ARCHSTONE

March 12, 2010

Via E-Mail & U.S. Mail

Walter L. Alcorn
Chair, Tysons Committee
Fairfax County Planning Commission
12000 Government Center Parkway, Suite 330
Fairfax, Virginia 22035

Members, Tysons Committee
Fairfax County Planning Commission
12000 Government Center Parkway, Suite 330
Fairfax, Virginia 22035

Re: Archstone Tyson's Corner Apartments (Tax Map 29-3 ((1)) 35)

Dear Mr. Alcorn and Members of the Committee:

Our company, Archstone, is the owner of the Archstone Tyson's Corner Apartments, a 217 unit apartment community located on approximately 10 acres of land at 1731 Gosnell Road in the South Subdistrict of the Tysons Central 7 District. As one of the leading national developer/owners of multi-family housing, Archstone's total portfolio represents over 80,000 apartment homes in the best markets throughout the US. Within the DC MSA, Archstone is the largest owner of Class A multi-family housing, with a total local portfolio in excess of 18,000 units, 2,524 of which are located in Fairfax County. At today's values, Archstone's current investment in Fairfax County is in excess of $500,000,000.

At Archstone, we strive every day to provide the highest quality experience and value for our residents who, through their hard work and determination have afforded themselves the opportunity to choose where to call home. We further believe that in our mission to provide quality and value, our interests are aligned with County leaders who have guided Fairfax County on a path of economic prosperity and quality of life unmatched by any other large jurisdiction in the United States. It is in this collaborative spirit of shared success that we are writing today in response to several aspects of the proposed plan for Tyson's Corner.

Over the past few years, Archstone has been involved with the Tyson's Planning process. Through our involvement, we contributed to a December, 2008 joint presentation to this Committee on the establishment of principles that would guide the transformation of Tyson's Corner from its current incarnation as an successful suburban, automobile centric, office and retail submarket into a true, 24 hour, pedestrian focused, urbanized mixed use community. At this meeting, we made clear our support for the vision of a vibrant, dense, smart, pedestrian-friendly, multi-use Tyson's Corner that attracts and retains businesses through the intelligent synthesis of planning and economic development strategies and incentives that encourage reinvestment and redevelopment. Unfortunately, many features of the current plan proposal create significant *disincentives* both for investment and increased urbanization, thereby jeopardizing the likelihood that Tyson's will ever be able to realize its full potential.

WHY ARE INCENTIVES NEEDED TO REDEVELOP IN TYSON'S?

Like many owners in Tyson's Corner today, our current investment is performing at or above the expectations of our investors. As this level of success is only likely to **increase** with the introduction of thousands of potential customers via Metrorail, **existing uses will become even more difficult to displace**.

For example:

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Archstone Tyson's Corner is located less than ¼ mile from the Central 7 Metro station, a station that will provide our existing residents with transit access while also bringing thousands of new potential residents to our community. **As enhanced equity returns with this asset are largely assured should Archstone simply maintain the apartments as-is, redevelopment becomes that much harder to justify**. Therefore, should the County desire redevelopment, carefully-crafted, *intelligent* incentives will likely be required to achieve the new vision for Tyson's that I believe we all share.

WHAT ISSUES WITHIN THE PLAN ARE CAUSES FOR CONCERN?

Consolidation

Parcel consolidation requirements of any size in the Tyson's Central 7 District and other TOD districts pose significant challenges from both a business and urban design perspective and therefore pose a significant threat to the potential realization of the Tyson's vision. **It may be instructive to the committee to learn that nowhere in Archstone's 30 year history of investment, throughout the United States, have we ever encountered a jurisdiction that mandated a requirement such as that being proposed.**

Business Perspective - As no two property owners are likely to share the same financial requirements, desired redevelopment timing or investment horizon, through the requirement for consolidation, individual **owners wishing to further the Tyson's vision can be prevented from doing so simply through the inaction of their neighbors**.

