FAIRFAX COUNTY PLANNING COMMISSION
TELECOMMUNICATIONS COMMITTEE
WEDNESDAY, MARCH 21, 2012

COMMITTEE MEMBERS PRESENT:
Earl L. Flanagan, Mount Vernon District
James R. Hart, Commissioner At-Large
Ellen J. Hurley, Braddock District
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
Peter F. Murphy, Jr., Springfield District

COMMITTEE MEMBERS ABSENT:
Janet R. Hall, Mason District
James T. Migliaccio, Lee District

OTHER COMMISSIONERS PRESENT:
Walter L. Alcorn, Commissioner At-Large

FAIRFAX COUNTY STAFF PRESENT:
Chris Caperton, Chief, Public Facilities Branch, Planning Division (PD), Department of Planning and Zoning (DPZ)
Richard Lambert, PD, DPZ
Barbara J. Lippa, Executive Director, Planning Commission Office
Jeanette Nord, Deputy Clerk, Planning Commission Office

OTHERS PRESENT:
Frank Stearns, Esquire, Donohue and Stearns, PLC
Steven Weber, Director, Network Building and Consulting
Adrienne Kitts, Woodlawn Manor Community Association
Paul Kitts, Woodlawn Manor Resident
Aimee Davis, Woodlawn Manor Resident
Ms. Evans, Treasurer, Collingwood Springs Civic Association
Alex Kaufmann, Mount Vernon Council Planning and Zoning Committee
Glenn St. John, Waynewood Resident

ATTACHMENT:
A) "Staff Review and Response to Industry Comments" document dated March 21, 2012

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Planning Commission Vice Chairman Walter L. Alcorn constituted the meeting pursuant to Section 4-102 of the Commission's *Bylaws & Procedures* at 7:03 p.m. in the Board Conference Room of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035. He indicated that the first order of business was to elect a Committee chairperson.

Commissioner Litzenberger MOVED TO ELECT PETER F. MURPHY, JR. AS CHAIRMAN OF THE 2012 TELECOMMUNICATIONS COMMITTEE.

Commissioner Flanagan seconded the motion which carried unanimously.

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Commissioner Litzenberger MOVED TO APPROVE THE TELECOMMUNICATIONS COMMITTEE MINUTES OF THURSDAY, FEBRUARY 9, 2012.

Commissioner Flanagan seconded the motion which carried unanimously.

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PROGRAM UPDATE

Chairman Murphy asked Chris Caperton, Chief, Public Facilities Branch, Planning Division (PD), Department of Planning and Zoning (DPZ), to provide a program update.

Noting that the existing 2232 Administrative Review forms had been updated, Mr. Caperton introduced Richard Lambert, PD, DPZ, who briefly explained that Commissioners would now receive one form with all of the applicable information. (A copy of the revised 2232 Application Notification form is in the date file.)

Answering questions from Committee members, Mr. Lambert explained that the current distribution process for Consent Agenda and "Feature Shown" items would remain unchanged. He also confirmed that the new form would provide contact information for the County staff person assigned to handle the particular item. In addition, he confirmed that a notation indicating the supervisor district would be placed on the form.

Mr. Caperton stated that Mr. Lambert was in charge of updating the DPZ website and added that staff would provide an update once it was finished. In addition, he briefly discussed the recent ruling on New Cingular Wireless PCS, LLC v. Fairfax County Board of Supervisors, noting the court's grant of summary judgment to the Board of Supervisors' denial of the application.

There was a brief discussion between Mr. Caperton and Commissioner Flanagan regarding the search for alternate sites. Mr. Caperton suggested inviting Beth Teare, Fairfax County Attorney's Office, to provide input and/or participate in more detailed discussions with regard to how the decision might affect future applications.

Mr. Caperton referenced the "Pending/Received 2232 Applications to Planning Commission" report and said that in response to suggestions from Commissioner Migliaccio, the report would be changed to replace the original "Received Date" and "Accepted Date" columns with "Accepted Date" and "PC Action Deadline."

