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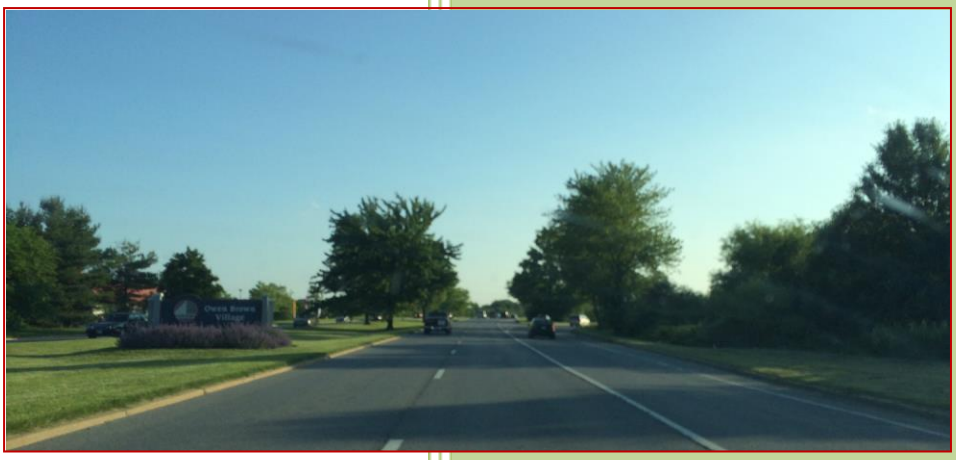
New Town Columbia - Preserving the Vision



Prepared by: HCCA New Town Committee

This report is the product of a Howard County Citizens Association initiative to ensure preservation of the intent of the vision of the founders of Columbia.

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I. Executive Summary

James Rouse's vision of a self-sustaining, racially and economically diverse city comprised of ten villages surrounding a core downtown has for the most part been achieved. In order to make this vision a reality, Rouse proposed a New Town Zoning District which would permit greater flexibility in mixing land uses. Howard Research and Development (HRD), was appointed to act as a "gatekeeper" to control where, and what kinds of housing would be developed, where village centers would be located and what kinds of businesses could be in those centers.

As an additional protection, HRD added private covenants to some parcels in the centers which limited or prohibited certain uses. Howard Hughes Corporation (HHC), acting as HRD, no longer carefully controls what uses go into specific locations. The enforcement aspect of the gatekeeper role has disappeared. HCCA created a New Town committee to come up with recommendations for a Gatekeeper to ensure coordinated, well planned redevelopment in order to maintain the vision of keeping Columbia a planned community, to build a foundation that will last for many years while also allowing Columbia to evolve.

The county is planning to develop an open process to create an updated Master Plan for Columbia. The NT committee has identified ten issues that need to be addressed in this new Master Plan. The Plan must: address the whole of Columbia; have a gatekeeper to enforce it; adhere to a public process; address development and re-development in the industrial areas; include a plan for Open Space, which includes the watershed; ensure that parkways must remain as parkways; address infill development and a solution for the out parcels; ensure that village centers and Downtown plan are not threatened by new development; and address connectability and transportation. The Gatekeeper would ensure that these will be addressed and enforced.

Over the course of eight months the NT committee met with or spoke with over a dozen community leaders, reviewed at least fourteen documents, and identified eight possibilities for a gatekeeping entity. The concept we think works best is a Columbia Planning Board. It would be an independent, self-governing non-profit offshoot of CA, much like the Inner Arbor Trust. The makeup of the board would all be residents of New Town, both professionals and non-professionals, chosen by the community working in conjunction with the CA board. There would be a technical advisory group with expertise in land use planning, development and law. This technical support committee role is to advise in the same way as DPZ does with the Planning Board. The details can be found on page 11 of the report.