Further, what property owner would volunteer their existing property into a highly politicized entitlement process simply to enable their neighbor to redevelop an adjoining parcel? If an owner has no present intention of redevelopment, why risk their property becoming a non-conforming use? What if down the road, they found a better use for the property? Would they be able to unwind the approvals? Why risk a successful property today for an uncertain and potentially unwanted future?

If the goal for Tyson's is sustained redevelopment that best leverages the existing investment in METRO, that encourages more compact development, that enables growth to occur incrementally and that leads to enhanced opportunity for all, the consolidation requirement is a mistake.

Urbanism Perspective – What separates urbanity from sub-urbanity? The manner in which buildings are perceived.

In an urban setting, buildings serve to define the public realm, thereby elevating the public to a position of hierarchical primacy over the individual buildings themselves. In suburban settings buildings are conceived as objects in a field, relegating public space to the realm of what isn't rather than what is. In order to match the vision for Tyson's with the likely result of a plan, it is important to insure that everyone voting on the plan understands the benefits and limitations of each typology before mandating either into law.

Suburban Typology - When conceived as objects in a field, suburban buildings are normally designed with 4 exposures, each requiring setbacks of space that further a building's singular object nature. Suburban sites therefore tend to be larger than urban sites, and result in a landscape where buildings compete with one another for attention and space. In suburban settings, streets serve to bring people to buildings. Due to the larger parcel sizes and increased building separation the preferred mode of suburban transportation is largely automotive. **One investment benefit of the suburban typology is that individual parcels are self reliant, complete thoughts in and of themselves, and therefore don't rely on visual continuity with neighboring properties to enhance their finished presentation and value. One example of this typology is Tyson's Corner today.**

Urban Typology - In defining the public realm, urban buildings normally contain one primary face, reside on smaller parcels of land, and address the street in a regular manner that is both compatible and complementary with its neighbor. In an urban context, each building should accrete value to its neighbor while furthering the

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continuity of the public experience. In urban settings, streets serve as the primary public activity zone and use buildings to provide a backdrop to the pedestrian experience. With smaller parcel sizes and decreased building separation the preferred mode of transportation is frequently on foot. One challenge in developing urban settings can be their lack of perceived completeness prior to full build out. **As urbanity is a collective notion, requiring completeness to provide the "urban experience" necessary to enhance the value of each individual real estate investment, new urban areas frequently have difficulty encouraging the "first people in". It is my understanding that this type of urbanism is the goal of the current Tyson's plan.**

While strong cases can be made on behalf of either paradigm, one significant mitigating factor requires consideration in this instance. **Tyson's Corner is not a blank slate and will likely retain its existing character and context for the foreseeable future.**

Tyson's today has an existing road network, an existing entrenched suburban nature, an existing network of land parcels, a stable of successful businesses and will soon have a train running down the center of Route 7. Therefore, when planning for the future, it is worth considering whether greater success will be found by:

a) Attempting to impose a blank slate grid pattern onto this preexisting context in a manner that largely ignores Tyson's existing suburban nature and the characteristics inherent thereof Or,

b) Looking for ways to leverage the existing road network to become more pedestrian friendly while providing intelligent incentives and form based zoning criteria that help to guide future building decisions towards greater street front orientation?

As urbanity requires perceived completeness to succeed, incentives will be required to <u>encourage owners and developers to transition their properties away from the economic self determination of sub-urbanity and towards the economic interdependence of urbanity</u> far more quickly than the proposed 50 year time horizon. Absent these incentives, and given the already highly politicized nature of land use approvals in Fairfax County, a new Tyson's is likely to emerge that is neither urban nor suburban, neither fish nor fowl, neither here nor there.

<u>Affordable Housing</u>

An unchallenged rule of economics is that limits on supply (inelasticity), combined with increases in demand result in higher prices – Welcome to housing in the DC MSA.

For the reasons outlined below, both the proposed "inclusionary zoning" recommendation and the "one for one market affordable" replacement requirement for existing units are both likely to drive housing investment into other jurisdictions and away from Tyson's Corner. This disinvestment will exacerbate the current affordable housing shortage in the area and limit the opportunity for Tyson's to emerge as a true 24 hour community.