Mr. Caperton referred to the handout entitled, “Locations of Approved Telecommunications Monopoles and Towers Associated by Parcel Ownership,” a copy of which is in the date file, and explained that the map displayed the current telecommunications facilities in the County, including facilities that have been approved but not yet constructed.

When Commissioner Hurley pointed out that state-owned facilities, which also impacted County residents, could be identified on the chart on the opposite side of the map, Mr. Caperton said he would determine if a listing of such facilities was available.

Answering a question from Commissioner Flanagan, Mr. Caperton pointed out that facilities located on federal property, such as Fort Belvoir, would not be represented on the handout. Barbara Lippa, Executive Director, Planning Commission Office, suggested including a notation stating that federal and state facilities would not be depicted on the map.

During the ensuing discussion, Mr. Caperton briefly explained the information on the map and the facility locations as described on the opposite side.

Answering questions from Commissioner Lawrence, Mr. Caperton said that possible uses for the map were being determined. Commissioner Lawrence explained that it could be useful in determining collocation sites for Tysons Corner.

When Mr. Caperton noted that the map and associated chart would be included online, Chairman Murphy reiterated previous remarks regarding annotation of facilities that were not depicted.

Mr. Caperton referenced the document entitled, “Passage of HR 3630,” a copy of which is in the date file, and briefly explained that the Chairman of the Board of Supervisors, Sharon Bulova, had submitted a letter expressing her opposition to the bill because of the lack of specific guidance on “substantial changes” to existing facilities. He added that staff would meet with the County Attorney the following week to discuss the bill in more detail and invited Planning Commission personnel to attend the meeting.

Mr. Caperton and Commissioner Litzenberger briefly discussed the impact of the bill on the Fairfax County Park Authority’s (FCPA) policy regarding telecommunications facilities on parkland, wherein Mr. Caperton explained that the bill specifically addressed federally-owned property. He added that the County’s existing process for evaluating collocations was sufficient without additional oversight.

Commissioner Hart noted that the second paragraph on the first page of the “Passage of HR 3630” handout addressed all locations, not only federal sites. He also expressed agreement that the bill would not affect current FCPA policy on placement of facilities on parkland.

Chairman Murphy briefly described an application wherein FCPA would not permit the location of a collocation facility on parkland, after which a brief discussion ensued regarding the current policy of using parkland as a last resort, which did not conform to the current Policy Plan guidance.

There was a brief discussion regarding the impact the bill would have on Distributed Antenna Systems, with Mr. Caperton noting that the bill only addressed existing towers.

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OBSOLETE ANTENNAS AND EQUIPMENT

Mr. Caperton noted that Commissioner Litzenberger had expressed concern about facilities that were no longer in use or obsolete and the impact that might have as visual blight. Referencing Section 2-514.1.O of the Zoning Ordinance, he said that such equipment was to be removed from a site within 120 days after discontinuation of service. He pointed out that enforcement of this Ordinance tended to be problematic since the use was not monitored.

Commissioner Litzenberger said that he had noticed a large number of defunct facilities in Sully District and was told by Frank Stearns, Esquire, Donohue and Stearns, PLC that facilities were often left behind when a carrier or building owner vacated a site. Commissioner Hart pointed out that the current owner would be responsible for the equipment, regardless of when it was installed.

Commissioner Litzenberger suggested that enforcement of the removal of obsolete antennas and equipment be strengthened by adding language to the current guidance. Commissioner Hart explained, however, that the Telecommunications Committee had been tasked with amending the Policy Plan, not the Zoning Ordinance.

Frank Stearns, Esquire, Donohue and Stearns, PLC, reiterated that facilities were often left behind when a carrier or building owner vacated a site. He added that equipment removal could be enforced easily but pointed out that building owners/tenants were often unaware of defunct equipment. He also said that a bond requirement would be onerous because of the required number and their administration.

A brief discussion ensured wherein Committee members provided brief insights regarding possible enforcement measures and the antenna types in need of monitoring or removal.

