MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, MARCH 31, 2010

PRESENT: Walter L. Alcorn, Commissioner At-Large
Frank A. de la Fe, Hunter Mill District
Jay P. Donahue, Dranesville District
Earl L. Flanagan, Mount Vernon District
Suzanne F. Harsel, Braddock District
James R. Hart, Commissioner At-Large
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Sully District
Rodney L. Lusk, Lee District

ABSENT: Janet R. Hall, Mason District
Peter F. Murphy, Jr., Springfield District
Timothy J. Sargeant, Commissioner At-Large

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The meeting was called to order at 8:23 p.m., by Vice Chairman Walter L. Alcorn, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Hart noted that the Planning Commission had received a memorandum containing revisions from staff on the Policy Plan Amendment for the Visual and Performing Arts. He reminded everyone that the decision would be made on April 14, 2010, and to contact Pam Nee, Department of Planning and Zoning, if there were any questions.

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On behalf of Commissioner Hall, Commissioner Alcorn announced that the Policy and Procedures Committee would meet on Wednesday, April 14, 2010, at 7:30 p.m., in the Board Conference Room of the Government Center, to discuss the proposed Zoning Ordinance Amendment Work Program and tandem parking.

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Commissioner Alcorn announced that the Tysons Corner Committee would meet on Thursday, April 15, 2010, at 7:00 p.m., in Conference Rooms 4/5 of the Government Center to continue discussion on the proposed Tysons Plan Amendment and Zoning Ordinance Amendment.

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FY 2011-2015 FAIRFAX COUNTY ADVERTISED CAPITAL IMPROVEMENT PROGRAM (CIP) (With Future Fiscal Years to 2020) (Decision Only) (The public hearing on this application was held on March 18, 2010. A verbatim transcript of the decision made is in the date file.)

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE ADVERTISED FAIRFAX COUNTY CAPITAL IMPROVEMENT PROGRAM FOR FISCAL YEARS 2011 THROUGH 2015, WITH FUTURE YEARS TO 2020.

Commissioners de la Fe and Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION ENDORSE THE FY 2011 ADVERTISED CIP, WHICH INCLUDES A BOND PROGRAM DESIGNATED TO CONTINUE TO FUND PROJECTS CURRENTLY UNDERWAY. THE PROGRAM ALSO CONTINUES A COMMITMENT TO THE FAIRFAX COUNTY SCHOOLS WITH A REFERENDUM OF $240 MILLION SCHEDULED EVERY OTHER YEAR; HOWEVER, BASED ON THE FISCAL ENVIRONMENT, BOTH BOND REFERENDA PREVIOUSLY PLANNED FOR COUNTY PROJECTS IN THE FALL 2012 AND 2014 ARE NOW ON HOLD. IN ADDITION, THE CIP CONTINUES THE $155 MILLION SALES LEVEL FOR FAIRFAX COUNTY PUBLIC SCHOOLS THROUGH FY 2012. BEGINNING IN FY 2013, THE SCHOOL SALES TARGET RETURNS TO $130 MILLION. THE PLANNING COMMISSION SUPPORTS INCREASING SCHOOL SALES ABOVE $130 MILLION IF FUTURE BUDGETS WILL ALLOW.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION SUPPORT THE SHORT TERM BORROWING PLAN PROPOSED TO ADDRESS THE BACKLOG OF CAPITAL RENEWAL PROJECTS AT COUNTY-OWNED FACILITIES, SUCH AS ROOF REPLACEMENT, HVAC REPLACEMENT, AND OTHER MAJOR BUILDING SUBSYSTEM REPLACEMENTS THAT HAVE LONG OUTLIVED THEIR USEFUL LIFE.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION SUPPORT THE PROPOSED INCREASE IN THE STORMWATER SERVICE DISTRICT RATE FROM ONE PENNY PER $100 OF ASSESSED VALUE TO A PENNY AND A HALF PER $100 OF ASSESSED VALUE, WHICH WILL GENERATE APPROXIMATELY $28 MILLION TO FUND BOTH STAFF AND OPERATING COSTS AS WELL AS CAPITAL PROJECT

EFFORTS. FUNDING IS NEEDED TO ADDRESS REGULATORY REQUIREMENTS AND SUPPORT REINVESTMENT IN THE AGING INFRASTRUCTURE, MUCH OF WHICH IS OVER 40 YEARS OLD.