Before we can successfully address the problem of housing affordability in Fairfax County and Tyson's Corner, it is important to first understand and agree on why the cost of housing continues to increase.

The Washington, DC area has been blessed with an engine of sustained job creation, fueled largely by direct Federal spending that allows the MSA to consistently reside among the nation's leaders in net new job growth.
New Jobs = Increasing Housing Demand.

While this job creating engine continues unabated, through the imposition of a highly politicized land use, site plan and proffer process, local jurisdictions continue to discourage and retard the creation of the new housing supply necessary to meet this demand. These jurisdictional restrictions are known as "barriers to entry". The higher the barriers are to entry, the less housing is created.
High Barriers to Entry = Limited Supply of New Housing.

The natural resultant of continually growing demand for new housing and increasing constraints on the creation of new supply is higher and higher housing costs.

IF JURISDICTIONS RECOGNIZE THIS IS A PROBLEM, THEN WHAT SHOULD BE DONE?

In response to the rising costs of housing, rather than relaxing or removing their self imposed barriers to housing creation, several local jurisdictions have attempted to increase housing affordability through the imposition of price controls that limit the amount of revenue an owner is legally permitted to achieve on selected units in new communities. While potentially well intentioned, these self described "inclusionary zoning requirements" act as further barriers to the economic viability of potential projects and in conjunction with the already costly, and time consuming political approval processes, serve to further discourage and retard the ability of the investment community to create the supply necessary to help moderate prices.

Perversely, the more burdensome the limits become on potential revenue for prospective projects, the higher all housing costs need to rise to overcome this mandate.

In a self reinforcing negative feedback loop, as job growth continues in the face of stringent restrictions on new housing supply, the more prices rise. The more prices rise, the more that jurisdictions feel the need to impose stringent price restrictions that further limit new supply creation, which, assuming continued job growth, drives prices even higher, which increases calls for more stringent controls…….

As this questionable strategy has been the defacto solution for many local jurisdictions over the past 15 years, one reasonable question would be, "has this strategy of 'inclusionary zoning requirements" helped to moderate the pace of housing cost inflation"? The obvious answer is no. In light of this reality, a more specific question to the Tyson's Task Force and the Fairfax Board of Supervisors is, "**Is the imposition of highly restrictive "inclusionary zoning price controls" and "one for one replacement of existing "market affordable" units likely the best strategy for lowering the cost of housing in Tyson's Corner and Fairfax County"?**

Once again the answer is <u>NO</u>.

HOW THEN CAN FAIRFAX BREAK THIS CYCLE?

Winning the Future – An Affordable Housing Proposal for Fairfax County

The simplest solution would be to **depoliticize housing creation in Tyson's Corner by increasing the availability of matter of right zoning for multi-family housing** at densities suitable for their locations and with form based zoning design parameters that encourage projects to privilege the public realm. This strategy:

a) is consistent with Virginia's strong history of property rights,

b) is consistent with how development was encouraged for most of the history of Fairfax County,

c) would remove significant time and cost uncertainties associated with new development in Fairfax thereby allowing the pace of housing creation to more accurately match the pace of new job creation,

d) would help to direct a disproportionate amount of housing investment dollars to Tyson's Corner and Fairfax County giving it increased leverage in its ability to both attract and retain employers, and

e) is the strategy employed by most other high growth markets throughout the US, and

f) has continually proven to be the single most effective way to achieve high levels of housing affordability even in the face of continued job creation.

g) requires Fairfax County to decide whether its greater interest lies in increasing housing affordability and choice for all residents, or maintaining political control over the process of housing creation.

If increasing matter of right zoning is not politically achievable today, Fairfax County can still assume the mantle of regional and national thought leadership on the issue of affordable housing by establishing a progressive and pro-growth strategy that is simple to create, simple to understand, simple to implement, simple to enforce and that is fair.

What's Wrong With Conventional Thinking?

1) As **housing affordability is a problem today**, any successful "affordability" legislation would likely address the problem today. Unfortunately, conventional "**Inclusionary Zoning" focuses exclusively upon tomorrow's supply**; projects that may never even be constructed and are in fact less likely due to the imposition of such legislation.

