

Planning Commission Committee Report

Commissioner Gutshall reported that the Zoning Ordinance Committee (ZOCO) met on March 10 to review these items and primarily discussed the short-term use items. The main issue is that for short-term use standards, the Board advertised allowing the Zoning Administrator to approve short-term indoor and outdoor events and activities for any use for a duration of up to one year and staff is recommending only the community service use category be allowed for one year and all other uses only up to 180 days. Members of the community, Business Improvement Districts (BIDS) representatives, and a representative from the Economic Development Commission (EDC), all spoke in favor of allowing more flexibility. The ZOCO discussion did not provide a clear preference.

Planning Commission Discussion

Commissioner Forinash asked if the 180 days for non-community service uses meant within the first year. Ms. Albert responded that 180 days total could take 180 days in the first year, or it could take three years depending on how often the space is used during that initial period since it is cumulative. Commissioner Forinash clarified that it would be allowable for a commercial use to use the space for 180 days in a row and the subsequent part would kick in at the end of the 180 days and not at the end of the first year. Ms. Albert agreed and pointed out that similarly community service uses would get a year plus 90 days.

Planning Commission Motion

Commissioner Gutshall moved that the Planning Commission recommend that the County Board adopt the attached ordinance consistent with the County Manager recommendation in the staff report dated March 20, 2015. Commissioner Cole seconded the motion.

Commissioner Gutshall made a motion to amend the main motion that the Planning Commission recommend that the County Board adopt the short-term use standards for indoor and outdoor events as advertised by the Board. Commissioner Sockwell seconded the motion.

Commissioner Gutshall stated that in the current economic environment, the community is better served by being more flexible and more accommodating of the business community and still maintaining reasonable protections of the integrity of the site plan process.

Commissioner Sockwell asked for clarification on the purpose of the advertisement. Ms. Albert responded that the Board advertised a longer period for uses other than community service uses in response to comments that short-term uses are often longer than the 90 days in the adopted provisions.

Commissioner Gutshall clarified he is focused on the expansion for the short-term uses from only community service uses to all uses because property owners might like to do activities that may not fit in that community service use category and he is suggesting it should be 360 days for everything instead of 180 for some uses, and 360 for others.

Commissioner Iacomini asked staff if there is ongoing work on these issues despite what the Board votes with this particular amendment. Ms. Albert responded that the County Board gave direction to the County Manager to ask staff to continue thinking about how these other issues could be addressed.

Commissioner Cole stated that the zoning ordinance is law, which is not something usually changed to reflect changing economic conditions. Implicit in the reasoning for adopting the amendment is that if vacancy rates change, it should be repealed. The County should establish an ordinance provision that reflects the County's desire for the way things ought to happen in the County to distinguish it from policy or guidance which the Board adopts all the time. The difference between the proposals is 180 days and staff says that site plan amendments are the correct tool to change uses. If it is really temporary, allow it to be done outside of a site plan amendment. If it is something closer to not being temporary and will go on for an entire year, then maybe the Board should review it and decide whether they want that to happen. He said he supports the staff position.

Commissioner Siegel asked staff for the rationale behind their proposal, some examples of non-community service uses that illustrates why staff feels they should be limited, and the reasoning for carving out community service uses. Ms. Albert responded that non-community service uses could include a temporary parking lot, pop-up retail or an office and that the County does not want to encourage the types of longer term leases that would be allowed under a longer time period with these short-term provisions. A shorter time frame is more consistent with the authority that the zoning ordinance has given the Zoning Administrator to change a County Board adopted legislative approval. Ms. Albert said that the County Board was interested in carving out community service uses and included it the first time that the use was advertised with the intention of facilitating the arts and other uses that the County may want to encourage further. All uses are limited after that initial period to a 90 day period.

Commissioner Gutshall agreed that the County should not adopt an ordinance that does not pass the test of time but he thinks the ordinance as advertised for 360 days is a more flexible time constraint than 180 days and is broader in terms of the uses that would be allowed. When vacancy rates are low, it is unlikely to be advantageous to a property owner to use this provision to try to do something that's not consistent with the site plan when they are otherwise leased up and the ordinance would effectively lie dormant until needed again.

He added that one of the possible uses that would not be considered a community service use would be an indoor flea market which he would like to make clear is something that should be permissible and invited.

Commissioner Siegel stated she will not support the amendment. She is comfortable allowing a year for community service uses as defined but is uncomfortable extending that period to all other uses. She has supported the greatest flexibility possible in this process and the Board has directed staff to look at developing other tools to support the broader economic issues that have been raised.

