion is we are basically saying the County Boards' hands are tied and have no choice but to vote approval of this. It seems there is room within this process for when an applicant is asking for a modification, part of our finding of appropriateness can be related to what the applicant has done to mitigate the impact on the surrounding neighborhood.

Commissioner Ciotti thanked the applicant and said they have proven to be good stewards and have done good work in bringing affordable housing to people for whom affordable housing is life-changing.

Commissioner Iacomini also thanked the residents of the Carlyle that came to the hearing and said she understood their position and that they are hearing from the Planning Commission that there are some things it can do and cannot do with respect to projects considered under Form Based Code. However, she is hopeful the discussion this evening will help the applicant better shape requests for other portions of the site. She noted her hope they will not ask for footprint exceptions again on this parcel.

Main motion

The Planning Commission voted to support the main motion as amended 7-1 with Commissioners Siegel, Iacomini, Forinash, Cole, Sockwell, Gutshall, and Ciotti in support, and Commissioner Harner opposed.

Respectfully Submitted,

Arlington County Planning Commission

A handwritten signature in black ink, appearing to read "Christopher Forinash". The signature is fluid and cursive, with a large initial "C" and a long, sweeping tail.

Christopher Forinash
Planning Commission Chair