FAIRFAX COUNTY PLANNING COMMISSION
LAND USE PROCESS REVIEW COMMITTEE
THURSDAY, SEPTEMBER 16, 2010

COMMITTEE MEMBERS PRESENT:
Frank A. de la Fe, Hunter Mill District
Earl L. Flanagan, Mount Vernon District
James R. Hart, At-Large
John L. Litzenberger, Jr., Sully District
Peter F. Murphy, Jr., Springfield District, Chairman

COMMITTEE MEMBERS ABSENT:
Kenneth A. Lawrence, Providence District
Timothy J. Sargeant, At-Large

OTHER COMMISSIONER PRESENT:
Walter L. Alcorn, At-Large

DEPARTMENT OF PLANNING AND ZONING STAFF PRESENT:
Regina C. Coyle, Director, Zoning Evaluation Division
Leslie B. Johnson, Assistant Zoning Administrator, Zoning Administration Division

PLANNING COMMISSION OFFICE STAFF PRESENT:
Barbara J. Lippa, Executive Director
Kara A. DeArrastia, Deputy Clerk

OTHERS PRESENT:
Gina McQuinn, Editor/Publisher, Virginia Newsletters, LLC

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Planning Commission Vice Chairman Walter L. Alcorn constituted the Land Use Process Review Committee at 7:05 p.m. in the Board Conference Room, at 12000 Government Center Parkway, Fairfax, Virginia, pursuant to Section 4-102 of the Commission's *Bylaws & Procedures*, and indicated that the first order of business was to elect a Committee Chairman**.**

Commissioner Litzenberger MOVED TO ELECT PETER F. MURPHY, JR., AS CHAIRMAN OF THE LAND USE PROCESS REVIEW COMMITTEE FOR 2010.

Commissioner de la Fe seconded the motion which carried unanimously.

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DEPARTMENT OF PLANNING AND ZONING PROPOSED FEE INCREASE

Leslie Johnson, Assistant Zoning Administrator, Zoning Administration Division, Department of Planning and Zoning (DPZ), said the proposed 3.1 percent fee increase for filing rezoning

applications, proffered condition amendments, special exception applications, special permits, and proffer interpretations represented a cost of living adjustment and coincided with the Department of Public Works and Environmental Services (DPWES) fee increases. She noted that this proposal would be presented to the Board of Supervisors as part of the FY 2012 Budget process in February 2011. Ms. Johnson stated that an amendment to the current filing fee for an appeal of a determination of the Zoning Administrator or of a proffered condition was on the 2010 Priority 1 Zoning Ordinance Amendment Work Program and scheduled for authorization on September 28, 2010. She explained that staff recommended a reduction in the appeal fee from $2,455 to $1,000 to address concerns that the current fee was too cost prohibitive and that the proposed advertisement would provide the Board flexibility to adopt an appeal fee ranging from $500 to the current fee of $2,455. Ms. Johnson indicated that a recent change had been made to the *Code of Virginia*, effective July 1, 2010, which stated that the fee for filing an appeal should not exceed the costs of advertising the appeal for public hearing and reasonable processing costs. She said the current filing fee covered approximately 75 percent of processing costs.

In response to questions from Commissioner Litzenberger, Ms. Johnson noted that the fee had always included the cost to advertise the appeal for public hearing, which averaged about $200. She said taxpayers would subsidize the difference between the current fee and the proposed $1,000 fee.

Regina Coyle, Director, Zoning Evaluation Division (ZED), DPZ, noted that she had distributed a chart depicting a select sampling of some of the existing fees, the impact of the 3.1 percent increase, and the resultant fees. (A copy of the chart is in the date file.) Ms. Johnson pointed out that the figures would be rounded to the nearest five dollars.

Ms. Coyle replied to questions from Commissioner Flanagan about the chart and noted that the proposed Zoning Ordinance Amendment would include the fee table listing the existing and proposed new fees for every use.

Answering a question from Commissioner de la Fe, Ms. Johnson indicated that the 3.1 percent increase reflected the change in the Consumer Price Index over the last 12 months although it might be over a longer time period.

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REPORT ON AFFIDAVIT-RELATED DEFERRAL FEE IMPLEMENTATION

Ms. Coyle explained that the chart she had distributed listed Planning Commission and/or Board of Supervisors public hearings that had been deferred after public notice had been given due to affidavit errors. (A copy of the chart is in the date file.) She noted that the new fee for deferrals had gone into effect July 1, 2009 and was $250 plus the actual cost of advertising. She said staff was developing a more reliable system to accurately track when the letter notifying the applicant of the fee had been mailed and when payment had been received.

In reply to a question from Commissioner de la Fe, Ms. Coyle said she was unsure whether the fee alone had improved the rate of affidavit errors because several administrative checks had been built into the system to ensure that the affidavits were correct. She recognized Bette Crane, with the County Attorney's Office, for her diligent work in notifying applicants to ensure that their affidavits were reaffirmed on time. She noted that despite these efforts, there were still a number of deferrals associated with affidavit errors although they were especially low at the Planning Commission level. Ms. Coyle said staff would continue tracking deferrals related to affidavit issues. She pointed out that there were no other fees associated with deferrals.

