

**Comments of
Fairfax Citizens for Responsible Growth, Inc.
On the
Tysons Corner Public Workshops and Web Input on Test Scenarios**

Fairfax Citizens for Responsible Growth, Inc. (FairGrowth) respectfully submits the following comments regarding the Public Workshops and Web Input on Test Scenarios as posted at <http://www.fairfaxcounty.gov/dpz/tysonscorner/outreach/julyworkshops.htm>.

**SUMMARY:
FairGrowth's Concerns Focus On Four Areas That
Extend Beyond The Pre-Selected Test Scenarios**

1. Public Participation

The Task Force should re-initialize public participation to provide true inclusiveness for all stakeholders. Limited opportunities for public participation and an emphasis on pre-selected scenarios have increased public skepticism and eroded the confidence of many stakeholders in the process. In order to ameliorate this situation, public participation efforts should be re-initialized to include a broader array of stakeholders and a more critical and comprehensive review of land-use options in the Tysons area and its impacts on surrounding communities.

2. Transit Node Coordination

The Task Force should make a special effort to implement meaningful Transit Node Coordination. This essential element of Transit-Oriented Development (TOD), which calls for optimizing the mixture of retail, residential, commercial, recreational and parking uses collectively and at each site along a transit line, has been noticeably lacking in Fairfax County despite the repeated pleas of residents and TOD supporters. It is incumbent upon the Task Force to ensure that Transit-Node Coordination is treated as a priority, and not an afterthought at best.

3. Availability of Adequate Public Facilities

Higher density should be contingent upon the concomitant availability of adequate public facilities. The Task Force should ensure that it can be demonstrated to all stakeholders' satisfaction that sufficient transportation and wastewater infrastructure, along with adequate school, parks and other facilities, are available prior to the commencement of high-density development.

4. Enforcement

The Task Force should work to ensure that the County has the willingness and ability to enforce terms, conditions and regulations attached to higher density projects. The County

has admitted to having a demonstrably poor record in this regard, and stakeholders need to have confidence that the inadequate enforcement tools of the past, with their attendant costs to residents and taxpayers, will not again saddle the people of Fairfax with more burdens. The Task Force should examine the creation of a citizens oversight board to monitor the redevelopment of Tysons Corner. This board should have broad membership, including Tysons Corner workers and residents, as well as residents of nearby communities. However, no member should have a financial or management interest in any commercial property or building located within Tysons Corner. This board should advise the County Executive and Board of Supervisors as appropriate.

FAIRGROWTH COMMENTS

1. The Task Force Should Re-Initialize Public Participation To Provide True Inclusiveness For All Stakeholders

As FairGrowth has noted previously in other discussions, the importance of working with surrounding communities and the need for meaningful public participation is perhaps the most prominent common thread found in TOD literature.¹

Several FairGrowth members were able to participate in the Planning Commission's Transit-Oriented Development committee.² The committee's work underscored the need for meaningful stakeholder involvement. Presentations to that committee related the need for weeks-long open meetings, with significant weekend hours, designed to provide stakeholders with meaningful input. In contrast, stakeholders in the Tysons Corner process are offered meetings that are limited to pre-selected scenarios and held on consecutive weeknights. Moreover, in the case of the March meetings upon which much of the Task Force's current work seems to be based, half of those meetings were held during the workday.

¹ Specifically, *The New Transit Town: Best Practices In Transit-Oriented Development*, (Hank Dittmar with Dena Belzer and Gerald Aulter, Island Press 2004), states that a successful plan will "balance[] the need for sufficient density to support convenient transit service with the scale of the adjacent community" (p. 4). This influential book also observes that a community's blessing can bring success to projects that otherwise might fail, while lingering suspicion and hostility are lead weights that can drag down projects that otherwise might have succeeded (pp. 53-54). Furthermore, the Urban Land Institute also tells us that in order to succeed, a proposal must be "stakeholder centered" as well as "collaborative and educational" (*10 Principles for Successful Development Around Transit*, p. 3 - http://www.uli.org/AM/Template.cfm?Section=Search§ion=Policy_Papers2&template=/CM/Content-Display.cfm&ContentFileID=14592).

These sentiments are echoed by our own Metropolitan Washington Council of Governments, which lists "Encourag[ing] Community and Stakeholder Collaboration" as one of the principles of Smart Growth (*Smart Growth Begins at the Local Level*, p. 7 - http://www.mwcog.org/planning/planning/smartgrowth/downloads/Smart%20Growth%20Implementation%20Kit_FINAL.pdf).

