

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
THURSDAY, FEBRUARY 8, 2007**

PRESENT: Walter L. Alcorn, Commissioner At-Large
Frank A. de la Fe, Hunter Mill District
Earl L. Flanagan, Mount Vernon District
Janet R. Hall, Mason District
Suzanne F. Harsel, Braddock District
James R. Hart, Commissioner At-Large
Nancy Hopkins, Dranesville District
Ronald W. Koch, Sully District
Kenneth A. Lawrence, Providence District
Rodney L. Lusk, Lee District
Peter F. Murphy, Jr., Springfield District
Timothy J. Sargeant, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 8:22 p.m. by Chairman Peter F. Murphy, Jr., in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Flanagan welcomed Troop #1509 from the Mount Vernon District to the Planning Commission meeting. He noted they were here tonight to earn the Eagle Scout badge in citizenship and community.

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Commissioner Hart announced that a Zoning Ordinance Amendment Workshop for Large Retail Sales Establishments, otherwise known as “big box” stores, would be held on Tuesday, February 13, 2007 from 7:00 p.m. to 9:00 p.m. in Conference Rooms 2 and 3 of the Government Center.

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Chairman Murphy announced that there would not be a Planning Commission Meeting next Wednesday, February 14, 2007.

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Commissioner Murphy announced the departure of Windy Rowland, Associate Clerk to the Planning Commission. He noted that she had made a great contribution to the Planning Commission and thanked her for her service.

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Commissioner Murphy announced his intent to defer indefinitely the public hearing scheduled on March 21, 2007 on RZ 2005-SP-033, Centerpointe Church at Fair Oaks, pending a comprehensive traffic analysis needed for the staff to make a recommendation.

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FS-D06-108 - CLEARWIRE, U.S., LLC, I-495 & Georgetown Pike

Commissioner Hopkins MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE DETERMINATION BY THE DEPARTMENT OF PLANNING AND ZONING DATED JANUARY 11, 2007, THAT THE TELECOMMUNICATIONS FACILITY PROPOSED BY CLEARWIRE, U.S., LLC, LOCATED AT I-495 AND GEORGETOWN PIKE, MCLEAN, IS SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN", PURSUANT TO SECTION 15.2-2232 OF THE *CODE OF VIRGINIA* AS AMENDED.

Commissioners Hart and Koch seconded the motion which carried unanimously.

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FS-M06-124 - CLEARWIRE, U.S., LLC, 3800 Powell Lane

Commissioner Hall RECOMMENDED THAT THE PLANNING COMMISSION CONCUR WITH THE DETERMINATION THAT THE PROPOSAL BY CLEARWIRE, U.S., LLC, AS AMENDED, TO CONSTRUCT A TELECOMMUNICATIONS FACILITY ON THE ROOF OF AN EXISTING BUILDING LOCATED AT 3800 POWELL LANE, IS SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN", PURSUANT TO *VIRGINIA CODE* SECTION 15.2-2232 AS AMENDED.

Commissioners Koch and de la Fe seconded the motion which carried unanimously.

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ORDER OF THE AGENDA

Secretary Harsel established the following order of the agenda:

1. ZONING ORDINANCE AMENDMENT (RESIDENTIAL PODS)
2. ST07-CW-1CP - TRANSIT-ORIENTED DEVELOPMENT PLAN AMENDMENT

This order was accepted without objection.

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ZONING ORDINANCE AMENDMENT (RESIDENTIAL PODS) -

To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: To allow temporary portable storage containers up to 8 ½ feet in height in any yard on a lot developed with a dwelling unit as follows: (A) On lots developed with single family detached dwellings allow up to 260 square feet of temporary portable storage container uses for a time period not to exceed a total of 90 days within any consecutive 6 month period; (B) On lots developed with single family attached or multiple family dwellings allow up to 130 square feet of temporary portable storage container uses for each dwelling for a time period not to exceed a total of 30 days within any consecutive 6 month period; (C) Where a dwelling has been destroyed or damaged by casualty and when the dwelling is to be rebuilt or repaired, allow up to 260 square feet of temporary portable storage container uses for up to 9 months or for the period of an active Building Permit, whichever is shorter; (D) All temporary portable storage containers shall not be located in any required open space or landscaped area or on any sidewalk or trail; such containers shall meet the sight distance requirements on corner lots and shall not be placed in a location that blocks or interferes with vehicular or pedestrian circulation; and (E) Signage on all temporary portable storage containers shall only identify the storage provider and shall not include information that identifies any other product or service. COUNTYWIDE. PUBLIC HEARING.

