

CAN A NEW TOWN BE DEMOCRATIC?

By Fred Flaxman

The world's most beautiful cities, someone once said, were all built by tyrants. But in the United States, we have strong democratic traditions. Is it possible for us to build better, healthier, more attractive human environments without compromising our commitment to democracy?

Perhaps. But this is not a simple goal, for America's new towns are planned and built not by elected governments but by large corporations. These corporations naturally want to maintain control of the planning and construction of their developments which, after all, represent a substantial investment. The residents of these towns, though, want a voice in the administration of their own community, for their homes also represent a substantial development.

Thus the stage is set for conflict: political rights vs. property rights; the right of the people to govern themselves vs. the right of the developer to build up his own property as he wishes.

Creating democratic new towns is a problem from the start. It takes people to have a democracy, after all, and there are no residents in new towns when they are started. The master plan is drawn up, basic decisions are made, and part of the town is actually built before the first inhabitants move in.

These residents are not consulted for their opinions on the master plan and they take no part in the decision-making process that affects the very structure of their new community.

The Developer

And yet a kind of elective process does take place in which prospective residents vote for or against the proposed master plan and the principles which will underlie the development of the new town. They vote with their pocketbooks. They vote yes by buying in, no by staying out. And the developer, in planning his new town, has to keep his invisible constituency constantly in mind. He must plan a community that people will want to move to. He is subject to the democracy of the marketplace.

The developer is also subject to local and state laws -- zoning regulations in particular. These can be so restrictive as to make his new town impossible. Reston is a case in point.

When Robert E. Simon, Jr. purchased the 7,000 acres in Fairfax County, Va., which are now Reston, the county had typical residential, commercial, industrial and agricultural zoning regulations. The most typical of these rules was that these various categories of land use could not be mixed, which

meant Simon could not have built stores, community facilities and housing in the same area. High-rise and garden apartments could not have been mixed with townhouses and single-family homes under an ordinance which insisted that dwelling types be separated. The concentration of population which permits the saving of land for open spaces wouldn't have been possible under the zoning code as it then stood. For Simon to build his new town, he needed, and received, a new zoning ordinance from the Fairfax County Board of Supervisors. It is called Residential Planned Community (RPC) zoning.

The new zoning gave Simon the freedom to put up just about what he wanted, as long as he stayed within certain maximum-density requirements. The County retained the right to review all Reston plans, including the option to reject those plans it judged contrary to the master plan or to RPC zoning.

The County can accept or reject section and site plans, but it is the developer who decides what is going to be built, how it will look, when it will be constructed and where it will be located. The County government cannot tell the developer what to do, but it can tell him what he cannot do.

The developer, then, substantially controls the future of the new town. The residents have no voice at all in the running of the developing corporation. The company's board of directors, if elected at all, are chosen by the stockholders, not the residents. In the case of Reston, the board of directors of Gulf Reston -- Simon's successor as developer -- was appointed by the parent corporation, Gulf Oil. And the officers of the company were chosen by the board of directors.

The County

The residents do have some say, however, in the selection of the County government. In Fairfax County, the Chairman of the Board of Supervisors is elected at large by the people of the County; the other supervisors are elected by district by the people of the district. Reston residents help elect the supervisor from their district and, in this respect, the new town is as democratically governed as any other unincorporated section of the County. The larger the population of Reston becomes, the more influence these residents are likely to have in County politics -- particularly in the selection of the supervisor from their district.

But there remains an important difference between Reston and the rest of Fairfax County -- RPC zoning.

There is only one other RPC zone in the County. The County's control over the development of Reston isn't as clear as its power over the conventionally zoned areas. In fact, the attitude of many County officials -- particularly the members of the Planning Commission -- is that they must go along with any plan the developer presents so long as it does not violate the maximum-density requirements of the RPC ordinance and the Reston master plan.

There are signs, however, that this attitude is changing. In a recent case involving Gulf Reston's plans to construct a grocery store outside of the area designated for a village center, the County's professional planning staff recommended that the proposal be turned down, the Planning Commission voted in favor of it, and the Board of Supervisors vetoed the idea. The Board's decision followed a great deal of pressure from the residents.

