

**Sustainable Planning Meeting
July 11, 2008**

Members Present: Tom Reilly, Acting Chairman Dava Hoffman
Gene Kerkman Chad Daines, Staff
Jim Sullivan Elise Link, Staff
Jim Wise Margie Bryan, Staff

Absent: Matt Ackerman, Chairman Jon Barnert
Bill Feldmeier

Guest: John Rasmussen, Yavapai County Water Advisory Committee

Mr. Reilly opened the meeting by asking if there were any revisions to the minutes from June 27, 2008. There being none, Mr. Sullivan made a motion to approve the minutes as written, Ms. Hoffman seconded the motion, and the vote was unanimous.

Mr. Reilly said there were numerous responses from the public regarding the draft that was sent out for review and most of them were in favor of the proposal. He said one concern was that on a particular parcel, by way of example, if you had a 100-acre parcel and 80 acres were on a steeply sloping hillside and 20 acres were on a flat area, that you would be able to harvest all the density of that 80 acres and put it onto the 20 acres, and people felt that would not be appropriate. Another issue was the lack of public involvement, and he felt because they had responded and with the public hearings at both the Planning and Zoning Commission meetings, that the public was involved. Mr. Reilly said another public process they had concerns with was that there was no opportunity for public comment, if you were going to go with a Preservation Subdivision and cluster the housing that people would not have the opportunity to comment on that. He said this Committee had decided they wanted the Preservation Subdivision to go through the same process as a regular subdivision and these issues would be addressed at the Verde Commission meeting.

Ms. Hoffman asked how this item was listed on the Verde Agenda, would it be a "no action item," and if so, could it be deferred to have the action taken in Prescott where the area that would have the most impact would be where the action was taken.

Mr. Kerkman said based on what happened at the meeting, it would then be decided if there needed to be a study session, deferral or an action taken, and if there was a way to mediate the opposition through that process.

Ms. Hoffman said it appeared to her from the Commissioner's comments that were received that there was a very different opinion about what certain words meant, as he was referring to a transfer of density without public input, and it was not transfer of density at all, it was the same density.

Mr. Reilly felt rather than worry about whether or not someone agreed with the proposal, this Committee was more concerned with coming up with criteria that staff could review so they had something to check against to decide whether or not it was a Preservation Subdivision.

Mr. Daines replied that in Section 7 (regarding Findings), that was staff's attempt to provide specific criteria to help evaluate a project.

Ms. Link said another thing that she and Mr. Daines had discussed was that once this Ordinance was approved, that there would be an application packet which included information that needed to be submitted.

Mr. Daines said they had not put that in the Ordinance because things change, and if something were added it would be easier to bring it back to the Committee for a review than doing an Amendment. He said they ended their last meeting at Item G (regarding Processing) as they ran out of time and Items 4-11 (regarding Waivers) were left for review at this meeting.

Ms. Hoffman said then the draft given to the Commissioners was different than the one the Committee was reviewing today, was that correct.

Mr. Daines replied yes. He said after yesterday's meeting that one Commissioner had requested the same draft (with regards to processing) that the Committee was reviewing and he wanted to make the Committee aware of this.

Ms. Hoffman said if Mr. Daines was sending them something new, why he wasn't sending them the changes. She said that the "purpose was to encourage clustering" was not in the document given to the Commissioners and it should have been, as that was critical.

Ms. Link said there were two documents, one with Ms. Hoffman's suggested changes, and one without. She said she would make sure that Ms. Hoffman's changes were incorporated into the document.

Ms. Hoffman reviewed her suggested changes. She said the main purpose of this Ordinance was the preservation of open space and not the clustering of houses and that was why she suggested that change. She went over her other suggested changes. She asked where the paragraph with Item 6 (regarding Submittal requirements) came from.

Mr. Daines replied it came from the existing Ordinance. He said he had discussed this with Attorney Fields and he did not feel there would be a problem with including it, and said it would add value.

Ms. Link said when they revised the PAD Ordinance that it was reviewed by Attorney Schurr and he had no concerns with it.

Ms. Hoffman said the whole issue of how open space was obtained and maintained had always been a complex issue, because most places want it to be public, but the public entity did not want to assume the cost of maintaining it.

Mr. Reilly asked if anyone had any concern with the suggested changes; there were none.

Ms. Hoffman asked when it was decided by the Committee that the open space requirement would be changed from 25% to 40%, as she felt if the Verde group wanted more than that, then the Committee was back to square one.

Mr. Reilly said that was determined at the last Committee meeting. He said the only way to avoid them asking for more was to make sure the Committee members attended the Commission and Board meetings and spoke up. Mr. Reilly said they were presenting this Ordinance with the 40% and it would be up to the Supervisors to decide whether or not to approve it. Mr. Reilly said in regard to Item G.4. (regarding Notice of Application), do they currently need to notify everyone within 300 feet of a subdivision.

Mr. Daines replied no, he said the way the draft was put together was if a subdivision proposal came in and met all the zoning, roads, environmental, all the requirements then it was an administrative procedure, there was no discretion to approve or deny it. He said there was a difference here because

they were changing the lot sizes, the percentage of setbacks, and other standards than what were currently today's standards, so that was why this notice recommendation was included.