Jack Reale, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the proposed amendment.

Commissioner de la Fe suggested doubling the proposed time limit of 72 hours for the placement of temporary portable storage containers on single-family attached and multiple family dwelling lots.

Commissioner Koch recommended that portable storage containers placed on residential lots have a removable label that specified the date of placement.

In response to a question from Commissioner Hart, Mr. Reale stated that a request for a period longer than the allowed nine months or any renewal or extension of a temporary special permit (TSP) in the case of a casualty would need to be approved by the Board of Zoning Appeals.

Responding to another question from Commissioner Hart, Lorrie Kirst, ZAD, DPZ, explained that the proposal was consistent with the existing TSP application process, provided for under Article 8 of the Zoning Ordinance, that allowed the placement of a temporary dwelling or mobile home for up to nine months in cases where a single-family home had been destroyed or damaged by a fire or disaster to an extent which made the dwelling uninhabitable and only in cases where such dwelling would be rebuilt or repaired.

In response to questions from Commissioner Flanagan, Mr. Reale indicated that the placement of a portable storage container on a residential lot within the allowed period would not require a fee. He said zoning inspectors would enforce the proposed time restrictions by responding to complaints.

Responding to a question from Commissioner Alcorn, Mr. Reale stated that the proposed amendment would be effective on the day following its adoption and any storage containers legally placed on residential lots prior to the effective date could remain as a nonconforming use.

Chairman Murphy called the first listed speaker and recited the rules for public testimony.

John Tompkins, President of Atlantic Coast Portable Storage, 8422 Wellington Road, Manassas, said the applicable Zoning Ordinance provisions would be provided to customers and published on his business's Web site. He pointed out that customer records would easily be accessible to County staff to verify the length of time a storage container had been placed on a particular property and said this would be more practical than posting labels on the containers. Mr. Tompkins said the placement of the containers on residential lots during house constructions or major renovations were generally longer than the nine-month time restriction and said it would be appropriate to allow the use of the container for the period of the active Building Permit. He expressed opposition to the use of portable containers as permanent structures on any property. He recommended that the Commission consider the advertised maximum 90-day time period because the 30-day time restriction would be detrimental to his business.

Mr. Tompkins replied to questions from Chairman Murphy regarding the delivery, loading, pick-up, moving, and warehouse storage procedures for portable storage containers, and from Commissioner Alcorn regarding his business' customer base in Fairfax County.

Commissioner Lawrence suggested that Mr. Tompkins' business Web site enable a user to search by address and obtain the date of the placement of a portable storage container. Mr. Tompkins said this information could be made available to County staff, but it would be difficult to make it available to the general public.

Mr. Tompkins replied to questions from Commissioner Hart regarding the maneuverability and accessibility of a storage container when placed on a parking space.

In response to questions from Commissioner Flanagan, Mr. Tompkins said portable storage container businesses did not sell the units to customers. He noted that his business had lent containers to schools, libraries, and churches for a specific number of months, arranged a deal if the need was for a more permanent basis, and offered to pick up the containers for cleaning.

Responding to a question from Commissioner Hall, Mr. Reale explained that the cargo-style containers from ships were commonly used for additional storage on commercial properties and were subject to site plan approval and gross square footage restrictions. He stated that the Board of Supervisors had asked staff to later address this issue as a separate amendment.