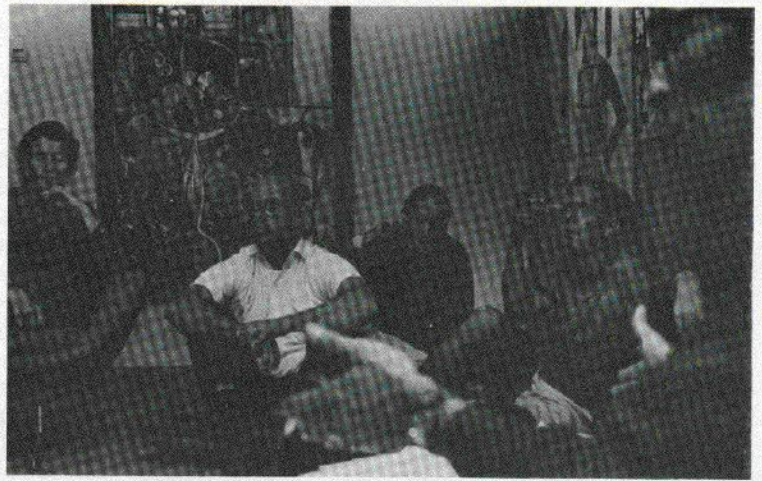
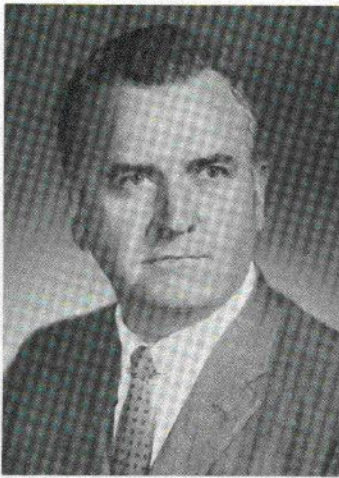
Partly, as a result of resident demand, the County is considering amending the RPC code. The proposed changes would require the developer to submit more planning details and to formally notify affected residents.

The Fairfax County government is somewhat more remote from the people of Reston than a local government would be. After all, Reston is only a small part of the County's jurisdiction. Nevertheless, it is the most democratic of the governmental institutions affecting Reston, and the one to which Reston residents are forced to appeal in the event of a dispute with the developer.

Homeowners Associations & Architectural Review

There is no municipal government in Reston, per se, but the Homeowners Associations (there are two of them -- one for each half of Reston) assume some of the responsibilities which would ordinarily be assigned to a local government. They operate and maintain common property including parks, playgrounds, ballfields, open spaces, walkways, tennis courts, swimming pools, lakes and ponds, bridle paths, private streets and outdoor lighting. They enforce restrictions set up in Reston's Deed of Dedication against air and water pollution, exposure of laundry to public view, removal of trees, unsightly fences, antennas, signs, and so forth.

Most important of all, the Homeowners Associations operate Architectural Review Boards, which must approve any construction or alteration in Reston. These Review Boards, like the Homeowners Associations themselves, were established by the



Robert Ryan, chief executive officer of Gulf Reston, developer of Reston, is, in effect, the mayor and city council of the New Town; the residents, having little political power, sometimes turn to living-room meetings in an attempt to make their voices heard.

Deed of Dedication, a legal document filed with the County which is automatically attached to the deeds of all subdivided parcels sold in Reston.

The Homeowners Associations, then, are not voluntary civic clubs. Each homeowner in Reston is a member whether he wishes to be one or not, and he must pay dues to the Association. These dues are used to pay all expenses of the Associations, including taxes on the property they own. The dues are set by the Board of Directors of the Associations. And, as the present Boards were appointed by the developer, a case of what might be called "taxation without representation" results. This kind of situation has been known to start revolutions.

The powers of the Homeowners Associations and the Architectural Review Boards are considerable. They affect every resident. The Review Boards determine the very appearance of the town. If they wanted to, they could turn down all colonial architecture, for example, as unfitting for a modern, experimental new town. Or they could turn down all modern architecture as being unsuitable for a Confederate state.