II. Background

Columbia, MD is one of the most successful planned communities in the United States. James Rouse's vision of a self-sustaining, racially and economically diverse city comprised of ten villages surrounding a core downtown has for the most part been achieved. Columbia, *because it would be planned from the beginning*, ". . . would avoid urban sprawl, the waste and inconveniences that have come to typify spot development. The new city would provide jobs and recreation, shopping and health care, and the many other facilities and services people want and need in a city, along with a broad range of housing choices. Residential development would be *balanced* by commercial and industrial development."

In order to make this vision a reality, Rouse proposed a new kind of zoning which would permit greater flexibility in mixing land uses. In August 1965, the County passed a "New Town District" zoning ordinance and granted zoning for Columbia's development. The Rouse Company created a separate corporation, Howard Research and Development (HRD), to act as a "gatekeeper" to control where, and what kinds of housing would be developed, where village centers were located and what kinds of businesses could be in those centers. HRD eventually controlled most of the village centers built in Columbia and almost all of the commercial land in Columbia. HRD spread out the uses so that centers didn't compete with each other for customers. The Final Development Plan (FDP) process for each village center listed some allowable uses at each center which provided further control.

As an additional protection, HRD added private covenants to some parcels in the centers which limited or prohibited certain uses, such as the sale of food at a particular gas station site. HRD still retains control over some parcels or entire village centers as a result of private covenants on the properties. In addition, many other commercial parcels in Columbia still have private covenants with HRD (now Howard Hughes Corporation), that restrict or prohibit certain uses. *Howard Hughes Corporation (HHC) no longer carefully controls what uses go in what location in order to prevent competitors from opening near existing businesses.* John DeWolf, senior vice president of HHC, said that the gatekeeper/covenant enforcement role is not on his radar at this time, and indicated he would be glad to turn it over to someone else.

The enforcement aspect of the gatekeeper role has not been evenly applied. Outparcels not under the NT zoning classification have never been controlled by the gatekeeper and have developed under the more standard Howard County Zoning Regulations. These zoning regulations do not have any rules or restrictions regarding competing businesses opening near existing ones, and, due to the de facto absence of a gatekeeper, Columbia appears to be headed to the same scattered, uncoordinated redevelopment that is already occurring along Snowden River Parkway.

III. Purpose of HCCA's Effort

As part of Plan Howard 2030, Howard County is beginning a Comprehensive Review of NT Zoning to "revise the NT zoning Regulations to provide clear criteria for redevelopment of older residential, commercial, or industrial areas outside of Downtown Columbia and the Village Centers." The Columbia Association (CA), Howard County Department of Planning and Zoning (DPZ), and Howard County Economic Development Authority (HCEDA) are currently funding a study of the village centers and the Snowden River/Gateway commercial areas as an early step in determining what changes should be made to the zoning classification. What is missing in this discussion is the creation of a new gatekeeping entity that will continue to ensure that Columbia remains a *planned community* and that any and all development in New Town be considered in the context of the whole of Columbia and be true to the vision of Jim Rouse.

The Howard County Citizens Association (HCCA) believes that the Gatekeeper role is being neglected. Whether it is seen as unimportant or unnecessary or a hindrance to "progress" is anybody's guess. According to a document obtained from DPZ, the county is already making plans to determine "an appropriate and streamlined process to maintain a planned community over time." Given these concerns, and in light of the County and HRD/HHC's indifference to the issue, HCCA created a New Town committee to come up with recommendations for a Gatekeeper to ensure coordinated, well planned redevelopment and allow property owners access to the zoning in order to maintain the vision of keeping *Columbia a planned community, to build a foundation that will last for many years while also allowing Columbia to evolve.*

PlanHoward 2030 calls for the NT Zoning Regulations to be revised to establish clear criteria for redevelopment in New Town, and a new Gatekeeper is required to continue to approve or disapprove changes to the FDP and enforce covenants that govern what can and cannot be done with various properties in New Town. The HCCA New Town committee has been working on the task since July of 2013. The process has been instructive, enlightening, frustrating and, we hope, fruitful. We have interviewed County administrators, elected officials, representatives of businesses (including the current gatekeeper), CA staff and board members and researched archival documents in attempting to be as thorough as possible in developing our recommendations. We believe that the Gatekeeper, as conceived by James Rouse, is essential to keeping Columbia a planned community, and we believe our recommendation for the entity to carry on this function is sound and workable.