Commissioners de la Fe, Hart, and Lawrence seconded the motion which carried by a vote of 7-2 with Commissioners Flanagan and Litzenberger opposed; Commissioners Hall, Murphy, and Sargeant absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE COUNTY EXPLORE THE POSSIBILITY OF ACQUIRING AVAILABLE VACANT OFFICE SPACE TO HOUSE THE PUBLIC SAFETY HEADQUARTERS AND ALLOW FOR THE REPLACEMENT OF THE AGING MASSEY BUILDING.

Commissioners de la Fe, Hart, and Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.)

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FS-D09-116 – CLEARWIRE, VDOT right-of-way at I-495 and Georgetown Pike

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE "FEATURE SHOWN" DETERMINATION IN FS-D09-116, CLEARWIRE, AT I-495 AND GEORGETOWN PIKE, AND FIND THE FACILITY IN ACCORD WITH THE RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioners de la Fe and Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

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FS-D09-157 – CLEARWIRE, 1551 Trap Road

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION CONCUR WITH THE "FEATURE SHOWN" DETERMINATION FS-D09-157, CLEARWIRE, 1551 TRAP ROAD, AND FIND THE FACILITY IN ACCORD WITH THE RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN.

Commissioners de la Fe and Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

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FSA-5-2 – T-MOBILE, 6320 Augusta Drive (Lee District)

Vice Chairman Alcorn MOVED (APPROVAL OF) CONSENT AGENDA ITEM FSA-5-2, T-MOBILE, 6320 AUGUSTA DRIVE.

Without objection, the motion carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

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ORDER OF THE AGENDA

Secretary Harsel set the order of the agenda as follows:

1. ZONING ORDINANCE AMENDMENT – RIDING/BOARDING STABLES
2. ZONING ORDINANCE AMENDMENT – EDITORIAL & OTHER MINOR REVISIONS
3. SE 2009-LE-016/2232-L08-25 – T-MOBILE NORTHEAST LLC & SPRINGFIELD SWIM & RACQUET CLUB, INC.

This order was accepted without objection.

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ZONING ORDINANCE AMENDMENT (RIDING/BOARDING STABLES) – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: In conjunction with special permit approval for a riding and boarding stable in the R-A, R-P, R-C, R-E, and R-1 Districts and in the PDH and PRC Districts when not shown on an approved development plan, allow the Board of Zoning Appeals to reduce the minimum setback requirement for riding rings and structures associated with riding and boarding stables from 100 feet from any lot line to as low as 0 feet and to reduce the minimum required distance between parking and loading spaces for riding and boarding stables and any adjoining residentially zoned property from 50 feet to as low as 0 feet when the applicant has demonstrated to the satisfaction of the BZA that such setback(s) is not necessary to minimize any adverse impacts on adjacent properties due to one or more of the following: (A) Specific operational characteristics of the riding and boarding stable such as the limits on the: number of horses, students, and employees; use of outdoor lighting and public address systems; hours of operations; number and frequency of special events; and amount and type of outdoor activity. (B) Conditions which

adequately buffer adjacent properties from the riding and boarding stable, which may include but are not limited to: topography, vegetation, location and/or orientation of on-site structures, proximity of adjacent dwelling units, development of adjacent properties with non-residential uses, and/or existence of roads and/or major utilities. COUNTYWIDE. PUBLIC HEARING.

Commissioner Hart announced that the decision only on this Amendment would be deferred at the end of the public hearing.

Brian Parsons, Zoning Administration Division (ZAD), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He stated that staff recommended adoption of the proposed amendment.

In response to questions from Commissioner Hart, Lorrie Kirst, Deputy Zoning Administrator, ZAD, DPZ, explained that the setback for structures and riding rings had been modified from 100 feet to 40 feet to be consistent with the front yard requirements for owners of personal stables. She added that the setback requirement for a house in the R-C District would be 20 feet from a side lot line. She further confirmed that the proposed modifications could not be authorized by-right, but rather would be required to go through a Special Permit application process for approval.