Bruce Jennings, President of the Virginia Self Storage Association and owner of Fairfax City Self Storage, 3980 Pickett Road, Fairfax, noted that he had distributed his position statement and a document titled "Zoning Issues with PODS," which had been prepared by Tim Davis, the Zoning Administrator for the City of Chesapeake, copies of which are in the date file. He recommended that the proposed 72-hour time restriction apply to all residential dwellings, signage be limited to four square feet per storage container, a permit be required each time a container was placed on a residential lot, and that the permit be displayed on the container. Mr. Jennings asked how safety hazards posed by the containers would be regulated. He commented that storage containers eliminated parking spaces, especially in high density neighborhoods.

In response to questions from Commissioner Sargeant, Mr. Reale said customers would be liable for the safety and security of their rented portable storage containers. He noted that a zoning inspector would investigate the complaint of a possible violation within 48 hours after receipt by contacting the storage container provider and visiting the property.

Aubrey Stowell, President of Boxcart, 14790 Flint Lee Road, Suite 300, Chantilly, spoke in favor of the proposed amendment. He suggested that the amendment consider the rights of the individual, noting that his business worked with members of homeowners associations to comply with their regulations regarding the use of portable storage containers and the length of time that they were allowed to remain on the property.

Mr. Stowell replied to a question from Commissioner Alcorn regarding his business's customer base in Fairfax County.

Responding to a question from Commissioner Lusk, Mr. Stowell said that his business's fee structure would reflect daily rates in order to comply with the proposed amendment.

Ralph Miller, representing 1-800-Pack-Rat, LLC, 3900 Stonecroft Boulevard, Suite R, Chantilly, noted that his business would comply with the proposed amendment, but said that some of the regulations were too restrictive. He pointed out that his business worked with citizens and homeowners associations to resolve complaints or issues.

Mr. Miller replied to questions from Commissioner Alcorn regarding his business's customer base in Fairfax County and from Commissioner Hart regarding the maneuverability and accessibility of his storage container placed on a parking space.

There being no more speakers, Chairman Murphy called for concluding staff remarks from Mr. Reale, who declined. There were no further comments or questions from the Commission; therefore, he closed the public hearing and recognized Commissioner Alcorn for action on this item. (A verbatim excerpt is in the date file.)

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Commissioner Alcorn MOVED THAT THE PLANNING COMMISSION DEFER DECISION ON THE PROPOSED ZONING ORDINANCE AMENDMENT RELATING TO RESIDENTIAL TEMPORARY PORTABLE STORAGE CONTAINERS TO A DATE CERTAIN OF FEBRUARY 28, 2007.

Commissioners Lawrence and Hall seconded the motion which carried unanimously.

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ST07-CW-1CP - TRANSIT-ORIENTED DEVELOPMENT PLAN AMENDMENT - To consider proposed revisions to the policy portion of the Comprehensive Plan for Fairfax County, VA, in accordance with the *Code of Virginia*, Title 15.2, Chapter 22 to add a definition and principles for transit-oriented development. Significant proposed revisions include addition of objectives and associated policies on transit-oriented development, an appendix on guidelines for transit-oriented development, and a glossary definition of transit-oriented development. COUNTYWIDE. PUBLIC HEARING.

Deborah Albert, Planning Division (PD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She noted that staff recommended approval of the proposed amendment.

Chairman Murphy called the first listed speaker and noted that the rules for public testimony previously cited still applied.

Hunter McCleary, 2205 Trott Avenue, Vienna, representing the Fairfax Advocates for Better Bicycling, expressed support for the proposed amendment because it recognized the need for facilities that allowed safe, direct access by bicycle to and from transit-oriented developments (TOD) and safe, convenient, covered bicycle parking. He recommended that the proposed boundaries of TOD areas be less restrictive to ensure that nearby residents were able to easily access the areas without the use of automobiles. (A copy of his remarks is in the date file.)