The U.S. Environmental Protection Agency encourages the "early and frequent" involvement of stakeholders in the decision making process, saying that "a high level of public involvement is fundamental to guaranteeing that community needs are fully integrated into the planning and development process, as well as contributing to avoidance or creative resolution of development conflicts." EPA's *Smart Growth Glossary* at <http://cfpub.epa.gov/sgpdb/glossary.cfm?type=topic#11>

² For FairGrowth's Feb. 6, 2007 comments to the TOD committee, see <http://www.fairgrowth.org/TODdef.htm>.

This scheduling made it more difficult for those with jobs to attend, unless they happen to work in the development/real estate or related industry. While residents who work in these fields have as much right as anyone to participate and to be heard, this scheduling arrangement skewed the makeup of stakeholder participation to a significant degree, undermining public confidence in the process. As Task Force member and former Dranesville District Supervisor Stuart Mendelsohn recently remarked:

“The average citizens are going to be too busy to go to these workshops. We have to be careful in saying we heard from the masses. I don't think we did.”³

Public participation must be broader and more expansive to avoid having any one component of the community, especially one with financial stakes in proposals, from enjoying disproportionate representation in the process. The Task Force must seek to undo this unfortunate result.

Pre-Selected Scenarios Raise Doubts

There are increasing concerns about the reliance of the Task Force on pre-selected scenarios. The Task Force claims that the “test scenarios are not designed to be actual choices for the future of Tysons but to test how different planning approaches may or may not work.”⁴ Yet in contrast, the “Next Steps” section on page 8 of the Task Force’s document, “Initial Findings of the Three Scenarios”⁵ indicates that more specific plans will grow out of discussions on the three limited pre-selected scenarios, rather than from the broader public input called for by Transit-Oriented Development principles.

This approach appears to conflict with TOD concepts advanced by an Urban Land Institute commentary, which wisely states:

TOD is “a process, a dialogue, a way to build consensus; it does not hand down preconceived notions or plans for development.”

The commentary also notes that community stakeholders should “design their own future” under TOD.⁶ However, under the current circumstances, it is entirely understandable that many residents feel that the Task Force’s emphasis on pre-selected scenarios constitutes yet another instance (similar to those experienced at Vienna and Tysons I) of consensus being eschewed in favor of having “preconceived notions” handed down to the community, contrary to TOD goals.

³ Monty Tayloe, “Mixed support for Task Force plans,” *Fairfax County Times*, 7/31/07, http://www.timescommunity.com/site/tab5.cfm?newsid=18648596&BRD=2553&PAG=461&dept_id=511692&rfti=6.

⁴ See <http://www.fairfaxcounty.gov/dpz/tysonscorner/outreach/julyworkshops.htm>.

⁵ See <http://www.fairfaxcounty.gov/dpz/tysonscorner/tysonsfactsheetjune07.pdf>.

⁶ Bill Hudnut, Urban Land Institute commentary, *What is Smart Growth Not?* - <http://www.uli.org/AM/Template.cfm?Section=Search&template=/CM/HTMLDisplay.cfm&ContentID=20535>.

FairGrowth pointed out the need for inclusive and broad public participation in its comments to the Task Force on Aug. 17, 2006,⁷ stating:

“Currently, the community is asked to comment on specific proposals. Instead, the community should first outline its vision for an area, and proposals should then be presented and considered in that context.”

This shortcoming held true for the Tysons I proposal,⁸ which was illogically kept out of the Task Force’s purview. In the Task Force’s meetings held thus far, public involvement appears to have fared little better, as discussions are limited to pre-selected scenarios laid before participants. A number of participants in the July 2007 meeting at Spring Hill School expressed strong frustration that they were not permitted to discuss the details and assumptions underlying the pre-selected scenarios.

The Task Force has provided a web form at <http://www.fairfaxcounty.gov/survey/dpz/> to solicit public input. While the concept for public input is good, the form itself again limits the public’s input to pre-selected questions and topics, and does not allow for discussion of wider-ranging topics or issues of concern to individual participants or other stakeholders. The web form should be re-crafted to permit stakeholders to introduce comments and concerns on any topic they deem to be important.