IV. Ten Issues Facing New Town Columbia

The HCCA New Town (NT) committee believes that a new (or updated) Master Plan for Columbia needs to be developed. Columbia is almost 50 years old, and major changes in the way people live, shop, travel and work need to be taken into account. One of the County Council members we interviewed told us that the County is planning to conduct a participatory process to help create a new Master Plan. The NT committee has identified ten issues that need to be addressed in any such plan. The Gatekeeper would ensure that these will be addressed.

1. *The Plan must address the whole of Columbia*. We have a downtown plan and some village visualization plans, but nothing is coordinated. Ideally the plan should also include issues related to infill, GE plant development and the new CA/DPZ/ EDA market study.
2. *There must be an entity to enforce the Plan.* A new Gatekeeper is required to ensure that a Columbia Plan is followed.
3. The gatekeeper entity must *adhere to a public process*.
4. *The Plan must address development and re-development in the industrial areas.* Only one industrial area has an architectural committee; HRD has a spotty enforcement record for the rest of the industrial area.
5. *CA must be required to adopt an overall plan for Open Space, which includes the watershed*. The CA does maintenance, but this fails to recognize issues related to storm water or reflect more progressive ideas related to plantings, other than rain gardens.CA does have a watershed committee and a plan that is now 5 years old..
6. *The Parkways must remain as parkways, with limited entry and exit points*. Parkways are being eyed for future development. The county plans to rename the parkways "Urban Boulevards" and grant more entry and exit points than allowed for roads designated as Parkways.
7. *There must be guidelines for infill development*.
8. *There needs to be a solution for the out parcels inside the geographical area of Columbia.*
9. *The Plan must ensure that outparcel retail centers and perimeter retail centers do not threaten the village centers and Downtown plan*.
10. *Connectability and transportation* have to be addressed in an overall Columbia plan.

V. NT Committee Process

The NT committee's methodology for arriving at our recommendation was fairly simple: Gather as much data as possible from a number of knowledgeable sources; review the data; and make a recommendation.. Over the course of eight months, we met with the following people –some on more than one occasion – both formally and informally to discuss the Gatekeeper issue.

Jane Dembner, CA
Mary Kay Sigaty, Howard County Council
Jen Terrasa, County Council
Calvin Ball, County Council
Marsha McLaughlin, DPZ Director
Bill Mackey, DPZ
Andy Stack, CA Board member and lead author of 2007 study concerning a new gatekeeper
John DeWolf, HHC Vice President
Kathy Rockefeller, Howard County Mediation and Conflict Resolution Center (MCRC)
Bill Santos, Planning Board member
Barbara Kellner, Manager of the Columbia Archives

Furthermore, we contacted village board chairs, CA board members and community activists with knowledge of the New Town zoning process to enlist their input. These interviews and meetings provided some useful insights into the preferred process of CA and DPZ regarding a gatekeeper. The preferred process is to go slowly. HCCA was asked to wait until the Market Analysis is completed before beginning the research on a new Gatekeeper model. A second insight had to do with the benefits and limitations of New Town zoning, especially with respect to the county's zoning regulations. Essentially, if the Gatekeeper does not employ its covenant enforcement function, there is no real benefit to New Town zoning.

