



ARLINGTON COUNTY, VIRGINIA

County Board Agenda Item Meeting of February 7, 2004

DATE: January 21, 2004

SUBJECT: Zoning Ordinance amendment to Section 36. Administration and Procedures of the Arlington County Zoning Ordinance to amend regulations regarding the rezoning and site plan application process, specifically filing dates and processing times for rezonings, site plans, and major site plan amendments.

C. M. RECOMMENDATION:

Adopt the attached ordinance to amend, reenact, and recodify Section 36 of the Arlington County Zoning Ordinance, in order to facilitate an orderly and balanced process; to encourage economic development; and other reasons required by the public necessity, convenience and general welfare and good zoning practice.

ISSUE: None.

SUMMARY: Rezoning and site plan review has evolved so that the goals of changes made to the review cycle in 1990 and 1991, which, at that time, included sufficient time for review, better coordination among the parties involved in site plan review, and reduction of deferrals, are not being met for the great majority of site plan applications. Staff proposes to lengthen the rezoning and site plan cycle, to allow some variation in the amount of time between filing and County Board hearing based on the complexity of each application, and to eliminate the quarterly filing deadlines. These changes are being proposed in order to dissuade developers from filing plans that are technically complete, but inadequately designed, and to more appropriately reflect the current duration of rezoning and site plan reviews, which have become longer since 1990 due to increased expectations by staff, the public, advisory commissions, and the County Board. Therefore, staff recommends approval of the proposed amendment to Section 36 of the Arlington County Zoning Ordinance that would amend, reenact, and recodify zoning provisions regarding filing dates and processing times for site plans. In addition, rezoning applications that are filed concurrently with site plan applications, as well as stand alone rezoning applications, should be subject to the same criteria for cycle length and filing times.

BACKGROUND: Currently, the Zoning Ordinance stipulates that applicants file applications for rezonings, site plan approvals, or major site plan amendments 90 days before the public

County Manager: _____

County Attorney: _____

Staff: Jill Hunger and Lisa Maher, CPHD, Planning Division

PLA-3501

hearing. The Zoning Ordinance establishes the public hearing dates for site plans and major site plan amendments for the “first regularly scheduled County Board meetings in the months of February, May, July, and November, except the County Board may establish, on its own motion, another time for the hearing, which hearing may be at any board meeting.” Thus, the Zoning Ordinance language has impliedly instituted quarterly filing deadlines for site plans and major site plan amendments with a review period of 90 days.

The County Board amended the Zoning Ordinance to extend the length of the site plan process from 68 days to 90 days in 1990 and to institute a parallel change for rezonings in 1991. This amendment was in response to recommendations developed by the Task Force on the Development Process in 1987. In the original staff report, it was anticipated that the “additional time [with a lengthened cycle] would: 1) allow for more overall time for review by staff, the Site Plan Review Subcommittee, the Transportation Commission and affected civic associations; 2) allow for better coordination of the staff and Site Plan Review Subcommittee reviews with review by the Transportation Commission, other relevant commissions and affected civic associations; 3) eliminate the need for public hearings in late summer when many people are on vacation; 4) allow applicants more time to respond to citizen concerns and to staff, Site Plan Review Subcommittee and Transportation Commission review comments; and 5) reduce the number of deferrals caused by the current time constraints.”

Now, more than ten years later, projects require increasingly extensive review by staff, civic associations, the Site Plan Review Committee and numerous commissions. Because of this extensive review process, the number of site plans currently under review, and scheduling complexity, the 90-day review period is rarely sufficient. In addition, a number of applicants have filed applications prematurely in order to meet the filing deadlines, instead of waiting for the next quarterly filing date. While meeting the letter of formal site plan submission requirements, such applications are often lacking in detail or attention to good urban design and require more work than a well thought out submittal by the applicant, staff, and others involved in the public review process, thereby lengthening the time needed for public review. The elimination of the quarterly cycle is expected to allow developers to file when their application is complete, without having to wait for the next deadline. Staff hopes this will eliminate the incentive for premature submissions.

Rezoning applications filed concurrently with site plan or site plan amendment applications should be subject to the same review time as the accompanying site plan or site plan amendment. While stand alone rezoning applications are filed infrequently, they are subject to the same increased scrutiny and review as site plans. Therefore, staff recommends amending the Zoning Ordinance language on rezoning applications to increase the review time to 120 days.