2) While affordable demand is spread across the entire spectrum of income strata, conventional "affordable housing legislation" limits affordable supply to preselected income groups and in fixed quantities ("the lucky winners") whether or not these populations are the most underserved or in the most demand.

3) While the lack of housing affordability is a direct reflection of the exhaustive political barriers that currently exist to creating housing in the region, **conventional affordable housing legislation actually increases these barriers, thereby increasing the cost of housing to all consumers**.

What Then Should Be Done?

To achieve lasting and meaningful success, an affordable housing program needs to address both the current and future demand for affordable housing while insuring the availability of affordable supply in quantities that are adaptable to the ever changing needs of the market. Therefore:

A successful affordable housing program would:

1) Be open and available to all existing rental apartments in the county today; thereby mitigating today's affordable need with today's housing stock.

2) Provide true revenue neutrality for property owners thereby removing any reason for their non-participation.

3) Provide property owners with an incentive to lease otherwise vacant units to an expanded pool of potential residents at lower price points.

4) Increase the pool of residents who can benefit from housing cost assistance thereby increasing the total pool of potential residents available to maximize occupancy in all apartment communities.

5) Provide adequate housing across the entire spectrum of price need and in quantities that are adaptable to best meet the current and future market demands of each price niche.

6) Help direct investment capital to Fairfax County rather than to its competing jurisdictions.

7) Be simple to establish, implement and enforce.

8) Be able to succeed in any market environment and under all market conditions.

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9) Work for any type of construction.

Amazingly, each of the above stated objectives can be realized simply and elegantly through the adoption of a 10% affordable housing property tax credit.

How Would A Program Like This Work?

For any prospective resident earning less than 80% of the area median income, a property owner would be permitted to reduce the annual market rent of any apartment to an amount equal to 32% of the prospective resident's annual gross income (the "qualified rent"). In exchange for every dollar of reduced market rent, the property owner would receive a dollar for dollar property tax credit, up to 10% of their annual property tax bill. All currently existing and proposed apartment properties in the county would qualify.

Why A Tax Credit?

As apartment values are based upon their Net Operating Income (NOI = total income minus total expenses), by supplementing reduced rental income with reduced property taxes, a property's NOI would remain unchanged (thereby preserving the overall asset value) while expanding the pool of potential residents available to each property, increasing overall market occupancy.

What Are The Benefits?

1) By allowing all existing and future properties to participate, Fairfax County would no longer be relying solely upon prospective (and hard to create) new construction to meet their affordable housing demand.

2) Through true revenue neutrality, apartment owners would be incentivized to provide lower cost housing. The expanded pool of potential residents would actually increase their overall occupancy levels and by extension, their NOI, making their current assets even more valuable.

3) As the demand for housing exists across all income levels in fluctuating amounts, no single income group would be the primary beneficiary of this benefit. Through the rationality of market efficiency, affordable units would be available to residents in all income strata and in quantities proportionate to their demand.

4) As the underlying economics of any proposed apartment investment would be undiluted by the addition of the affordable units, housing investment dollars would be disproportionately directed towards Fairfax County and away from competing local jurisdictions that use "Inclusionary Zoning" to further inhibit housing supply. Therefore, in a world of decreased investment opportunity, Fairfax County would obtain a strategic advantage in attracting new and expanding businesses to the County.

In summation, the lack of affordable housing in the DC area is an immediate and ongoing problem with no end in sight. Choosing to address this problem with another investment retarding "inclusionary zoning proposal" would result in:

- **no change in the supply of affordable housing today**
- **a reduction of affordable supply tomorrow**
- **increased difficulty in attracting and retaining local employers**

Affordable housing tax credits present an elegant and practical solution to the problem of affordable housing supply. Now is the time for Fairfax to win the future with vision, intelligence and compassion.

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Civic Center Designation

THE NEED FOR PARK AND ROADS

No one disputes the need or desirability for increased usable open space and a more pedestrian friendly street environment. The primary question is how to best achieve these objectives in the most timely and cost practical manner, thereby maximizing their likelihood of realization?