There was a brief discussion among Commissioners and staff regarding the benefit of deferrals because they allowed more time to resolve outstanding issues and improve the overall project before it was presented to the Board of Supervisors. Also discussed was the possible outcome of imposing a fee for cases deferred after newspaper advertisement that were not due to affidavit errors.

Answering a question from Commissioner Hart, Ms. Coyle said staff would determine why payment of the deferral fee had not yet been received for one case as indicated on the chart, noting that another bill would probably be mailed. Commissioner Hart suggested that staff follow up within a few months of nonpayment to prevent this situation in the future. Ms. Coyle agreed with this suggestion.

In response to a question from Commissioner Flanagan, Ms. Coyle noted that staff had examined the short payment turnaround time for Planning Commission hearing deferrals compared to the longer payment turnaround time for Board hearing deferrals but she was unsure of the reason for it. She explained that before the rescheduled hearing occurred, staff would verify that the applicant had paid the fee and if not, staff would inform the relevant District Commissioner or Supervisor and offer him or her the option to further defer the hearing until payment had been received or to hold the hearing as scheduled.

Ms. Coyle pointed out that in situations where an application had been deferred and the advertisement had been submitted to the newspaper but had not been published, the fee would not be charged because the advertising cost had not been incurred.

Replying to a question from Commissioner de la Fe, Ms. Johnson said the County currently advertised public hearings in the *Washington Times*.

Following a brief discussion on former and existing newspapers of general circulation in Fairfax County, Commissioner Hart suggested that staff verify the amount other newspapers charged for advertising to determine which one was least expensive.

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PROFFER INTERPRETATION FEE

Ms. Coyle noted that a second new fee that had gone into effect July 1, 2009 was for interpretation requests related to approved zoning applications submitted to ZED by the development community and others not affiliated with the County. She said she had distributed a table summarizing the total number of proffer interpretation requests, those charged a fee, and the total amount of fees collected over Fiscal Years 2010 and 2011 to date. (A copy of the table is in the date file.) She indicated that the flat fee of $500 would increase if the proposal was adopted. Ms. Coyle said at this time staff did not propose to stratify the fee and had not received any negative feedback about it.

Responding to a question from Commissioner de la Fe, Ms. Coyle pointed out that any interpretation request submitted by the Planning Commission, Board of Supervisors, or another County agency would not be subject to the fee. She added that ZED worked with DPWES during the site plan review process to address issues but those cases were not reflected in the figures.

Answering questions from Commissioner Flanagan, Ms. Coyle stated that some developers had expressed concern about the length of time it took staff to respond to requests, which was usually related to the extent and number of questions. She explained that the reported time spent on proffer interpretations only included the hours spent by the three staff members who were devoted full time to proffer interpretations. Ms. Coyle added that she did not record the number of hours she personally spent working on interpretations. She said she did not think the fee covered the total cost on average.

In reply to a question from Commissioner de la Fe, Ms. Coyle indicated that interpretations could be related to proffers, development plans, rezonings, special exceptions, special permits, variances, PRC plans, and other related applications.

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CERTIFIED NOTIFICATION LETTER OF A PUBLIC HEARING

Chairman Murphy requested that staff examine the language used in the public hearing notification letters for rezoning, special exception, and 2232 applications to ensure it clearly described the proposal and present recommendations to the Committee for consideration.

Commissioner Hart also suggested that staff evaluate its methodologies of posting notice signage to ensure that it was in an accessible location and the lettering was clearly visible. He said staff should also assess the methods of other jurisdictions to determine how to improve the County's signage and educate residents about the different types of signs. Chairman Murphy agreed with this suggestion, noting that it coincided with his concern about notification letters.

Commissioner de la Fe cited a problem where a notification letter addressed to the homeowners association had actually been mailed to the management association or a letter had been mailed to the registered president of the association but the incumbent of this position had recently changed. He noted that there was an effort in the Board Supervisors' Offices to identify the appropriate contact person for every community association in the County. Chairman Murphy said it was also the responsibility of the association to notify the appropriate Supervisor's Office of any changes to its board membership.

Replying to a question from Chairman Murphy, Barbara Lippa, Executive Director, Planning Commission Office, said she agreed with his request to examine the descriptive language used in notification letters, noting that it was sometimes vague and would result in questions directed to the Planning Commission Office.

Chairman Murphy thanked Ms. Johnson and Ms. Coyle for their informative presentations.

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The meeting was adjourned at 7:53 p.m.
Peter F. Murphy, Jr., Chairman

An audio recording of this meeting is available in the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Kara A. DeArrastia

Approved: October 20, 2011

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Kara A. DeArrastia, Clerk
Fairfax County Planning Commission