Answering questions from Commissioner de la Fe, Ms. Kirst said this proposal would not affect public parks in the County.

When Commissioner Litzenberger mentioned an email expressing concern about excessive odor from a neighboring stable, Ms. Kirst explained that stables had always required Special Permit approval in the R-A through R-1 Districts and, thus, as part of the conservation plan in most Special Permit applications, odors would be addressed in the conditions.

In reply to questions from Commissioner Flanagan, Ms. Kirst said that while the current Amendment might have been generated by one violation, the changes proposed therein would benefit stable owners countywide. She noted that topography was an important factor in determining appropriate setbacks; however, she said the applications would need to be taken on a case-by-case basis to consider the impacts to the surrounding properties. She further said a Special Exception application would not accommodate riding and boarding stables.

In response to a question from Commissioner Hart, Ms. Kirst confirmed that the current Amendment applied to commercial stables only.

Commissioner Donahue expressed concern that the proposed Amendment might not be appropriate and said the deferral period would provide time to resolve questions that he had.

Vice Chairman Alcorn called the one listed speaker and recited the rules for public testimony.

Jolanda Janczewski, 10613 Daysailer Drive, Fairfax Station, spoke in support of the Amendment. She said the Board of Zoning Appeals (BZA) should be given the latitude to reduce the setbacks but on a case-by-case basis. She explained that most properties were less than 10 acres in size and could not meet the setbacks required in the Zoning Ordinance. She acknowledged that structures holding odorous items should be located away from neighboring properties, but said storage sheds and riding arenas would have less impact on neighboring properties and could sit on the property line.

In response to a question from Commissioner Donahue, Ms. Janczewski explained that while the County might be largely suburban, there were still rural areas with minimum five-acre lots where commercial riding and boarding stables would be appropriate.

Answering a question from Commissioner de la Fe, Ms. Kirst said that under the current Zoning Ordinance, a stable owner could have 30 horses on a five acre lot by right.

In reply to questions from Commissioner Flanagan, Ms. Janczewski reiterated that the BZA should be given the latitude to reduce the setbacks but on a case-by-case basis, using all the facts in each situation to base its judgment. She noted her concern regarding the number of stable owners who were currently in violation of the Zoning Ordinance and were afraid of being cited because they could not meet the requirement.

When asked by Commissioner Flanagan, Ms. Kirst acknowledged that there were additional violations; however, without formal complaints, there had been no follow up by County officials.

Responding to questions from Commissioner Lawrence, Ms. Kirst said that approximately half of the commercial stables in the County currently had proper Special Permit approval.

In reply to a question from Commissioner Donahue, Ms. Kirst said the Planning Commission could review and make recommendations on Special Permit applications, but the final decision lay with the Board of Zoning Appeals.

Vice Chairman Alcorn called for speakers but received no response. There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Vice Chairman Alcorn closed the public hearing and recognized Commissioner Hart for action on these items. (A verbatim transcript is in the date file.)

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Commissioner Hart MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON THE RIDING AND BOARDING STABLE ZONING ORDINANCE AMENDMENT TO A DATE CERTAIN OF APRIL 14, 2010, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENT.

Commissioners de la Fe and Lusk seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

