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County Finds Planning Disorder

Clarksburg Audit Depicts Agency on 'Autopilot,' Lacking Records
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A culture of sloppiness and arrogance pervades the Montgomery County planning process, creating a system in which staff and work together out of public view with little supervision, according to a County Council audit released yesterday.

The four-month investigation by the Office of Legislative Oversight into the construction of Clarksburg Town Center does not single out individuals in key posts, such as county Planning Board Chairman Derick Berlage or Charles Loehr, former executive director of the Department of Park and Planning. But it offers biting criticism of the system's performance on their watch and that of their predecessors.

Karen A. Orlansky, director of the office, told council members during a meeting yesterday that the planning system lacks "policy procedures and guidelines" and often runs on "autopilot." Documents that would be crucial to determining who might be at fault for construction irregularities, Orlansky said, are missing or incomplete.

The report concluded that the nationally acclaimed Montgomery County planning system has been breaking down for many years because of poor management, sloppy record-keeping, ambiguous laws and regulations and opportunistic developers.

Although she didn't say so explicitly, Orlansky's analysis implied that the department's weaknesses call into question the Planning Board's ongoing probe of what happened at Clarksburg. "The agency is not able to produce a reliable and complete set of [documents] that compromises the government's ability to determine developer compliance."

A community group has alleged that developer Newland Communities and builders ignored approved plans and built houses too close to the street, rearranged building configurations and changed construction timetables. The group's findings have touched off a broad debate about the county's ability to oversee its rapid growth.

Yesterday's report is from the first of three investigations into how the county managed the building of Clarksburg Town Center, which eventually could have 1,300 homes. The county's inspector general and the Maryland state prosecutor are also looking into the project.

Berlage and the council responded to the report by announcing that they have retained two one-time county officials: former Planning Board chairman Royce Hanson and Robert Kendal, former director of the office of management and budget during the first two terms of County Executive Douglas M. Duncan (D).

Hanson, who teaches at George Washington University, will report to the council and will not be paid. Kendal will work with the agency and will be paid \$500 a day for a six-month contract.

"At stake is nothing less than the credibility of and confidence in our county government's process for regulating government," said President Tom Perez (D-Silver Spring).

In a news conference after the meeting, Berlage declined to say whether he plans to seek reappointment by the council next year. He outlined nearly three dozen steps he said the 900-employee agency is taking to institute reforms.

"This agency needs to be at a level of excellence from the chairman down to the front-line supervisors," he said.

Council investigators said the disintegrating regulatory process has left a vacuum unfilled by the planning department, and to a large extent, the Department of Permitting Services. Together, the agencies were supposed to track development plans and building in the northern Montgomery community but failed to communicate with each other.

The developer was singled out for submitting flawed documents "that contained errors and internal inconsistencies." And when the developer's staff noticed errors in planning documents, they did not point them out.

Problems have also festered, the report said, because the County Council failed to oversee the planning agency.

Although the council report notes that flaws in the planning process date back to well before Berlage became chairman in 2002, problems have steadily worsened.

"We have the vision. We just don't have the management," said council member Michael Knapp (D-Upcounty), whose district is in Clarksburg.

The report describes an atmosphere at the agency that is unwelcoming to the public. "The Planning Board and its staff did not respond fairly or effectively" to questions from Clarksburg residents, Orlansky told the council.

Clarksburg Town Center residents, upset that the developer was trying to change the plans for the community's retail center, began arguing more than a year ago that something was wrong with the system, but they were marginalized and given conflicting information by the planning agency, the report said.

After ruling in April that there were no violations, the Planning Board reversed itself in July and cited Newland and the builders for constructing hundreds of homes too tall and close to the street.

The reversal came after the resignation of Wynn Witthans, who had managed the Clarksburg project for the agency. She stepped down in June after acknowledging that she made changes to site plans for Clarksburg so they conformed with other documents relating to the project. Loehr, the agency's director, took early retirement and left last month.

The report did not discuss Loehr's role but noted that Witthans, who was not named, did not act alone and kept her bosses, including the Planning Board, informed about what she was doing.

Council member Howard A. Denis (R-Potomac-Bethesda) said he thought the report took an important first step but left unanswered questions.

"I think we have to notch this up," he said, citing a need for more details and e-mails, phone records and other documents.

Amy Presley, a leader of the Clarksburg Town Center Advisory Committee, which unearthed evidence of irregularities and brought the county government, said she was disappointed in the report.

She said it should have widened its probe to look at the roles of developers and builders, not just procedural issues.

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