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RESPONSE TO INDUSTRY COMMENTS ON PROPOSED POLICY PLAN AMENDMENT

Mr. Caperton referenced the handout entitled, “Staff Review and Response to Industry Comments,” as shown in Attachment A, and reviewed the industry comments and staff responses as cited in the handout.

During the discussion on Policy j, Commissioner Hurley pointed out that the sentence following the added industry language should be revised to delete the word “best.”

In response to a question from Commissioner Litzenberger, Commissioner Hart said that the language in Policy j would not affect school sites or other properties owned by the Fairfax County Public School Board.

Mr. Caperton stated that the revised Policy Plan language would be provided to the County Attorney's Office for review. He added that he would provide a draft copy of the staff report to Committee members prior to the next meeting.

Chairman Murphy pointed out that the language would need to be endorsed by the entire Planning Commission prior to being forwarded to the Board of Supervisors.

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DISTRIBUTED ANTENNA SYSTEMS (DAS)

Mr. Caperton briefly discussed with Committee members the December 6, 2011 motion by Mount Vernon District Supervisor Gerald Hyland to the Board of Supervisors regarding the treatment of DAS proposals as "feature shown" items. He said that he had spoken with a representative from Dominion Virginia Power to discuss the requirements for siting antennas.

Commissioner Hart noted that the DAS applications that had been heard by the Planning Commission thus far had been contentious, and said that automatically making them "features shown" would not be advisable. He suggested that the Committee complete the Policy Plan language revisions before working on changes to the guidelines for DAS systems.

Commissioner Lawrence concurred with Commissioner Hart and said that Providence District Supervisor Linda Smyth had suggested developing standards for the installation of DAS systems. He added that the current Virginia State guidelines for placing additional antennas on existing poles had changed.

Chairman Murphy reiterated earlier remarks regarding prioritizing the Policy Plan revisions and tabling the DAS system guidelines for a later date. He stated that the Committee members unanimously consented to the Policy Plan revisions, with the only change being to delete the word "best" from Policy j, adding that the next step would be preparing the final document with all of the revisions and submitting it to the County Attorney's Office for review.

Commissioner Flanagan noted that DAS systems were allowed in some instances to be installed by right, adding that citizen input would not apply in those cases.

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Chairman Murphy announced that the Telecommunications Committee would meet again on Thursday, May 3, 2012, at 7:00 p.m., in the Board Conference Room.

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The meeting was adjourned at 8:07 p.m.
Peter F. Murphy, Jr., Chairman

An audio recording of this meeting is available in the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jeanette Nord

Approved: May 3, 2012

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Kara A. DeArrastia, Clerk to the
Fairfax County Planning Commission

Staff Review and Response to Industry Comments
March 21, 2012

1. Industry comment: red insert:

Objective 42: In order to provide for the mobile and land-based telecommunication network for wireless telecommunication systems licensed by the Federal Communications Commission, and to achieve opportunities for the collocation of related facilities and to reduce ~~the reduction~~ or lessen ~~elimination of~~ their visual impact, locate the network's necessary support facilities which include any antennas, support structures and equipment buildings or equipment boxes in accordance with the following policies.

Industry states that "[T]he word 'eliminate' in its purest sense would be an impossible standard to meet. The facilities cannot be made invisible." This same comment was also made with regard to similar language in the Policy Plan preamble.

Staff response: The proposed re-wording to **"to reduce or lessen their visual impact"** is redundant.

Industry objects to the word "elimination." However, Objective 42 does not propose to eliminate **visibility**, but to eliminate **visual impact**. The distinction is important. A cabinet yard screened by vegetative planting can eliminate an adverse visual impact. The intent of such screening is not to make the yard invisible.

Staff suggestion: retain the wording as originally modified by the Planning Commission in both the preamble and Objective 42.