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ZONING ORDINANCE AMENDMENT (EDITORIAL & OTHER MINOR REVISIONS) – To amend Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows: (1) Revises Sect. 15-103 concerning nonconforming structures damaged or destroyed by a natural disaster or other act of God, by defining "act of God," and granting property owners whose properties are damaged by an accidental fire to have the same rights to rebuild their property as if damaged by an act of God. (2) Replaces the reference to the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services in the group residential facility definition with a reference to the Virginia Department of Behavioral Health and Developmental Services. (3) Replaces the reference to Sect. 2-409 regarding condominiums in Sect. 2-501 with a reference to Sect. 2-518. (4) Replaces the references to Chapter 67 (Sanitary Sewers and Sewage Disposal) and Chapter 68 (Individual Sewage Disposal Facilities) of the Fairfax County Code in Sections 2-503 and 7-808 with references to Chapters 67.1 and 68.1, respectively. (5) Replaces the reference to Part 6 of Article 8 for kennels and animal shelters in Sect. 2-512 with a reference to Part 5 of Article 9. (6) Revises the R-P and R-C District regulations to include a place of worship with a child care center as either a special permit or special exception consistent with existing provisions in Articles 8 and 9. (7) Replaces the reference to Par. 5 of Sect. 9-401 in Sect. 2-104 with a reference to Par. 6 of Sect. 9-401. (8) Replaces the reference to the Washington Metropolitan Area Transit Authority in Sect. 5-602 with a reference to electrically-powered regional rail transit facilities or regional non-rail transit facilities. (9) Clarifies Sect. 16-203 to state that amendments to a previously approved PRC plan shall be subject to Board of Supervisors approval in accordance with Sect. 16-203 governing PRC plan approval. (10) Replaces reference to the Fairfax-Falls Church Community Mental Health and Mental Retardation Services Board in Sect. 19-407 with a reference to the Fairfax-Falls Church Community Services Board. COUNTYWIDE. PUBLIC HEARING.

Doug Hansen, Zoning Administration Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He stated that staff recommended adoption of the proposed Amendment.

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

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Commissioner Hart MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE PROPOSED ZONING ORDINANCE AMENDMENT REGARDING *STATE CODE* CHANGES, EDITORIAL, AND OTHER MINOR REVISIONS, AS PRESENTED IN THE STAFF REPORT DATED FEBRUARY 9, 2010, WITH THE FOLLOWING MODIFICATION: ON PAGE 5, LINE 34, OF THE STAFF REPORT, THE AMENDED REFERENCE FOR SECTION 3-P04 AND SECTION 3-C04 SHOULD READ, "PARAGRAPHS 2 OR 3," IN LIEU OF PARAGRAPH 2 ONLY, WITH PARAGRAPH 2 APPLYING TO SECTION 3-P04, AND PARAGRAPH 3 APPLYING TO SECTION 3-C04, WITH THE ENTIRE AMENDMENT AS MODIFIED HAVING AN EFFECTIVE DATE OF 12:01 A.M. ON THE DAY FOLLOWING ADOPTION.

Commissioners de la Fe and Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

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2232-L08-25 – T-MOBILE NORTHEAST LLC & SPRINGFIELD SWIMMING & RACQUET CLUB, INCORPORATED – Appl. under Sects. 15.2-2204 and 15.2-2232 of the *Code of Virginia* to permit a telecommunications facility. Located at 7400 Highland St. on approx. 3.75 ac. of land zoned R-3. Tax Map 80-1 ((5)) (52) 1. (Concurrent with SE 2009-LE-016.) LEE DISTRICT.

SE 2009-LE-016 – T-MOBILE NORTHEAST LLC & SPRINGFIELD SWIMMING & RACQUET CLUB, INCORPORATED – Appl. under Sect. 3-304 of the Zoning Ordinance to permit a telecommunications facility. Located at 7400 Highland St. on approx. 3.75 ac. of land zoned R-3. Tax Map 80-1 ((5)) (52) 1. (Concurrent with 2232-L08-25.) LEE DISTRICT. JOINT PUBLIC HEARING.

James Michal, Esquire, Jackson & Campbell, PC, reaffirmed the affidavit dated February 1, 2010. There were no disclosures by the Commission.

Brenda Cho, Zoning Evaluation Division, Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. She stated that staff recommended approval of the applications.

Commissioner Hart pointed out that Development Condition Number 19 in the memorandum dated March 31, 2010, should be corrected to say "and the flag shall not be flown."

Mr. Michal explained that T-Mobile had received approval for a facility over a year ago at a nearby industrial site; however, subsequent to that the approval, the agreement with the landowner had fallen through and the facility could not be built. Thus, he said, T-Mobile was forced to find another location and the Springfield Swim and Racquet Club was selected as a last resort since no commercial property was available. Mr. Michal noted that this proposal was consistent with the County's mission to locate telecommunications facilities at swim clubs and said the facility would provide the club with funds needed for maintenance and upkeep. He noted that a flagpole monopole, with a smaller compound facility, would be used. He added that the applicant had received approval from the Lee and Springfield District Land Use Committees and said there was no opposition from the Springfield Civic Association. Mr. Michal noted that he had provided a letter to Commissioner Lusk, a copy of which is in the date file, saying that should this application be approved, T-Mobile would relinquish its previous approval in 2232-L06-19 for a telecommunications facility at 7700 Southern Drive in Springfield, Virginia.