Mr. Reilly said he agreed with him but would suggest it be decided at the Commission or Board level.

Ms. Hoffman said she was strongly opposed to Item 4 (regarding Waivers) as it was now a new part of the Zoning Ordinance so it would comply with the Ordinance, it was not a variance, waiver, nor an exception, so why should there be any difference between this and the notification of a standard subdivision.

Mr. Sullivan said he tended to agree with Ms. Hoffman as this was leaning towards creating a new PAD Ordinance and they were not doing that. If one person came in and started complaining, they could do that now, and they were on delicate ground here on whether they wanted the public to comment or not, but if the Ordinance gets changed, then they were complying with it and it would be the same as the existing Ordinance. He would like to see in some of the quantifications, that staff could have some other avenue for control. Mr. Sullivan said when a sketch plan was sent out for review, there were responses received from the different agencies and if one of those agencies had an issue that would prompt staff to answer that question. However, if all those agencies did not have any issues, then it should be approved. If there was a red flag from reviewing agencies, then staff could say they were not moving forward until that issue had been addressed, so there was a non-subjective or arbitrary control in place.

Mr. Daines said what it came down to was, if the Committee did not have any notice or appeal section, the first time the adjoining property owner would know about it was when they started moving dirt. He said it was different than a lot split because if he lived next to that, he would know that it was going to be a 2-acre lot, but instead of that, it might be a 10,000 sq. ft. lot and in his opinion, that would be a measurable change the adjoining property owner should be made aware of. He said that was the concern that they were hearing regarding the public notification; the lot sizes and density were being changed and they were not notified.

Mr. Reilly asked what the goal of these people being notified was, and asked what they were trying to accomplish by notifying them.

Mr. Daines replied the opportunity of public participation for the adjoining property owners to be aware of what was going on and if they were opposed, they could appeal to the Planning and Zoning Commission, which would result in a larger group deciding what was going to be developed as opposed to it being approved by staff with no recourse.

Mr. Reilly asked if he believed by notifying the public that they would end up with a better project.

Mr. Daines replied he did not look at public input as a negative thing.

Mr. Reilly said he had always had a problem with at what point the public had a right to know or become involved with a project, because when there was public input it was usually for a specific purpose.

Mr. Daines said as an example, if he bought multi-family zoned property and years later he decided to develop it, filed a site plan and everyone got noticed and then came down and said they were going to increase traffic, have drug dealers in the park, etc., those were appropriate comments at the zoning stage. He agreed at some point it would be an administrative decision. His main concern was the changing of the lot sizes. He said the intent of this Ordinance was good, but his concern was with reducing the lot sizes to such an extent without the public being notified.

Mr. Reilly said then it came down to at what point would they protest. He said his heartburn was they would find that a number of people that lived in rural areas would find that lot splitting was better than clustering houses, because that was an existing land use that they were used to, and this Committee was saying that existing land use was wasteful and needed to be changed. He said should the rancher next door have something to say about it, "yes"; but should the property owner ten miles down the road have anything to say about, then the answer was "no". He said the crux of the matter came down to, at what point did you let people know about it. He said the immediate neighbors should be made aware of what you were doing.

Ms. Link said she believed they were talking two different things, she was not opposed to public input, but letting them appeal was problematic to her because if they have the right to appeal and force this to go to the Commission, it would happen every time and that would defeat the entire purpose.

Mr. Kerkman agreed with her, he said he saw this as contradicting the whole matter of right concept of this Ordinance, because you had encouraged the right to protest. He did believe there had to be some point at which the developer had to make peace with the surrounding neighbors.

Ms. Hoffman said they might recommend that the developer notify the surrounding property owners but not to make it mandatory, and if he was not smart enough to do that, then he could pay the consequences.

Mr. Reilly said they could add something stating that staff recommended notifying the neighbors.

Mr. Daines said that was not something that should be put in an Ordinance as that muddled the issue and it might create confusion as to it being a formal requirement or not, but they could recommend that they meet with their adjoining neighbors.

Mr. Kerkman replied some of the confusion was due to the fact that most of the public did not realize there was no notification requirement for a standard subdivision.

Ms. Hoffman suggested deleting Item 4. (regarding Waivers). She said if there needed to be something in regard to notice, then it could be added someplace as an option, that it be recommended to meet with adjacent property owners. She said Mr. Reilly was headed in the right direction when he said doing what people were used to. She said this Committee was there to do two things: (1) offer an option to lot splits; and (2) something that leaned towards sustainable planning, and the larger lots were not sustainable. She said this was a County with a vision for sustainability and it would take some strong measures to change the mode of what had been going on or this Committee was wasting its time.

Mr. Sullivan said regarding the deletion of Item 4. (regarding Waivers), he would suggest waiting until after the public comments at the Verde Commission meeting before they made a decision.

Mr. Daines said he wanted to let them know that the Commission had asked for a copy of the draft that the Committee was reviewing relative to the Notice and Appeal Section. He did not want to send it out unless the Committee was aware of this. Mr. Daines said at the last Commission meeting, Ms. Link explained that there was a final section of the draft that the Committee was discussing and that the draft given to them did not include that section. He said after the meeting, a Commissioner asked Mr. Daines for a copy of the draft with the Notice and Appeal Section that the Committee was still working on. He said he was obligated to give that to the Commissioners.