2. Industry comment: red insert and strikethrough:

Policy c. When new structures are required to serve residential neighborhoods, **mitigage visual impacts on the community by utilizing sites that have natural features that will visually obscure the new structure's presence or by utilizing camouflage designs.** ~~minimize visual impacts on the surrounding area by utilizing camouflage structure design and/or micro-cell technologies or similar miniaturization technologies, such as distributive antenna systems (DAS).~~

Industry states that Policy c. (and h., below) pertains to the siting of new structures and that the reference to micro-cells, miniaturization and DAS are co-location facilities and should be dealt with under **Objective 44 – Feature Shown Guidelines**.

Staff response: Objective 42 includes both new structures and co-locations. Staff agrees that Policy c. specifically mentions "new structures" and that micro-cell, miniaturization and DAS are consistent with co-locations. The intent of Policy c., however, is to minimize visual impacts in residential areas by considering, in part, the application of the newer technologies. Also,the suggested phrase of "utilizing sites that have natural features that will visually obscure …" appears vague and it is unclear exactly how "natural features" would, or could, be utilized.

Staff suggestion: Suggest amending language to simply include co-locations:

> Policy c. When new structures **or co-locations** are required to serve residential neighborhoods, minimize visual impacts on the surrounding area by utilizing camouflage structure design and/or micro-cell technologies or similar miniaturization technologies, such as distributive antenna systems (DAS).

3. Industry comment: **red** strikethrough:

Policy h. Ensure that the height of the proposed telecommunication facility is no greater than necessary to allow for visually appropriate collocation on the telecommunication facility based on its service area requirements while still mitigating the visual impact of the facility. ~~When new structures and/or technologies (such as distributive antenna systems, micro-cell technology or miniaturization technology) are necessary to meet the service area requirements for the residential neighborhood(s), ensure that the height and mass of any appropriate collocation on the telecommunication facility is in character with the surrounding residential area and mitigates the visual impact of the facility the surrounding residential area.~~

As with Policy c., Industry states that Policy h. concerns the siting of new structures.

Staff response: Policy h. does specifically mention co-locations. Suggest clarifying the language related to co-locations.

Staff suggestion:

Policy h. Ensure that the height of the proposed telecommunication facility is no greater than necessary to allow for visually appropriate collocation on the telecommunication facility based on its service area requirements while still mitigating the visual impact of the facility. When new structures, **co-locations,** and/or technologies (such as distributive antenna systems, micro-cell technology or miniaturization technology) are necessary to meet the service area requirements for the residential neighborhood(s), ensure that the height and mass of any appropriate collocation on the telecommunication facility is in character with the surrounding residential area and mitigates the visual impact of the facility the surrounding residential area.

4. Industry comment: **red** text and strikethrough:

   Policy j. Demonstrate that the selected site for a new telecommunication facility **has been located and designed to mitigate the** ~~provides the least~~ visual impact on residential areas and the public way, as compared to other sites considered, **if any**. Analyze the potential impacts from other vantage points in the area, especially from residential properties, to show how the selected site provides the best opportunity to minimize its visual impact on the area and on properties near the proposed site**.**

   Industry's concern relates to the degree to which alternative locations must be analyzed and the possible creation of a "straw man" site to show the superiority of the proposed site.

   Staff response: Staff agrees with the industry assessment and believes that showing "least visual impact" creates a subjective review process as it pertains to alternatives. For example, one proposed new structure location may be visible from 9 homes, while another location is visible from 10 homes. Yet the latter may cover a much larger service area or have fewer "other" impacts than the site with the "least visual impact."

   The current 2232 Application asks Industry to identify other alternative sites. Our experience is that Industry weighs a variety of considerations – topography, accessibility, service coverage, visual impacts, etc. – in the siting of new structures. The identification of these other locations – and their constraints – are sufficient for staff to assess the viability of the proposed site against alternatives.

   Staff suggestion: Incorporation of industry suggested text.

5. Industry comment: CTIA, "The Wireless Association" comments (February 9, 2012), were distributed to the Telecommunication Committee at the end of the last meeting. CTIA's comments focused on the "elimination" of visual impacts and concern over potentially burdensome requirements to explore alternative sites.

   Staff response: These comments are addressed in the preceding discussion.