Commissioner Lusk praised the applicant for ensuring that the telecommunications facility at Southern Drive would not be built and said the current location was more appropriate and would have less visual impact on the surrounding community.

Commissioner Lawrence and Mr. Michal discussed other providers and the possibility of collocating satellite dishes on the pole.

Ms. Cho noted that Development Condition Number 7 precluded antennas from being attached to the exterior of the flagpole monopole.

In response to remarks by Commissioner Harsel, Mr. Michal said flush-mounted antennas were still effective for telecommunications facilities.

Answering a question from Commissioner Lusk, Mr. Michal said the owner of the previously approved site had decided not to allow the monopole on his property.

In reply to questions from Commissioner Litzenberger, Mr. Michal confirmed that the facility would be similar to one located in the Sully District. He said the mechanism to raise and lower the flag would be provided to prevent light pollution.

Responding to a question from Commissioner Flanagan, Mr. Michal said the swim club had decided that a flagpole was more appropriate than a treepole for the site.

Vice Chairman Alcorn called the first listed speaker.

Mark Renahan, 7422 Highland Street, Springfield, representing the Springfield Civic Association, spoke in opposition to the applications because the flagpole monopole was not appropriate in a residential neighborhood. He pointed out that there were at least three industrial sites adjacent to the Beltway within one mile of the proposed site that were more suitable and said the facility would loom over his home. Mr. Renahan disputed the club's position that the added revenue would keep the swim club open for two years and that membership would increase with the impending BRAC jobs at Fort Belvoir.

Commissioner Lusk pointed out that the Planning Commission's decision would be based on location, character, and extent, rather than the future viability of the swim club. He also noted that the Springfield Civic Association had voted not to oppose the applications.

Commissioner Hart, Anita Capps, Planning Division, DPZ, and Mr. Renahan discussed the location of the proposed monopole and its proximity to Mr. Renahan's property.

Bruce Waggoner, Springfield Civic Association Board Member, 6944 Essex Avenue, Springfield, spoke in favor of the application. A long-time member of the Springfield Swim and Racquet Club, he noted the club's distinguished past and said the tower would provide the club with collateral to refurbish the facilities and recruit members.

In response to a question from Commissioner Lusk, Mr. Waggoner said the Springfield Civic Association had deferred to the swim club for the final decision on the monopole.

Answering a question from Commissioner Flanagan, Mr. Waggoner explained that revenue was not the deciding factor for monopole and said the swim club had decided the flagpole was the best choice for the site.

There being no more speakers, Vice Chairman Alcorn called for a rebuttal statement from Mr. Michal.

Mr. Michal discussed the coverage area and noted that the goal was to provide in-building coverage as well as mobile coverage.

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

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Commissioner Lusk MOVED THAT THE PLANNING COMMISSION FIND THAT THE FACILITY PROPOSED UNDER 2232-L08-25 SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT, AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA*, AND IS SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE COMPREHENSIVE PLAN.

Commissioner Flanagan seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SE 2009-LE-016, SUBJECT TO THE DEVELOPMENT CONDITIONS NOW DATED MARCH 31, 2010.

Commissioner Flanagan seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE WESTERN, EASTERN, AND SOUTHERN PROPERTY LINES TO THAT SHOWN ON THE SE PLAT.

Commissioner Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

Commissioner Lusk MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DPWES TO PERMIT A MODIFICATION OF THE TREE CONSERVATION PLAN ELEMENTS FOR SE 2009-LE-016 IN FAVOR OF THE LANDSCAPING SHOWN ON THE SE PLAT.

Commissioners Flanagan and Lawrence seconded the motion which carried unanimously with Commissioners Hall, Murphy, and Sargeant absent from the meeting.

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The meeting was adjourned at 10:07 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, VA 22035.

Minutes by: Jeanette Nord

Approved: June 23, 2011

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