At least, this is the way it seems on paper. The power of the Review Boards, however, has yet to be tested. Just what would happen if a resident ignored his Review Board and started constructing a split-level doghouse? No one can say for certain. Attorney Edgar Prichard, one of the authors of the Deed of Dedication, says that the Review Board can seek a court order to stop the construction. According to him, the legal status of Reston's Review Boards would be upheld if put to a court test. Others, however, think that the review system

is an unconstitutional attempt to dictate tastes, and that it would be knocked down as an infringement on the individual's right to construct what he wants on his own property.

As foggy as the status of the Review Boards may seem, the attitude of the developer appears quite clear. As Gulf Reston Executive Vice President Glenn W. Saunders puts it: "People always want to have control of land adjacent to their property, even if they don't own it. We absolutely could not have residents controlling property that they don't own. We feel that what's good for the residents is probably good for us, and vice versa."

The composition of the Architectural Review Boards makes one wonder how much control the residents of Reston have over the property that they do own. The developer does not want to give the residents a veto over his plans for his property. But, through the Review Boards, he has a veto over what the residents can do with theirs.

The real problem, however, is not that the Review Boards will set standards that are too high, but -- deferring to the developer -- standards that are too low.

Starting in 1969, the Board of Directors of the Homeowners Associations will be elected by the property owners of Reston. But this will not be exactly an example of one man, one vote. Each resident property owner will have one vote, but owners of multi-family dwellings will have one vote for each apartment. As it is the developer who constructs the vast majority of apartment buildings, it is the developer who will have most of the votes. But, just to make sure it is next to impossible for

the residents to outvote the developer at Association meetings, the Deed grants to the developer a minimum of one-third of the votes in each Association. This stipulation was made, a Reston brochure explains, "to help insure over-all development of the community as planned." The developer can change these plans, however, and still be assured of one-third of the votes.

One other point about the Homeowners Associations is, of course, that they consist solely of property owners. This is a return to an earlier version of democracy in which only landowners were granted the right to vote. Thus the Homeowners Associations do not pretend to represent all Reston residents -- a large number of whom are renters.

Even the developer's supporters have to admit that the political structure of the Homeowners Associations is somewhat less than democratic. Former Reston Vice-President Bernard Norwitch, who still lives in the new town, says frankly that the Associations are "stacked against the people" but that they had to be in order to protect the developer's investment. He thinks the residents can nevertheless work within the structure of the Associations to influence the developer. Norwitch points out that the developer needs to maintain good relations with the residents in order to assure the success of his marketing program and that, for this reason, he would be unlikely to take advantage of his power in the Homeowners Associations to take actions that are consistently unpopular with the residents.

Other Reston residents aren't so willing to accept this situation, and several of them got together to form yet another organization -- the Reston Community Association. RCA is open to renters as well as owners in Reston, and it is perfectly democratic. Its major problem is that it has no power. RCA's hard-working President, Richard Hays, hopes that this will change. As he put it: "I would like RCA to be more than a civic association. I picture it as a liaison between the community and the County. It could even develop into a new form of local government that would fit in with the County structure. We could become a special district within the County with our own fire, police and other services."

Cluster Associations

In addition to the Homeowners Associations, Reston has another institution of local government -- the Cluster Associations. Every townhouse purchaser in Reston automatically becomes a member of a

Cluster Association. The Association maintains the land and facilities shared in common by each group of townhouses.

The Cluster Associations are democratic in that each townhouse owner who resides in the dwelling unit he owns is entitled to one vote in the election of the Board of Directors of the Association. The developer retains one vote for each unsold townhouse in the cluster and one additional vote. Thus, once the developer has sold all of the townhouses in a cluster, he still has one vote. This is a way of keeping his foot in the door, but as each cluster has from 20 to 180 townhouses, the developer's power in the Cluster Associations isn't very great.

There was a movement afoot last year to make the Cluster Associations even more democratic. At present, the ordinary townhouse owner votes only once a year at the election of the Board of Directors of his Association. This Board of Directors and the officers elected by the Board then take full responsibility for the affairs of the cluster until the next election. Although this is as democratic as voting once every two years for a congressman or once every four years for a President, Cluster Associations are relatively small, and a more direct "town meeting" form of democracy would be possible if it were found desirable. There is no reason why townhouse owners shouldn't vote directly on important issues affecting their cluster in addition to the election of Board members and the setting of annual dues.