In addition to interviews, committee members went to the Columbia Archives to locate material that might help us understand what James Rouse, himself, might have written or said about a successor to HRD as Gatekeeper. We also reviewed the following documents:

1. Plan Howard 2030
2. CA mission and vision statements
3. Columbia Association Deed
4. CA Strategic Plan (07-22-12) and recent update
5. Village revitalization plans
6. M1 and NT zoning. (Including section 125)
7. Examples of Deed restrictions

8. Examples of covenants, agreements and easements in Columbia Industrial Parks
9. Redline process
10. Village and village center covenant enforcement.
11. Howard Community College Center for Mediation and Conflict Resolution
12. CA/DPZ/HCEDA Market Study RFP
13. Notes from HCCA meeting with John E DeWolf III (1-26-2012)
14. 2007 NT task force report*

**Regarding item 14, a New Town task force was convened in 2005 to take up the issue of a new Gatekeeper. One of the members of the task force is a high ranking employee of DPZ who professed to know nothing about the task force. Their work was finished in 2007, and nothing has been done since.*

VI. Possible Gatekeeper Entities

So, where does all this leave us? The top ranking executive for HHC/HRD, the gatekeeper of record, has said that enforcing private covenants is not on his radar. He also said that he offered the role to CA, but CA turned him down. DPZ, the de facto gatekeeper, does not want the job. In fact, they cannot be the gatekeeper; we were told there is a wall between DPZ and New Town. DPZ does believe, however, that a new gatekeeper is needed. HCCA discovered a document in the DPZ offices in January of 2013 that stated directly, "A new gatekeeper to replace HRD is wanted. The gatekeeper functions to maintain the balance of the *(Columbia)* Plan by exercising a single power to allow (desired) or prevent (undesired) applications being submitted to the County." Some of the possibilities for a gatekeeper include:

1. Howard County Planning Board.
    a. Pro: Known entity utilizing a somewhat familiar (albeit, to-be-revised) process.
    b. Con: "Always approves" perception, dependent on DPZ (ultimately making DPZ the gatekeeper), and is constrained to making decisions based on legislation only.
    c. Concern: A new Columbia only Planning Board may result due to public pressure.
    d. Problem: PB should not be deciding whether or not an applicant may apply to the PB.

2. Zoning Board / County Council.
    a. Pro: May be less likely to be appealed than PB; also takes pressure off DPZ.
    b. Con: Probably not wanted by CC; would politicize decision-making process.
    c. Concern: May lead to micro-management and/or site-by-site compromises.
    d. Problem: If ZB approves ability to apply, is there an implied final approval??

3. Columbia Association Board of Directors and/ or Representation from Village Boards.
    a. Pro: Already responsible for covenant enforcement in New Town.
    b. Con: A citizens' board already involved as a final decision-maker (PB).
    c. Concern: This will be expressed as a desire by CA/VBs but not advisable since the CA Board and the Village Boards have had a long history of limited functionality.
    d. Problem: Without an independent alternative, there will be arguments for CA.

4. Independent Professional Group
    a. Pro: Able to say “no” based on broader reasons than legislative checklist, thus adding outside, private expertise to the initial decision of what should proceed.
    b. Con: Would require creation (but County has done similar, so it knows how).
    c. Concern: DPZ might be tasked with staffing, so independence must be stressed.

5. CA could use the same process that it uses now for resident covenant enforcement to enforce the commercial area covenants.
    a. Pro: We did receive one legal opinion saying that the CA could do this.
    b. Pro: This might be a good temporary solution until a plan for the whole of Columbia is completed.
    c. Recommendation: CA could use same process as it used for the "Arbor" entity.

6. Columbia Planning Board made up of village covenants advisors.
    a. Pro: They have been part of this process in the past.
    b. Con: The current AC members could be seen as amateurish.
    c. Concern: There is not the same HRD leadership now.
    d. Recommendation: Blend this idea in with the Independent Professional Group.

7. Work with Howard Hughes (HRD)
    a. Pro: They have the process in place.
    b. Recommendation: Add Columbia community input, so they consider the whole of Columbia.
    c. Concern: This could work as a temporary solution but HH is leaving when downtown is finished.