Albert Riveros, 6443 Arlington Boulevard, Falls Church, suggested that the proposed amendment include the three major bus hubs at the Pentagon, Seven Corners, and Tysons Corner because they operated in a manner similar to Metro rail and some areas of the County would not be served by Metro rail in the near future. He spoke in favor of sustaining the one-half mile radius for TOD boundaries because it would provide safe, direct pedestrian access to transit or Metro rail stations. Mr. Riveros said TOD should be focused on urban County areas and revitalization districts that had good access to Metro or bus transit stations in order to better mitigate traffic and discourage urban sprawl in the surrounding counties, such as Prince William and Loudoun.

In response to a question from Commissioner Hall, Ms. Albert stated that the Transit-Oriented Development Committee had discussed whether the scope of the amendment should include bus transit, but had agreed that it should only apply to rail transit at this time. She indicated that the proposed language allowed flexibility for future planning efforts to focus on other types of transit.

Commissioner Hall commented that there was no rail in the Mason District and that bus facilities should have been included in the proposed amendment.

Commissioner Alcorn pointed out that this amendment was the first in a series of proposed guidelines related to TOD, but said that the rail guidelines were the most critical now.

Responding to a question from Commissioner Flanagan, Fred Selden, PD, DPZ, explained that the various types of rail transit included Virginia Railway Express (VRE), Metro, and light rail, such as the proposed Columbia Pike transit system that would extend to the Skyline area in Baileys Crossroads. He said that although staff had not designated or expanded the guidelines to apply to bus hubs, this would not prevent staff from considering how to orient proposed developments to take the best advantage of all types of transit facilities available in the area.

John Bowman, 12229 Quorn Lane, Reston, representing the South Reston Park and Ride Neighbors, expressed concern that redevelopment within transit station areas (TSA) could occur under the Virginia Public Private Education Facilities and Infrastructure Act (PPEA) without stakeholder involvement. He requested that the requirement for stakeholder involvement contained in the TOD guidelines also be applied to the PPEA process. He said he agreed that intensity within a TSA would not be appropriate and that the character and quality of existing neighborhoods should be preserved. Mr. Bowman also expressed concern that redevelopment could cause cumulative damage to stormwater management systems and said areas not in the immediate vicinity of TOD should be protected against density increases. (A copy of his remarks is in the date file.)

In response to questions from Commissioner Alcorn, Mr. Selden stated that PPEA projects, with the exception of those on state or federal property, were required to be in conformance with the Comprehensive Plan and Zoning Ordinance and subject to the public planning and zoning process.

Mr. Bowman expressed concern that the TOD guidelines would not be adequately applied to the PPEA process. Commissioner Alcorn replied that PPEA proposals would not be exempt from complying with the TOD guidelines. Mr. Bowman requested that staff consider whether the community participation process for TOD proposals would take precedence over the confidentiality surrounding PPEA proposals, which hindered community involvement.

Sally Ormsby, 9114 Coronado Terrace, Fairfax, Chair of the Citizens Committee on Land Use and Transportation, recommended that the proposed amendment address only those principles that were unique to TOD because they were essentially mixed-use centers with higher density due to their proximity to rail stations. She pointed out that 2 of the 13 elements of the proposed Appendix 11 applied specifically to TOD and the remaining 11 applied to both mixed-use centers and TOD and suggested that the title of the appendix be changed to "Guidelines for Mixed-use Centers and Transit-oriented Development." Ms. Ormsby further suggested that the section titled "Environmental benefits" be changed to "Environmental considerations" because it also addressed the mitigation of the potential negative impacts. (A copy of her remarks is in the date file.)

Commissioner Alcorn asked that Ms. Ormsby provide further suggestions to the Commission.