The limited opportunity for public involvement, the resulting disproportionate representation of developer and related interests at meetings, and the focus on the three pre-selected scenarios have combined to exacerbate, rather than reduce, stakeholder skepticism about the process’s ability to provide for the widespread and meaningful stakeholder participation that is a hallmark of true TOD. In order to correct this situation and adhere to genuine principles of TOD, the public participation component should be re-initialized, with more meetings spread across wider timeframes (including extensive weekend hours), and work from the ground up to examine possible land-use scenarios suggested by the public, to ensure sufficient stakeholder input.⁹

⁷ For FairGrowth’s full comments to the Task Force, see <http://www.fairgrowth.org/TysonComments.pdf>.

⁸ For FairGrowth’s Oct. 31, 2006 comments to the Planning Commission on the Tysons I proposal, see <http://www.fairgrowth.org/tysons1.htm>.

⁹ Furthermore, as FairGrowth has previously advocated, citizens should have full access to all data related to ongoing TOD projects. Such data should be made available on the County’s web site whenever practical. Data that is not practical to supply online will be provided to members of the public upon request, without requiring residents to go through state Freedom of Information Act procedures and at no cost in the case of TOD projects. Citizen panels open to full participation by interested residents should assist in monitoring TOD progress and compliance with agreed-upon requirements. Residents have encountered difficulties in learning details of the status of projects, and have found themselves required to undergo Freedom of Information Act procedures (which the County does not always comply with in a timely manner) and incur charges in order to learn the status of major projects. FairGrowth finds such circumstances to constitute further barriers to the citizen involvement that is necessary for TOD projects to be successful.

2. The Task Force Should Make a Special Effort to Implement Meaningful Transit Node Coordination

FairGrowth also advocated in favor of Transit Node Coordination in its Aug. 17, 2006 comments to the Task Force, stating that the need to coordinate uses among transit nodes and maintain balance with available public facilities should be explicitly recognized. Specifically, FairGrowth stated:

The Brookings Institution suggests the concept of “transit node coordination,” *i.e.*, that planning occur “at the systemwide scale, assessing opportunities at each station site and thinking regionally about the interplay between land uses around each station...”¹⁰

Therefore, FairGrowth respectfully suggests the Task Force adopt the following principle:

· *Transit node sites will be coordinated with each other, and balanced with available public facilities, in order to optimize the mixture of retail, residential, commercial, recreational and parking uses collectively and at each site.*

Regrettably, the important notion of Transit Node Coordination is one that Fairfax County has given scant attention to, as evidence by decisions for high density development at Dunn Loring-Merrifield, Vienna, and Tysons I, each of which were contemplated in a piecemeal fashion, in isolation from the land use decisions around nearby stations or proposed stations. It is incumbent upon the Task Force to ensure that this mistake is not repeated for the remaining proposed Tysons Corner stations, and significant time and resources should be devoted to ensuring vigorous adherence to the concept of Transit Node Coordination.

3. Higher Density Should Be Contingent Upon The Concomitant Availability of Adequate Public Facilities

As FairGrowth stated in its August 17, 2006 comments, the Virginia Chapter of the Sierra Club stipulates that approval of plans “should be contingent upon the availability of adequate public facilities.”¹¹ FairGrowth agrees, and notes that while the Commonwealth of Virginia may limit the ability of localities to consider such factors in the zoning phase, localities are able to factor in public facilities during the earlier planning phase.

The pre-selected scenarios examine certain impacts, but the ability of transportation and wastewater management infrastructure, schools, parks and other public facilities to absorb these impacts must be demonstrated to stakeholders’ satisfaction. Numerous questions on this matter have already been raised and must be addressed. For example, the Task Force must consider the large volumes of through traffic on Routes 7 and 123 to

¹⁰ Brookings Institution, *Transit Oriented Development: Moving From Rhetoric to Reality*, p. 32 - <http://www3.brookings.edu/es/urban/publications/belzertod.pdf>.

¹¹ *Environmental Issue: Sprawl/Smart Growth*, <http://virginia.sierraclub.org/growth.html>.

ensure that this traffic does not overwhelm local streets. Estimates show that single occupancy automobile will still be the major form of travel to and from Tysons Corner. Accordingly, the Task Force must ensure that adequate road capacity exists before added development can occur. While Dulles Rail can be an important part of the transportation equation, the Task Force must not act as if it would solve transportation problems. Moreover, cost-effective supporting transit is necessary for rail to achieve its goals.