DISCUSSION: Over the past several years, there has been significant discussion among Planning Commissioners and staff about the considerable number of site plan applications that have been filed in each site plan cycle and the difficulty of completing the public review process within the 90-day time frame as set forth in Section 36.H.2. of the Zoning Ordinance. Not only is the number of site plan applications causing scheduling difficulties with, for example, the Site Plan Review Committee, but also the increasing complexity and public scrutiny in the review of the site plan proposals raises the bar as to the "readiness" of site plans for formal review by the

Planning Commission and County Board. When staff and/or the public does not view the site plans as "ready," staff often recommends deferral of the plans for several months. Site Plan applications accompanied by rezoning requests, General Land Use Plan amendments, Master Transportation Plan amendments, and/or other requested actions, including easement or street vacations or modifications of use regulations contribute to the length of project review. The varying lengths of review have resulted in site plans being heard by the Planning Commission, other advisory commissions, and the County Board nearly every month. The time the advisory commissions and the County Board spend on each site plan can be substantial, so spreading the consideration of site plans through the year can actually help prevent some meeting agendas from becoming unmanageably long.

The quarterly filing dates have not helped either to shorten the site plan cycle or keep consideration of site plans at commission and County Board meetings to a quarterly schedule. Since, as described above, spreading consideration of site plans through the year would even out staff, Commission, and the County Board workloads, staff sees no real benefit to maintaining the current filing schedule and recommends that the County Board permit site plan filings at any time, subject to the recommended cycle length proposed below. The County's Administrative Regulation 4.1, governing site plans, will establish the timing of initial staff review for completeness of both preliminary and final site plan application submissions, and for notification to applicants of the date on which a site plan application is accepted and the cycle formally begins.

Since the site plan cycle length change in 1990, site plan review has evolved. The reviews now cover more issues and project detail than in the past, and public and advisory commission review has become more extensive as well. As the Metro corridors, where most site plans are located, have redeveloped, the number of residents living or working in close proximity to new projects has increased, increasing public involvement in site plan review. Finally, additional administrative requirements both at the beginning and end of the site plan review process have also reduced the time available for the actual review process.

During the years 2000 through 2003, the County Board acted on 56 site plans and major site plan amendments, one Phased Development Site Plan (Potomac Yard), and one major Phased Development Site Plan Amendment (Village at Shirlington). The net average review time of the site plan proposals, excluding the Potomac Yard PDSP and the Waterview Site Plan that required site specific studies adding significantly to their review time, was 182 days. During this time frame, only eight site plans were approved by the County Board within one 90-day cycle (Courthouse Metro Plaza, Taylor Lee Court Townhouses, the Washington Capitals Training Facility, Waterview major amendment, Air Force Association major amendment, Palmer Property Townhouses, Columbia Heights Residential, and Zetlin Townhouses).

In order to create a more efficient process that more accurately reflects the time it takes for site plans to move through public review, staff recommends that the site plan process be amended to include a tiered approach. This approach would be dependent upon the types of requests accompanying the site plan application and the complexity of issues associated with the requests, e.g., rezoning, Comprehensive Plan changes, variations in other County plans and policies. With this approach, the applicant would be informed at the time of the site plan filing how long the

process likely would take. For consistency, staff also recommends concurrent timing for rezoning applications related to site plan applications, as well as a revised minimum review cycle for stand alone rezoning applications. Staff described the current proposal at the Planning Commission work session on December 16, 2003 and received generally positive reactions. The tiered approach to the rezoning and site plan public review processes is described below:

- **120 Day Site Plan Cycle:** This would be applicable to site plan proposals that are consistent with, or include rezoning and/or vacation requests that are consistent with, the elements of the County's Comprehensive Plan, including the existing GLUP and/or Master Transportation Plan, etc., and have no substantial policy conflicts or other issues. This tier would include a performance incentive that if the developer responds well to any potential issues or requests for change by a pre-set date, then the site plan could be brought to the County Board in 90 days if staff and SPRC resources permit such scheduling.
- **150 – 180 Day Site Plan Cycle:** This would be applicable to site plan proposals that include rezoning and/or vacation requests requiring changes to the elements of the County's Comprehensive Plan, including changes to the GLUP and/or Master Transportation Plan, etc. This cycle would also include site plan proposals that involve major policy issues including, for example, "C-O-Rosslyn" community benefits, infrastructure changes or vacation of public streets; and/or major variations from County plans and policies, such as Sector Plans, Utility Underground Policy, or Affordable Housing.
- **Rezoning Cycle:** Rezoning cycles would run concurrently with related site plan or site plan amendment applications. Rezoning applications filed independently of site plans or site plan applications would be subject to a minimum cycle of 120 days.