Roger Diedrich, 3322 Prince William Drive, Fairfax, representing the Great Falls Group of the Sierra Club, recommended that "heavy and light rail" be inserted between "planned and existing" and "stations" in the introduction to the proposed Appendix 11. He expressed the need to maintain the flexibility to adjust the TOD area boundaries to include adjacent areas that had TOD-like features, such as mixed use or additional transit. He pointed out that the proposed Pedestrian and Bicycle Access guidelines that required the planning for accessible trail systems beyond the TSA were not well defined and said it was critical that trails and on-road bike lanes extend beyond the TOD area and link to other destinations, so as to offer alternatives to vehicle trips. He suggested that the proposed Mix of Land Uses guidelines establish minimum standards, in terms of ratios or percentages, for either the TOD or a similar set of minimums for a larger area, which would include the built-out TOD. Mr. Diedrich further suggested that the guidelines require full disclosure of land use categories, in percentages, before and after a proposed TOD was built, as part of the application, in order to allow a comparison of these values to similar values at known successful projects. He recommended that "encouraged" be changed to "essential" in the first sentence of the Design section. Mr. Diedrich stated that the Parking guidelines should elaborate on the use of incentive programs to reduce automobile usage and consider time-of-day pricing. He said the proposed Vision for the Community guidelines should extend beyond the current Area Plans Review (APR) process and require a broader community participation process for TSAs before specific development proposals were formally considered in order to identify potential areas for TODs, investigate alternatives, and develop different configurations. He recommended that planning for TOD be performed on a regional basis by using U.S. Environmental Protection Agency and Metropolitan Washington Council of Governments programs that supported local TOD planning. Mr. Diedrich further recommended that energy saving mechanisms be included the Environmental Benefits section. He proposed that "open green space" be changed to "pocket parks" in the Open Space guidelines. He

suggested that compensation for the lack of open space be addressed by indoor facilities and courtyards and easy access to parks within a reasonable distance in the form of a trail connection or a simple bus trip. He pointed out that the Phasing of Development guidelines should define a schedule and incorporate mitigating measures during construction. He suggested that enforcement guidelines be added to the proposed amendment to clarify how operational measures would be followed through for TODs and that staff set up a Web page to allow the public to search the status of a project, during construction and beyond, and monitor how well the proffers were being met. (A copy of his remarks is in the date file.)

Stewart Schwartz, Executive Director of the Coalition for Smarter Growth, 4000 Albemarle Street, NW, Suite 310, Washington, DC, spoke in favor of the proposed amendment because TOD would provide affordable housing for all income levels; protect existing suburban neighborhoods; reduce traffic, air pollution, and energy costs; and save open space. He agreed with Ms. Ormsby's recommendation to incorporate design guidelines for mixed-use centers and cite the specific TOD policies in the amendment. He said the proposed Transportation and Traffic guidelines should include parallel parking as a traffic-calming measure because it would allow for the full use of the street, minimize structured parking, reduce costs, and provide more affordable housing opportunities. Mr. Schwartz recommended that in the first sentence under the Transit Proximity and Station Area Boundaries section, "but not limited to" be inserted between "generally defined" and "as a quarter mile radius" to allow greater flexibility in the definition of a TOD area. He further recommended that "or increase" be inserted after "existing development that would reduce" and "the frequency of pedestrian usage of transit and therefore reduce" in the second sentence under the same section. He also proposed that language from the Center for Transit-Oriented Development be incorporated in the same section: "Streetscape, urban design, building orientation, and public places all influence the decision to walk or bicycle in a distance to which people want to travel. It is also important that surrounding neighborhoods have quality connections for bicyclists and pedestrians without gaps or major barriers." Mr. Schwartz indicated that a two to three-mile range for bicycle and pedestrian circulation and connection systems should be required. He pointed out that existing and planned rail transit stations should include bus transit systems with dedicated lanes and the frequency and capacity similar to light rail transit systems and major permanent bus hubs with significant ridership. He requested that staff consider streetcar corridors and add more language about visualization tools, design codes, and new urbanism.

Responding to a question from Commissioner Lawrence, Mr. Schwartz said a critical mix of uses in TOD areas would include community services, ground floor retail, and vibrant streetscapes. He noted that the boundaries designated for TOD areas and mixed-use centers should address traffic by providing the option for a 10 to 15-minute walk to many services from adjacent residential communities.

Michael Horwatt, Esquire, 12114 Chancery Station Circle, Reston, said that although the proposed guidelines should also apply to mixed-use centers, more rigorous standards should be applied to TOD areas in order to justify their unique opportunities to serve the public interest, such as pedestrian and bicycle access and community space.