4. The Task Force Should Take Steps to Ensure Enforcement of Agreements and County Building Codes

The public is understandably skeptical of the County's ability and willingness to enforce agreements and its own regulations. This is due to the County's demonstrably and admittedly poor track record in this area. Just within recent weeks, a County Supervisor pointed to yet "another illustration of how our ability to regulate in-fill development is woefully inadequate."¹²

FairGrowth further illustrated this point in its Feb. 6, 2007 comments to the Planning Commission:

It must be recognized that even the best plans can go awry if there is insufficient follow through. Proffers, traffic demand management (TDM) commitments, and other assurances both short and long term related to TOD projects must be vigorously monitored and enforced in a transparent and accountable manner. Any increased costs incurred to monitor and enforce provisions of TOD plans should be factored in to the cost of the project.

For example, in December of 2006, the *Washington Post* noted an "apparent lack of commitment to traffic reduction" related to development on the part of the County government, and the County did not dispute this assessment: "Fairfax officials acknowledge that they have not done enough to monitor the 290 traffic-reduction measures they have required from developers, but they say that will change."¹³ This is a perfect opportunity for the County to demonstrate its willingness and ability to implement the kind of change that is necessary, and that has been promised.

Further, in 2006 the *Post* reported that County officials acknowledged that "they have not closely monitored compliance with their zoning rules,"¹⁴ and that the County was "caught unprepared" by widespread violations.¹⁵

¹² Bill Turque, "Supervisors Seek to Close Loophole on Height Limit," *Washington Post*, July 24 2007, p. B02, <http://www.washingtonpost.com/wp-dyn/content/article/2007/07/23/AR2007072301769.html>.

¹³ Alec McGinnis, "Promises of Fairfax Traffic Cuts Unfulfilled," *Washington Post*, Dec. 24 2006, p. C01, <http://www.washingtonpost.com/wp-dyn/content/article/2006/12/23/AR2006122300702.html>.

¹⁴ Lisa Rein, "Thousands of Homes May Be Too Tall," *Washington Post*, Jul. 30 2006, p. C06, <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/29/AR2006072900869.html?sub=AR>.

These articles came on the heels of a report on how unfulfilled commitments cost Fairfax taxpayers over \$1 million, “because developers failed to make the public improvements they promised when their building plans were approved.”¹⁶

In an August 10 2006 editorial, the Times Community newspaper correctly made the following observation:

“Given the fact that Fairfax County is about to pull the trigger on some of the largest, most complex transit-oriented development projects in its history, it would be nice to know that the county has a zoning rulebook that makes sense and, more important, is capable of enforcing it.”¹⁷

Clearly, the burden of proof is upon the County (and by extension, the Task Force) and those advocating higher density to demonstrate how the County’s enforcement shortcomings can be overcome, especially in the case of high-density Transit Oriented Development. Stakeholders must somehow become confident that the inadequate enforcement tools of the past, with their attendant costs to residents and taxpayers, will not again saddle the people of Fairfax with more burdens.

The Task Force could play a large role in helping restore public confidence by considering the creation of a citizens oversight board to monitor the redevelopment of Tysons Corner. This board should have broad membership, including Tysons Corner workers and residents, as well as residents of nearby communities. However, no member should have a financial or management interest in any commercial property or building located within Tysons Corner. This board should advise the County Executive and Board of Supervisors as appropriate.

Conclusion

In order to achieve the goals of Transit-Oriented Development, the Task Force should re-initialize its outreach efforts and provide broad opportunities for meaningful stakeholder participation that includes more opportunities to participate in meetings, extensive weekend hours, and a de-emphasis of pre-selected scenarios. The Task Force should also dedicate itself to implementing meaningful Transit Node Coordination; to assuring that plans truly measure and ensure the availability of adequate public facilities to accommodate higher density; and to ensure the willingness and ability of the County to enforce agreements, proffers, building codes, etc. to the satisfaction of stakeholders.

¹⁵ Lisa Rein, “How Thousands of Fairfax Homes Got Too Tall,” *Washington Post*, Aug. 13 2006, p. C01, <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/12/AR2006081200603.html>.

¹⁶ Bill Turque, “Developers’ Neglect Is Costly for Fairfax,” *Washington Post*, June 25 2006, p. A01, <http://www.washingtonpost.com/wp-dyn/content/article/2006/06/24/AR2006062400780.html?nav=hcmodule>.

¹⁷ “Tall Problem,” *Fairfax Times*, Aug. 10, 2006, http://www.timescommunity.com/site/tab5.cfm?newsid=17035926&BRD=2553&PAG=461&dept_id=565197&rfi=6

Respectfully submitted,

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