Civic Commons - The South Sub district has been designated as the "Civic Center" of Tyson's and has been selected as the location of a "great public space" known as the Civic Commons. The Plan's location for Civic Commons is in the center of what is today a very successful retail operation adjacent to the future METRO Station. While everyone would welcome a beautifully defined urban open space, by limiting the ability of this property owner to maximize his valuable, METRO front land in a revenue positive manner, the site is unlikely to redevelop, the park will not move forward, and everyone loses.

Boone Boulevard – In addition to Civic Commons, the Plan calls for the construction of Boone Boulevard, a new 90 foot wide right of way through the South Sub district, that connects Route 123 with Gosnell Road just west of the Route 7 intersection. The stated purpose of the Boone Boulevard extension is to help alleviate traffic on Route 7 through the creation of a parallel road network.

Obviously we need additional vehicular access points into, out of, and through Tyson's. While valid questions have been raised concerning the width of the Boone Boulevard, its ability to be constructed in a "pedestrian friendly" and "timely manner", and the tremendous elevation changes that would have to be overcome, the more pressing questions are:

> **"Where would Boone Boulevard go once it got to Gosnell Road?",** and
>
> **"Is hoping and waiting for the construction of Boone Boulevard** (by hoping and waiting for existing businesses, with multiple ownerships, across the entire sub-district to close shop, consolidate parcels, navigate a politically charged entitlement process, design and permit new projects, hopefully find financing, break leases and start construction) **the best way to insure that critical infrastructure is delivered to Tyson's in a timely manner necessary to spur the new investment and increased urbanism that is supposedly at the heart of the plan?"**

Had the plan more carefully considered Tyson's pre-existing context, a simple, rational, and achievable solution to both the need for expanded park space and an expanded road network might have been revealed.

Gosnell Road - is an existing, underutilized 4 lane road that crosses both Route 123 and Route 7 at grade. Just west of Route 7 (at the proposed intersection of Gosnell and Boone Boulevard) an existing stream bed travels north from Gosnell, running parallel to Route 7, and past the 267 overpass. As this stream bed is the only possible location for the further extension of either Boone Boulevard or Gosnell Road, **it has the potential to service the area's needs for both a large and lovely linear park as well as the long hoped for Route 7 bypass**. Just as the George Washington Parkway has fused vehicular access with verdant, pastoral park land, the proposed **Gosnell Parkway** could provide the same benefit for Tyson's Corner.

What are the benefits of this strategy?

a) The County will not be relying on the removal of stable businesses to achieve its planned expansion of either park space or road network.
b) The County can best leverage its existing investment in Gosnell Road.
c) As an existing stream, the land north of Gosnell Road is presently undevelopable for private use and therefore has NO INVESTMENT VALUE.

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d) Through its length and size, the linear parkway could serve as an outstanding community anchor benefitting all Tyson's residents and workers throughout the entire length of the redevelopment plan.

e) By creating a viable orienting amenity away from Route 7, secondary site locations would be provided an additional inducement for near term re-development.

f) As the proposed parkway land is largely vacant, the project could be completed in an expedited time frame helping further induce investment.

CONSIDERING THE CHALLENGES INHERENT WITHIN THE CURRENT PLAN, ONE QUESTION WORTH EXPLORING IS: "WHERE IS PLANNING WORKING IN THE DC AREA TODAY?"

Planning for Success

Where, today, in the DC MSA, is the combination of zoning, transit, and government incentives achieving the greatest success in attracting a disproportionate share of high quality, multi-use, pedestrian oriented, 24-hour development? The answer may surprise you. **NoMa, along First Street in Northeast DC.**

Eight years ago, NoMa (North of Massachusetts Avenue) was a vacant sea of industrial zoning and contaminated surface parking lots on the northeastern edge of Downtown DC. Today it is the only submarket within the MSA with considerable new office development, new residential development and large scale office leasing still taking place.

Q: HOW DID DC MAKE THIS HAPPEN?

A: BY REMOVING THE BARRIERS TO NEW INVESTMENT!

