

Public Comments Comprehensive Plan Draft March 2013 Version Planning Commission Meeting April 2, 2013 by Charles Battig, MD

The proposed Comprehensive Plan Draft (CPD) update deserves to be rejected out-of-hand, because it fails as measured against a number of benchmarks.

Some are: It violates Virginia State Code; it ignores US Constitutional precepts; it is not a valid representation of citizen desires; it contradicts the ground rules of the TJPDC grant project manager; and it ignores recent scientific findings regarding Smart Growth/neighborhood model design.

First, enabling VA State Code VA Code 15.2-2223 specifies that comprehensive plans are to be *“general in nature.”* On this basis alone the proposed plan deserves to be rejected as it imposes micromanagement at every level and in every aspect of County citizens’ lives.

This over-arching scope of micromanagement is described in Chapter 5 of the CPD. Listed are nine areas subject to analysis, evaluation, regulation, and monitoring. They include: Natural Resources, Historic, Cultural, and Scenic Resources, Economic Development, Land Use for the Rural Areas, Land Use for the Development Areas, Housing, Transportation, Parks and Recreation, Greenways, Blueways, Green Systems, and Community Services and Facilities.

Why does the scope of this goal sound familiar? It mirrors the U.N Treaty on Biodiversity of 1992 (UN Agenda 21 Chapter 15: Conservation Of Biological Diversity: <http://habitat.igc.org/agenda21/a21-15.htm> and <http://www.unep.org/Documents/Multilingual/Default.asp?DocumentID=52&ArticleID=63>), and land management proposals by the International Union for the Conservation of Nature (IUCN) in 1981.

The U.S. Senate did not ratify the UN Biodiversity Treaty in 1994, but the TJPDC and Albemarle County planning staff have seemingly done an end-run, and have coordinated efforts to place their “son-of-UN-biodiversity treaty” into the revised CPD under the banner of “sustainability.”

Also represented in the CPD are objectives of the 1991 Wilderness Project and The Rewilding Institute (originated by convicted eco-terrorist Dave Foreman). They contain similar aims of legislating “diverse, interconnected areas of viable habitat for native wildlife” such as is found on page 5.4.9. of the CPD.

Second, the CPD fails as it violates our Constitution's stated "*We the people*," and attempts to substitute a "we the planners" standard." Albemarle County would be the grantor of the rights of all citizens, thus turning our Constitution on its head. The County would be telling its citizens what they might be permitted to do...literally touching every aspect of a nominally free citizen's life and private property. Who has decided that such detailed regulations are needed? What happened to our Founding Fathers' guiding principle of limited government?

Thomas Jefferson, James Madison, and John Adams seem more important as local money-making tourist attractions, rather than the philosophical founders of our Country and County. The U.S. Constitution is based on the premise of enumerating the limited powers of the Federal government to those granted by the citizens. Thomas Jefferson is now co-opted by the CPD to impose "viewshed" protectionism on the surrounding County. This CPD envisions an expanded role for County government via a mindboggling bureaucracy to measure, document, implement, monitor, regulate, and enforce new regulations on most every aspect of private property usage based on open-ended "biodiversity" mandates.

The CPD takes the legitimate need to lay out the accepted aspects of County government, and has bloated them into a proposed bureaucracy of a super "nanny state." All-encompassing and fuzzily-defined 'biodiversity' and "sustainability become the new "greater-good," and benchmark for all human activities.

Third, the proposed CPD fails to represent a valid expression of the local citizens. Any allusions to community input and approval of this plan ring hollow. Attendance at public comment meetings was sparse. Data from the Livability Project documented that less than 0.25% of County residents participated. Those attending these meetings were generally the same small group of people. The survey did include a finding that the number one and number two desires of County residents were to "decrease regulations" and to "protect private property rights." These desires are trampled by this CPD.

Those participating as "community groups" in the Livability Partnership (referenced in the CPD) were required to sign an agreement authored by Mr. Williams. It stated: "*Livability Partnership is not a decision making group. The group will not take votes or make recommendations...Livability Partnership is also not a consensus building group...we do not expect members of*

the Livability Partnership to agree with or express their support for the final recommendations in the Livability Implementation Plan.” Participants could not expect their views to alter the pre-determined mindset of the TJPDC group, no matter how many sticky notes and chalk-board comments.

Fourth, this CPD violates the stated guiding principle of the TJPDC Sustainability Grant project manager, Mr. Williams (C-T March 17, 2011): *“We have no intention to dictate to people what they can do with their land, or to place any new requirements on them,”...“We are not in the business of telling people what to do.”* The proposed CPD embodies the arrogance to do just the opposite.

Fifth, the CPD is illustrative of the rule-by-technocracy. This assumes that if the “experts” are put in charge, they will craft the “optimal” plan for the running of government. However, if all experts have been trained to analyze and resolve proposed problems in the same manner and according to the same formulas, then group-think is the result. Moreover, they are unelected and thereby unaccountable to the public.

The American Planning Association (APA) is the parent organization for most planning “professionals.” The APA produced PAS Report 556, Smart Codes: Model Land-Development Regulations, which includes 21 model codes promoting Smart Growth Principles. Rather than save some room for ad hoc solving of unanticipated problems by traditional hearings, petitions, negotiations, and legal process, the County planners offer in the CPD their pre-packaged protocols for all situations of which they can conceive. Even the running of Amtrak has not escaped their purview.

The CPD continues to ignore the facts presented in a recent APA paper which concluded that Smart Growth/neighborhood design does not deliver the previously assumed benefits in environmental savings. The authors conclude: *“current planning policy strategies for land use and transport have virtually no impact on the major long-term increases in resource and energy consumption. They generally tend to increase costs and reduce economic competitiveness...(and) in many cases, the potential socioeconomic consequences of less housing choice, crowding, and congestion.”*

This CPD suffers from bureaucratic obesity needs to be put on a strict diet.