Jeff Fairfield, Esquire, 459 Herndon Parkway, Herndon, suggested that the proposed boundaries for TOD areas be extended to a half mile and not more than a 10-minute walk to the station platform. He noted that if the intent was to compress the area down to a quarter mile, then the proposed language should be retained.

In response to a question from Commissioner de la Fe, Mr. Selden explained that the proposed amendment would not supersede the Area Plans because they included site-specific densities and land units for the four TSAs.

Jody Bennett, 1459 Hunter View Farms, Vienna, recommended that the proposed definition for TOD area boundaries be made more specific with the removal of “generally” and the insertion of a half-mile density radius circle. (A copy of her remarks is in the date file.)

Responding to a question from Commissioner Alcorn, Ms. Bennett suggested that “shall” replace “encouraged” in the first sentence under the Pedestrian and Bicycle Access section in order to support the goal of a pedestrian and bicycle-oriented community.

In response to a question from Commissioner Sargeant, Ms. Bennett said that the proposed amendment failed to adequately address the transportation and facilities impacts that TODs would have on stable neighborhoods.

Commissioner Sargeant recommended that language be added to the amendment to address the impacts on adjacent neighborhoods and identify the variety of developments that could be located within a TOD area.

Deborah Reyher, 8628 Redwood Drive, Vienna, said that the proposed amendment should affirmatively encourage supplemental transit systems to funnel people into TOD areas, which should not be limited to shuttles, trams, or buses, but also connections to the County’s interconnecting trail and bicycle systems. She stated that the amendment should also clarify that density increases in TOD areas would be balanced by a commitment to preserve lesser density in green belt areas and protect the surrounding stable neighborhoods from density creep. Ms. Reyher recommended that language be added to ensure that once a TOD was approved, any subsequent APR nominations or rezoning applications to increase density in a surrounding area would face a strong presumption of continuing lower density. She further recommended that the amendment be more specific about protecting watersheds and tree canopy within and near TOD areas. She pointed out that TODs should never be located in stream valleys or near Resource Protection Areas. (A copy of her remarks is in the date file.)

Bruce Bennett, 1459 Hunter View Farms, Vienna, spoke in support of the proposed amendment and said that once the policy had been adopted and was successful, then staff should consider expanding the policy to include non-rail transit.

Chairman Murphy called for more speakers from the audience, but received no response.

Responding to a question from Commissioner Sargeant, Mr. Selden said he did not know whether staff had developed a specific formula to measure effective traffic reduction within a TOD area. He explained that staff currently examined the Transportation Demand Management measures and other mechanisms that would seek to minimize the number of vehicle trips associated with TOD projects on a case-by-case basis. He noted that the proposed mix of uses essentially determined the expected number of trips that would be generated or reduced at a particular site.

Commissioner Lawrence suggested that the Area Plans include circles to illustrate the radius around specific TOD areas in order to preserve surrounding stable, low-density, residential neighborhoods. He further suggested that the proposed environmental guidelines include language describing building energy efficiency methods, such as extensive or intensive green roofs and large solar arrays that would allow buildings to generate more of their own electricity.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Alcorn for action on this item. (A verbatim excerpt is in the date file.)

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Commissioner Alcorn MOVED THAT PLANNING COMMISSION DEFER DECISION ON THE PROPOSED POLICY PLAN AMENDMENT RELATING TO TRANSIT-ORIENTED DEVELOPMENT GUIDELINES TO A DATE CERTAIN OF FEBRUARY 28, 2007.

Commissioner Lawrence seconded the motion which carried unanimously.

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The meeting was adjourned at 10:45 p.m.

Peter F. Murphy, Jr., Chairman

Suzanne F. Harsel, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Meeting attended by: Windy R. Rowland

Minutes by: Kara A. DeArrastia

Approved on: September 11, 2008

Linda B. Rodeffer, Clerk to the
Fairfax County Planning Commission