Ms. Hoffman felt that the draft discussed at the July 23, 2008 Commission meeting in Cottonwood should be identical to the draft they discussed at the July 9, 2008 Commission meeting in Prescott.

Mr. Daines said the only reason this section was not included in the draft given to the Commissioners was because the Committee wanted it held back until they had the time to review it. He said it would be up to the Commission whether or not to defer it back to Prescott.

Mr. Reilly said this was going to be given to the Commissioners with the notation that this was put together by staff and not a Committee document.

Mr. Daines replied that was correct.

Mr. Sullivan said he would like him to provide what the Commissioner asked for, but at this time that had not been created by the Committee.

Mr. Daines said he would provide what the Commissioner requested, the same as he would provide information that was requested by any member of this Committee. He said there was the implication of some ulterior motive here and that was not the case. He said they would forward this draft as what the Committee had recommended to this point.

Mr. Reilly said this was a public meeting and any one of the Commissioners could come into the meeting and walk out with a copy of the draft, so all Mr. Daines was doing was providing them a copy without having them attend the meeting, and he had no issue with that. He would note at the next Commission meeting that it was characterized as different from the one created today. He asked if the consensus was that Item #4 (regarding Waivers) be deleted, and the Committee was in agreement. Mr. Reilly read Item #6 (regarding Review) and there were no issues with it. The Committee moved on to Item #7, d., (making the open space accessible to pedestrians and meets the needs of the handicapped and elderly). Mr. Reilly said it should read to reasonably meet the needs of the handicapped and elderly, as that would conform to the ADA (American Disability Act) requirements. Mr. Reilly read Item 7. E. (regarding the historic preservation).

Mr. Daines said this Item 7.d. (making the open space accessible to pedestrians and meets the needs of the handicapped and elderly) might be deleted and the Committee was in agreement and it was deleted from the draft. He said Items 7. f. (regarding minimizing adverse effects of pollution, etc.), g. (regarding structures compatible with surrounding properties), h. (regarding structures to compliment natural features of site), and i. (regarding Open Space Subdivision to advance purpose of Ordinance) were there to create some findings that could be used as a general evaluation tool.

Mr. Sullivan felt they were there as a reference to show that some thought had gone into the various issues and they had been addressed.

Mr. Reilly said the whole idea of clustering homes was that it was not compatible with the surrounding area.

Ms. Hoffman said she felt the entire Section 7 (regarding Findings) needed to be deleted.

Mr. Reilly suggested they delete everything under Section 7, Items a. through i. (regarding Findings) and in its place put in the criteria for a sketch plan and include the checklist as well. He would like to see this move forward, hear the public comment at the next meeting and then bring that information back to this Committee for consideration.

Mr. Sullivan wanted to make sure the Commission was aware that the same reviewing agencies that reviewed the sketch plan application would review the Open Space Preservation Subdivision.

Mr. Reilly said they had already reviewed Item 9. (regarding Notice) and that might be deleted.

Mr. Daines said the words "any member of the public" would need to be deleted from Items 10. and 11. The Committee agreed.

Ms. Link said that before everyone left, she wanted to make sure the correct information was included in the July 23, 2008 Commission packets; it was to be the same information that went in the July 9, 2008 packets except with Ms. Hoffman's comments included.

Mr. Daines said it might be helpful if staff made a draft and get it out to the Committee to approve of what should be forwarded to the Commissioners.

Ms. Hoffman said she did not feel anything should go out that was not at the July 9 meeting because the Commission was supposed to hear the same information at two different localities, so she did not think any of this should be going to the Commission or to the public at this particular upcoming hearing.

Mr. Daines said he was obligated to give the Commissioner what he asked for which was what the Committee was looking at relative to Notice and Appeals and he would forward it with the notation that it was a work in progress, and he would do that for anyone else sitting at this table.

Mr. Kerkman suggested looking at it as a way to win an argument; if the Committee could not win the argument with those other Commissioners then they had lost the war. He said they had deleted items here and supported those arguments why they should be deleted and he was not afraid to put those arguments in front of the Commissioners. He said the only thing that concerned him was that they had extended the meeting outside of their control to these other people and now they would want to have their say.

Ms. Hoffman said she had no issue with it being a discussion because she felt that was the purpose of the Commission, to represent their constituents, but since you had asked citizens' committee to work on this, then only what the committee worked on should be presented. Ms. Hoffman said she had concern with the types of groups that were trying to stop development and this would only keep the proliferation of lot splits forever, and they would take this to the newspapers and state that the work that the Committee and the two Supervisors that wanted to get something done were in the pocket of realtors and that was why she felt so strongly about this. She felt it presented a division between staff and the Committee.

Mr. Daines asked if the Committee was comfortable with staff incorporating the changes they made today and getting it out to the Committee for one final review before presenting it to the Commission. The Committee was in agreement.

The meeting was adjourned at 11:30 a.m.