8. Howard County Public Board or agency with County Executive nominating members.
    a. Problem: This puts everything in the hands of the county rather than the Columbia community.

9. A combination of the best ideas from 1-8, a hybrid solution.

The issue of a gatekeeper/covenant enforcer should not be such a mystery. There is already a documented process. Procedures for reviewing architectural plans proposed in Columbia are reviewed and approved by the Columbia Villages (CVs), the Columbia Association (CA), and HRD. These adopted procedures assured the participation of CA, HRD and the VCs in the programming and planning of Columbia. The roles and relationships by and among the three entities have constantly been evolving. Originally, it was contemplated that CA and the CVs would assume all covenant enforcement from HRD. On all the declarations covering various commercial, industrial and residential, CA is named as co-enforcer with HRD. However, what we have found is that CA does not want the role. This conclusion is drawn by the following:

- The 2007 report of the New Town Task Force, whose members included a high ranking DPZ official and a CA board member was shelved as soon as it was completed.
- CA was offered the HRD role by Howard Hughes Corporation (HHC) because, as John DeWolf said, they have no interest in covenant enforcement.
- CA turned down HHC's offer.

Therefore, the HCCA NT Committee recommends a Columbia Planning Board.

VII. Recommendation: Columbia Planning Board (CPB)

Ultimately, the HCCA believes that the best solution is a Columbia Planning Board. New Town zoning is complex and different enough from the other zoning in Howard County that a planning board with expertise in NT zoning would be able to be that power that ". . . allows or prevents applications being submitted to the County."

Goals

- Act as architectural committee for New Town.
- Lead a public process in the development a plan for the whole of Columbia.
- Enforce the plan.
- Enforce covenants and deed restrictions related to the industrial and commercial areas of Columbia.

Make up of board (all would be residents of NT)

- Architect
- Columbia (non-professional) NT resident
- Urban Planner
- Business owner
- Village board chair

Technical support and advisory committee (advice to the CPB)

- President of CA
- Land Use attorney
- Developer

Details

- CPB nominations from the community and CA board and approved by CA board.
- Technical support committee role is to advise in the same way as DPZ does with PB.
- Columbia Planning board decision can be overturned by the Howard County Planning Board if ALL members vote to send it back to CPB. (E.g., it is out of synch with General Plan)
- While Howard Hughes is developing Columbia Downtown, the CPB will not be responsible for downtown.
- CPB will be responsible for all NT areas including business, commercial and industrial parks in NT.
- DPZ will be responsible for zoning and the new entity will be responsible for covenants and deed restrictions. The design of this relationship will be developed so the responsibilities are clear.

VIII. Summary

This is the second time the New Town gatekeeper role has been reviewed in detail. Now is the time for implementation, ideally with full support of the CA. It is important that this take place in the next 6-9 months so that there is an entity in place to enforce a "New Columbia Plan" and the "new market study" as well as to end piecemeal development. If the CA fails to act quickly we fully expect a totally independent group to take up the HHC offer of taking over the enforcement.

IX. Acknowledgements

Jim Rouse has said: "Everyone is equal." "Whatever ought to be can be." "Have brilliant expectations." In working on this project we have kept to these ideals.

Thanks go out to all of those who helped us. Special thanks go out to those who went out of their way to give input and provide time and documents:

Andy Stack, *for providing the original NT study*

Jen Terrasa, **for spending hours with us and providing documents**

Barbara Kellner, *for giving us valuable leads to information and people to contact*

Chis Alleve, *for detailed documents on NT zoning and archival research*

Jane Dembner, *CA*

Mary Kay Sigaty, *Howard County Council*

Calvin Ball, *County Council*

Marsha McLaughlin, *DPZ Director*

Bill Mackey, *DPZ*

John DeWolf, *HHC Vice President*

Kathy Rockefeller, *Howard County Mediation and Conflict Resolution Center (MCRC)*

Bill Santos, *Planning Board member*