With the following simple, six point plan, the DC government was able to create what is today, the most vibrant new development area in the US:

1) **METRO –** The DC Government paid for the construction of the New York Avenue Metro Station; the first new station built within the existing METRO line system in over 30 years. The cost of the station was defrayed in part by a slight increase in the property tax rate for all NoMa property owners.

2) **MATTER OF RIGHT ZONING –** The DC government blanket rezoned the entire area from heavy industrial to C-3-C "High Density Commercial", a zoning category that permits, as a matter of right, a 6.5 FAR for office, residential, hotel, retail or any combination thereof. Through matter of right zoning, individual parcels are never trapped into a specific site plan or use, thereby providing maximum flexibility to the investor. Also, with matter of right development, the developer can avoid a lengthy, costly and risky entitlement process that adds considerable uncertainty to land acquisition and product design. With these risks removed, the developer can focus instead on providing the best design and product to meet the market in a timely manner. It is in large part due to the flexibility with C-3-C zoning that land in NoMa has maintained its value even during this recessionary period.

3) **TDR RECEIVING ZONE –** The DC government established NoMa as one of two primary TDR (Transferrable Development Rights) receiving zones in the District, thereby permitting an additional 3.5 FAR and 30 feet in building height on all NoMa sites. The combined 10 FAR and 120' building height is the highest density allowed in the District of Columbia. Further, by creating far more TDR sending zones than receiving zones, the DC Government generated a strong "buyers market" for TDR's, that lowered the TDR price to (+/-) 5.00 per FAR foot (as compared with +/-$70.00 per FAR foot for ground), thereby significantly **lowering the cost to build NoMa to the maximum density**.

4) **HOUSING TAX ABATEMENT –** To encourage residential development, the DC Government approved a 10 year, $1,500 per unit per year, residential tax abatement for the first 3,000 units to be

constructed in NoMa. The lower tax burden has helped residential projects generate financeable returns, even amidst the current recession and credit shortage.

5) **NO HOUSING PRICE CONTROLS** – The DC Government exempted NoMa from any affordable housing requirements, thereby allowing all new housing units to be rented or sold at market rates.

6) **DESIGN GUIDELINES NOT MANDATES** – The DC Government encouraged redevelopment within the existing infrastructure and street system and established design guidelines to help establish and articulate a vibrant pedestrian realm.

HAS IT WORKED?

The results speak for themselves. Within the past four years, NoMa has become the new home of the Securities and Exchange Commission, National Public Radio, the Bureau of Alcohol, Tobacco and Firearms, the Department of Justice, the General Services Administration, and Kaiser Permanente just to name a few. In fact, **during 2008 and 2009 (the two worst economic years since the early 1980's), over 2.2 Million square feet of new leases were signed in NoMa, over 1,000 housing units have either started or completed construction, and NoMa saw the opening of its first hotel property**.

At Archstone, we plan on starting construction on Archstone NoMa, a 469 unit, apartment community in April of this year. While there is still a long way to go towards eventual build out, NoMa has proven that intelligent incentives are the best way to enact positive change in the built environment both for today and for years to come. As a NoMa property owner and Board Member of the NoMa Business Improvement District, I would like to personally invite members of the Committee to visit NoMa, to speak with BID members about the success that we have achieved together and to see how this success could easily translate to Tyson's Corner. Should anyone so desire, I would be happy to arrange this visit in hopes that we can share ideas about how to best insure that Tyson's achieves the success that we have all worked to assure.

As in NoMa, much can be achieved in Tyson's if the right combinations of incentives are provided. I encourage you to consider the points raised herein and to contact me if you wish to pursue them further. I appreciate your consideration of my suggestions as you move towards finalizing the Plan for Tyson's and thank you all for your continued service to the community.

Very truly yours,

ARCHSTONE

Robert M. Seldin
Senior Vice President

Enclosure

cc: James P. Zook
G-4 Owners

2345 Crystal Drive, Suite 1100 Arlington, Virginia 22202
Telephone (703)399-3532 Fax (703)399-3554 rseldin@archstonemail.com