CONCLUSION: A lengthened public review process, to reflect currently realistic review requirements, would allow for a better-organized public and staff review process. The additional time will benefit developers as well as the community at large and provide for a more timely resolution of issues resulting in fewer deferrals. Therefore, the Zoning Ordinance amendment in this report is proposed to amend, reenact, and recodify Subsection 36 of the Arlington County Zoning Ordinance, regarding filing dates and processing times for rezonings and site plans, to facilitate an efficient, orderly and balanced process; to encourage economic development; and, for other reasons required by the public necessity, convenience and general welfare and good zoning practice. It is recommended that the County Board approve the proposed Zoning Ordinance amendment to Section 36 Administration and Procedures.

AN ORDINANCE TO AMEND SECTION 36 ADMINISTRATION AND PROCEDURES OF THE ARLINGTON COUNTY ZONING ORDINANCE TO AMEND, REENACT AND RECODIFY REGULATIONS REGARDING THE FILING DATES AND PROCESSING TIMES FOR SITE PLANS.

Be it ordained that Section 36 of the Zoning Ordinance, including provisions regarding filing dates and processing times for site plans, is hereby amended, reenacted and recodified as follows, in order to facilitate an orderly and balanced process; to encourage economic development; and other reasons required by the public necessity, convenience and general welfare and good zoning practice.

* * *

SECTION 36. ADMINISTRATION AND PROCEDURES

F. Amendments (Zoning Map Changes).

2. Every application by a property owner or contract owner for an amendment shall be filed in writing with the zoning administrator ~~ninety (90)~~ at least one hundred twenty (120) days before the public hearings; however, the county board may, on its own motion, schedule hearings for a date which is less than ~~ninety (90)~~ one hundred twenty (120) days from the date of filing of the application. When a completed zoning amendment application is filed concurrently with a completed site plan or major site plan amendment application, the zoning administrator shall notify, as required in Administrative Regulation 4.1, the applicant that the public hearing for the amendments will be concurrent with the hearing on the associated site plan or site plan amendment. The date of filing of a complete application shall be determined as set forth in Administrative Regulation 4.1, based on whether the requirements of Administrative Regulation 4.1 have been met. Public hearings for changes and amendments which are proposed by the county board on its own motion for any property within the county may be held by the county board at any meeting of the board. Applications for rezoning of county property shall be filed immediately after the board authorizes advertising of the action unless the county manager has caused an application to be filed prior to such time.

H. Site Plan Approval.

* * *

2. *Site Plan Application Process:* Every application for a site plan approval or a major site plan amendment shall be filed in writing with the zoning administrator a minimum of ~~ninety (90)~~ one hundred twenty (120) days before the public hearing; however, the County Board may, on its own motion, schedule hearings for a date which is less than ~~ninety (90)~~ one hundred twenty (120) days from the date of filing the application. When a completed site plan or major site plan amendment is filed, the zoning administrator shall notify, as required in Administrative Regulation 4.1, the applicant of the scheduled date of the public hearing for the site plan or major site plan amendment, which date will be up to one hundred and eighty (180) days after filing. The date of filing of a complete application shall be determined as set forth in Administrative Regulation 4.1, based on whether the requirements of Administrative Regulation 4.1 have been met. Public hearings for site plans and major

site plan amendments shall be the first regularly scheduled County Board meetings ~~in the months of February, May, August, and November~~ of each month, except the County Board may establish, on its own motion, another board meeting for the hearing. Public hearings for minor site plan amendments shall be as required for use permits under Subsection 36.G.4. Major site plan amendments, minor site plan amendments, and administrative changes shall be defined as follows:

- a. *Major amendment:* Any modification of the approved site plan which meets one (1) or more of the following criteria:
 - (1) Principal use of the building would change in more than five (5) percent of the total floor area of the building.
 - (2) Density would increase by more than five [5] percent of the total floor area of the building.
 - (3) Building height would increase by more than twelve (12) feet.
 - (4) Gross floor area of the first floor would change in more than twenty [20] percent of the area of the first floor.
 - (5) Change in the site area which is used to calculate density.
 - (6) Any change which the zoning administrator determines is similar in significance to the above stated changes.

- b. *Minor amendment:* Any modification of the approved plan which is not considered a major amendment and which cannot be approved administratively is a minor amendment. The subdivision of land involved in an approved site plan is a minor amendment, except, that if the following criteria are met, such subdivision may be approved as an administrative change by the zoning administrator:
 - (1) Density allocation is consistent with the zoning and approved site plan.
 - (2) Parking is consistent with the zoning and the approved site plan.
 - (3) Public improvements are consistent with the zoning and approved site plan.
 - (4) Clear evidence exists that all conditions of the approved site plan have been met or are bonded in a manner acceptable to the county manager.

- c. *Administrative change:* Any minor modification of the approved site plan which complies with the spirit of this Code, the intent of the county board in its approval of the site plan, and the general purpose of the comprehensive plan for the development of the area. Administrative changes may be approved by the zoning administrator.

* * *