



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

June 11, 2009

TO: All Architects, Attorneys, Builders, Developers, Engineers and Zoning Applicants

SUBJECT: Fee for Interpretations of Approved Zoning Applications

ISSUE: Implementation of new fee for Interpretations of Approved Zoning Applications submitted to the Zoning Evaluation Division, Department of Planning and Zoning.

BACKGROUND: On April 27, 2009, the Board of Supervisors adopted new zoning fees effective July 1, 2009. Included among them is a fee for "Interpretations of Approved Zoning Applications." The fee amount is \$500. Such interpretations are defined by the Zoning Ordinance as follows:

INTERPRETATION OF APPROVED ZONING APPLICATIONS: A determination made by the Zoning Administrator or agent that a proposed minor modification to a zoning application approved by the Board of Supervisors, the Planning Commission or the Board of Zoning Appeals is in substantial conformance with the approved zoning. Such determinations are typically made in the form of a letter and may include interpretations of proffers, development conditions, development conditions and plats.

Approved zoning applications include rezonings, proffered condition amendments, final development plan amendments, PRC plans, special exceptions, special permits, variances, and other related applications. The interpretation process is initiated through a formal written request to the Director of the Zoning Evaluation Division. Such request typically includes, among other items, a complete description of the interpretation question, a discussion of how it meets the minor modification provisions of the Zoning Ordinance, supporting documents, including highlighted plans, proffers and development conditions.

PROCEDURES: Effective July 1, 2009, the following procedures will be employed for the processing of requests for interpretations of approved zoning applications.

1. A check for the required fee must be included with any request for an interpretation of an approved zoning application. The check must be attached to the interpretation letter and

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supporting materials. An interpretation request will not be processed unless a check is submitted.

2. The check must be made payable to the County of Fairfax. A receipt for the submitted fee will be attached to the interpretation response.
3. While the electronic submission of information, particularly quality plans and graphics will continue to be useful, any interpretation requests submitted electronically will be considered preliminary or as an advance copy only.

Please see the Guidelines for Submitting Requests for Interpretations of Approved Zoning Applications attached and found on the DPZ website for additional information (www.fairfaxcounty.gov/dpz/zoning/interpretations).

If you have any questions or need additional information, please contact the Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1290, TTY 711.

Thank you for your cooperation.



Regina C. Coyle, Director
Zoning Evaluation Division, DPZ



INTERPRETATIONS OF APPROVED ZONING APPLICATIONS

Guidelines for Submitting Requests for Interpretations Related to Approved Zoning Applications (Rezoning, Special Exceptions, Special Permits and Variances)

Subsequent to the approval of a zoning application, all site plans, subdivision plans, building permits and occupancy permits are required by the Zoning Ordinance to be in substantial conformance with the application as approved by the Board of Supervisors, the Planning Commission or the Board of Zoning Appeals, respectively.

"Substantial conformance" is defined in the Zoning Ordinance as follows:

Substantial conformance shall be as determined by the Zoning Administrator upon consideration of the record and shall mean that conformance which leaves a reasonable margin for minor modification provided that:

- such modification is consistent with and does not materially alter the character of the approved development including the uses, layout and relationship to adjacent properties depicted on the approved special permit plat, special exception plat, conceptual development plan, final development plan, development plan, or proffered generalized development plan;
- such modification is consistent with any proffered or imposed conditions that govern development of the site; and,
- such modification is in accordance with the requirements of the Zoning Ordinance.

The Zoning Ordinance provides that minor modifications to an approved zoning may be permitted when it is determined by the Zoning Administrator that such are in substantial conformance with the approved zoning and that such are in response to issues of topography, drainage, underground utilities, structural safety, layout, design vehicular circulation, or requirements of the Virginia Department of Transportation or Fairfax County; or are accessory uses; or are accessory structures or minor building additions.

Please refer to the specific Zoning Ordinance sections below related to minor modifications for:

Special Permits: Article 8, Section 8-004
 Special Exceptions: Article 9, Section 9-004
 PRC (Planned Residential Community) District: Article 16, Section 16-203
 P (Planned) Districts: Article 16, Section 16-403
 Proffered Conditions: Article 18, Section 18-204

The Zoning Ordinance does not contain specific minor modification provisions related to variances, although substantial conformance determinations may still be requested.

If a proposed change to an approved zoning is not in substantial conformance with an approved zoning, the filing of an application to amend the previously approved zoning application would be required to effectuate the change.

The determination of whether a proposed modification is in substantial conformance with an approved zoning is made through the interpretation process. In order to submit a request for an interpretation related to an approved rezoning, special exception, special permit or variance, please submit a letter to Regina C. Coyle, Director of the Zoning Evaluation Division, who serves as the duly authorized agent of the Zoning Administrator for this process, at the Department of Planning and Zoning, 12055 Government Center Parkway, Suite 801, Fairfax, Virginia 22035. The letter should include the following information.

- Clear identification of your name and how you may be contacted (address, phone number, etc.).
- A reference to the specific property and zoning application which is the subject of the interpretation. Identify the property by tax map number and complete zoning application number, if known.
- Provide a complete description of the interpretation question, with an explanation of the basis for the question or the proposed change and how it meets the minor modification provisions of the Zoning Ordinance.
- If the interpretation relates to a specific proffer or development condition, identify the proffer or development condition and provide a copy.
- If the interpretation proposes a physical change to an approved plat or development plan, provide a graphic illustrating the proposed changes ideally at the same scale as the approved plan. At least three copies of the plat or development plan should be provided. Each document should be highlighted in red, clearly circling or otherwise identifying any proposed changes.
- If the proposed modification would change tabulations from those on an approved plan, such as open space, tree cover, floor area, a comparison of the proposed versus existing tabulations should be provided.
- For building additions or new accessory structures, an architectural elevation and/or a description of proposed building materials may be helpful.

By reviewing these guidelines and submitting materials that fully support and document your request, time will be saved in obtaining the answer to an interpretation question. When requests for interpretation lack one or more of the applicable elements listed above, unnecessary time is spent between staff and a requester to obtain additional information. The average turnaround time for interpretation requests is 30 days.

It should be recognized that these are general guidelines and you may be asked for additional information by staff assigned to review a particular request.

Effective July 1, 2009, a fee of \$500 is required for the processing of interpretation requests. A check for the fee amount must be included with your request made payable to the County of Fairfax.

If you have any questions, please contact the Public Information Planner in the Zoning Evaluation Division, Department of Planning and Zoning at 703-324-1290, TTY 711.