Commissioner Harner said he would support the amendment and expressed concern that 180 days does not make business sense and could be a barrier to entry to some of the efforts at pop-up urbanism that has happened in recent years across the country. He is interested in creating a flexible

and creative environment where sites are appropriate. A business might like to try something for a year before submitting a site plan amendment. The site plan amendment is not something the business community likes to do, and community service uses are not always more desirable than a commercial use and so it doesn't seem like they should get double the time.

Commissioner Cole asked staff about the distinction between community uses and all other uses. Ms. Albert said it was intended to facilitate and promote the arts and providing extra opportunities for those types of activities. Site plans specifically typically regulate commercial uses on a property. Staff is not looking to encourage long-term leases for commercial uses and believes it is the County Board's authority to make the decision on whether those uses should be allowed for a longer period.

Commissioner Cole supports the interest in making sure there is not a barrier to entry for pop-up and incubator events. During the site plan process, however, the applicant made an agreement with the County Board about the uses that would be allowed in a certain space in a building. Changing the use is something we want them to be able to do but it should be under the agreement that they have with the County.

Commissioner Cole asked staff if there were a use that would allow a special type of temporary event for a lengthy period of time. Ms. Albert responded there is not a specific use in the zoning ordinance, but the site plan process allows the County Board to allow any use allowed in the subject zoning district. This is intended to address special events and the place to make broader changes to site plan allocations is through the site plan itself. Staff has not started looking into other tools to address these broader issues and this was not intended to solve economic development issues or undermine the Board's authority. It is likely that with future site plans that flexibility of uses will be discussed. Staff believes the place to make those changes is under the authority of the County Board. These provisions will help staff understand what has been achieved and what issues are still out there.

Commissioner Cole clarified his question related to whether the County Board could approve a site plan with a pop-up space with undefined uses that vary over time. Ms. Albert responded that the County Board could approve it as long as the uses are allowed in the zoning district.

Commissioner Harner stated he has no issue with long term uses needing County Board approval but rather the question of whether half a year is a barrier to entry for some kinds of temporary uses. He asked if the barrier to entry might be cutting off the ability to be creative.

Commissioner Siegel confirmed that during a 180 day period where a short-term use was successful, the process at that point would be to look at the site plan and see if that continued use is sanctioned by the site plan, complies with the spirit of the ordinance, and then the property owner could apply for a minor site plan amendment. She also asked if staff will be considering the time and cost of the site plan amendment process moving forward, which is a barrier and concern of the business community.

Ms. Albert responded that the provision is for the Zoning Administrator. In order for her to approve something that is not consistent with what the Board adopted, she has to make specific findings outlined in the zoning ordinance. Those criteria do not apply when going to the Board because there

are other findings that the County Board has to make. She added that the Board asked staff to set up a forum for a regular conversation about site plan amendments and other issues.

Commissioner Gutshall said that the question comes down to what is the County trying to be, and the County Board has stated that we are going to be an innovative new technology economy and these uses are in the spirit of transitioning out of our traditional office tenants and finding out what is next for Arlington. Many of our site plans were approved in an era of large GSA and related tenants, but that time is gone and is not coming back. We should make changes to our ordinance that recognize the changing economy and that the County is trying to break new ground. The question is are we are going to be leaders or followers. There is risk for business owners inherent with innovation. Increasing the time period and flexibility of uses allowed is a very modest way for us to help mitigate some of that risk for the innovators with very little risk to the community. To be clear, there are no other tools in the work plan right now and we have limited staff resources to work on any new tools requiring zoning ordinance amendments.

Commissioner Iacomini clarified with staff that by saying up to one year, the temporary use is not being given any special rights. Ms. Albert said this is giving the Zoning Administrator the authority to approve it for a certain amount of time.

Commissioner Gutshall restated the proposed amendment that the Planning Commission recommend to the County Board that they adopt the short-term use standards contained in Section 12.10.5 Paragraph C Frequency and Length of events as advertised by the County Board last month.

The Planning Commission voted 4-3 to support the amendment with Commissioners Iacomini, Forinash, Gutshall, and Harner in support and Commissioners Siegel, Cole, and Sockwell opposed.

The Planning Commission voted unanimously 7-0 to support the main motion as amended with Commissioners Iacomini, Forinash, Siegel, Cole, Sockwell, Gutshall, and Harner in support.

Respectfully Submitted,
Arlington County Planning Commission

A handwritten signature in black ink, appearing to read "Chris Forinash", written in a cursive style.

Christopher Forinash
Planning Commission Chair