Although the Cluster Associations are relatively democratic, their power is confined to their own property, and they have no direct influence over the future development of the town as a whole.

Strengthening Democracy

How much of an influence should the residents of a new town have over the development of their community? How much democracy should there be? This, of course, is a matter of opinion.

There are those who think that the development of a new town would be next to impossible if the residents had a democratic voice in the planning decisions. Constant bickering would prevent progress or at least slow it down considerably. The developer, they add, is better qualified to make these decisions than the residents.

These arguments could be and are used against the very theory of democracy. There is no doubt that democracy is a slow process. It isn't admired so

much for its speed as it is for its fairness. The theory of democracy also rests on the belief that the people should choose their own leaders -- whoever they think is best qualified to make the decisions and pass the laws.

As long as new towns are being developed by private enterprise, however, the debate is not really over whether residents should control the planning process. The developer cannot be told how he is to spend his money by the residents of his development -- or by anyone else. No corporation in America would put up a new town if it knew it would lose control of its investment to the will of the residents.

The debate, rather, is over whether or not the residents should have any right of review over the *developer's plans and, if so, how far this right should be extended.*

Should the residents have any say when it comes to architectural review, for example? As long as the Review Board is controlled by the developer, it will approve what the developer wants approved and reject what the developer wants rejected. All projects submitted by the developer, therefore, are virtually certain of approval. But projects submitted by outside developers and residents will be approved only if they please the developer.

Under this system, what happens if the developer decides to construct a cluster of colonial townhouses adjacent to existing clusters of contemporary homes? In all likelihood, the colonials go up. This may annoy the residents of the modern houses -- many of whom probably chose to live in a planned community to avoid this kind of unpredictable development -- but they can do little more than protest. For in Reston, the Architectural Review Boards have the final word.

The Review Boards consist of six members appointed by the developer and two appointed by the Homeowners Associations (which, in turn, are controlled by the developer). In other words, the decision of the developer is final. If, instead of this arrangement, the Review Boards were to consist of four members chosen by the developer and four elected by the residents, only the unanimous opposition of the resident members to a proposal would suffice to create a stand-off. So this system would still permit the developer to plan and construct the community pretty much as he saw fit. But, at the same time, it would give the residents a guarantee that plans completely offensive to them would be changed or abandoned.

The Homeowners Associations could be restructured in the same fashion. They could be consolidated and run by a Board of Directors consisting of, let's say, ten members. These members would be appointed by the developer until there was a population of 1,000 people. At that point, elections would be held and five members chosen by the residents, five appointed by the developer. This situation would continue until the goal-population -- in Reston's case, 80,000 -- was reached, at which time all ten members would be elected by the residents. Renters as well as homeowners would be entitled to vote, and the name of the Association would be changed to reflect the new realities.

It would make sense to the developer as well as the residents to make sure the political processes in a new town were as democratic as possible without unduly interfering in its construction. For it is true that the developer needs the good will of the residents if the new town is to grow and prosper, and giving the residents a meaningful voice in the development of their own community is one way to gain their confidence.

In addition, the developers of new towns must show Congress that their new communities are fully democratic if they expect to continue to get favorable new town legislation out of the House and Senate. For Congress is not likely to pass legislation to benefit the private development for profit of undemocratic corporate cities across the land. The consequences could be enormous, considering that millions of Americans may someday be living in new towns.

If the lack of democracy in Reston were a problem peculiar to this one new town, it would be disturbing mainly to Reston residents. But paternalism and pseudo-democratic procedure are a potential problem wherever and whenever new towns are planned.

Charles R. Baker, executive director of the Institute for American Democracy and a Reston resident, puts it this way: "Reston may have contributed to the development of architectural delights, but as far as democratic process is concerned, the new town has more to learn from the past than it has to offer the future."

IN THE NOVEMBER RESTONIAN:

GULF RESTON'S FIRST YEAR - - A SCORE CARD
