FAIRFAX COUNTY PLANNING COMMISSION
LAND USE PROCESS REVIEW COMMITTEE
THURSDAY, SEPTEMBER 20, 2012

COMMITTEE MEMBERS PRESENT:
Earl L. Flanagan, Mount Vernon District
James R. Hart, At-Large
Peter F. Murphy, Jr., Springfield District, Chairman

COMMITTEE MEMBERS ABSENT:
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
Timothy J. Sargeant, At-Large

OTHER COMMISSIONERS PRESENT:
Frank A. de la Fe, Hunter Mill District
Janet R. Hall, Mason District
Ellen J. Hurley, Braddock District
James T. Migliaccio, Lee District

FAIRFAX COUNTY STAFF PRESENT:
Regina C. Coyle, Assistant Director, Zoning Evaluation Division, Department of Planning and Zoning
Barbara J. Lippa, Executive Director, Planning Commission Office
Kara A. DeArrastia, Clerk to the Planning Commission

OTHERS PRESENT:
William Callahan, Fairfax County Senior Political Reporter at Patch.com

ATTACHMENTS:
A. Zoning Ordinance Article 18 – Administration, Amendments, Violations and Penalties, Section 18-106 – Application and Zoning Compliance Letter Fees
B. "Fiscal Year 2014 Zoning Fee Adjustment Consideration Items" document

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Planning Commission Chairman Peter F. Murphy, Jr. constituted the Land Use Process Review Committee at 7:03 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 Hart MOVED TO ELECT PETER F. MURPHY, JR. AS CHAIRMAN OF THE LAND USE PROCESS REVIEW COMMITTEE FOR 2012.

Commissioner Flanagan seconded the motion which carried unanimously.

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Commissioner Flanagan MOVED TO APPROVE THE MINUTES OF OCTOBER 20, 2011.

Commissioner Hart seconded the motion which carried unanimously.

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NEW ONLINE SUBMISSION PROCESS FOR DEPARTMENT OF PLANNING AND ZONING

Regina Coyle, Assistant Director, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), delivered another update on the status of the new electronic document submission and review system for zoning applicants and County staff. She noted that the system should be completed by October 18, 2012, and ZED staff would give staff members of other County land development agencies, the development community, and the Commissioners a demonstration of it after it was available. She described the three phases of the system implementation.

In response to questions from Commissioner Migliaccio, Ms. Coyle said the system was intended primarily to be a staff tool and the same staff report publication and accessibility protocols currently in place would still apply to the new system. She indicated that the different iterations of development conditions, proffers, or other documentation requirements related to areas such as environmental stormwater review would be accessible to staff only. She pointed out that the public could view certain documents such as the locator map on the Land Development System (LDSnet) and staff intended to publish more zoning application-related documents like statements of justification in advance. Ms. Coyle also noted that the new system was not replacing LDSnet. She explained that the ProjectDox tool would enable staff to review the status of a project through a real-time checklist of required submission components, thereby allowing for speedier submission.

Chairman Murphy recommended that the online staff report and its applicable information, such as the development conditions, proffers, and site plans, contain a disclaimer explaining that they were not necessarily the final product and subject to change as the land-use process continued. Ms. Coyle concurred with this recommendation, adding that everything in the system would be in draft form and not finalized until the final approving authority had indicated so.

Replying to a question from Commissioner Flanagan, Ms. Coyle said staff was not proposing to change the timing of when the staff reports were published.

Answering a question from Commissioner Hurley, Ms. Coyle stated if the Commissioners desired certain information to be viewable by the public sooner than the current process allowed; those modifications could be made. Therefore, she noted the importance of staff regularly meeting with the Commissioners to receive their input.

Commissioner Hart pointed out that people could still visit the Herrity Building to review plans associated with pending applications.

Responding to another question from Commissioner Hurley, Ms. Coyle said she believed that the new system would be user-friendly.

Chairman Murphy reiterated his recommendation for the inclusion of a disclosure to warn people that online documents were a work in progress.

In reply to questions from Commissioner Hart, Ms. Coyle confirmed that staff reports would continue to be released to the Commissioners and Supervisors before they were made available to the public. She indicated that every Commissioner would have access to the system and receive training on how to use it. She said nothing would change after the staff report publication in terms of access to information by the public or the Commissioners.

Answering a question from Commissioner Flanagan, Ms. Coyle stated that the new system was not intended to substitute the processes involving community outreach and addressing the concerns of staff and the community.

Commissioner Hall commented that people have a right to develop their own zoning applications. She explained that control mechanisms must be established to regulate the progress of an application at the applicant and staff level to determine whether it was acceptable and met the applicable Zoning Ordinance requirements. She said once the proposal had been reviewed by staff and deemed acceptable, the relevant District Commissioner and community members could then provide input.

Commissioner de la Fe noted that staff must be careful about publishing the initial application submission online because it could change substantially. He explained that typically developers who were considering potentially controversial proposals would initially approach the relevant District Commissioner and Supervisor who would then advise them to present the proposal to members in the community, such as the appropriate land use committee, to receive their input. He said that for cases in the Hunter Mill District, he always sought the final recommendation from the Hunter Mill District Land Use Committee before he made a decision on a particular application.

Commissioner Hall pointed out that not every Supervisory District had a land use committee. She also noted that staff was usually willing to attend a land use committee meeting to discuss their preliminary recommendation on an upcoming application. Similar to Commissioner de la Fe, she said she also waited before making a decision on a particular application in the Mason District until she had received the final recommendation from the Mason District Land use Committee.

In response to a comment by Chairman Murphy, Ms. Coyle commented that it would be difficult if staff were the sole source for the land-use documents because applicants tended to produce copies of their proposal upon request or to certain committees or neighborhoods on their own initiative or at the urging of the District Supervisor.

Commissioner Flanagan said the electronic listing of the currently in-process zoning cases distributed by staff every week was helpful because he would forward that information to the land use committees in the Mount Vernon District. Ms. Coyle replied that staff intended to continue that service to the Commissioners.

Commissioner de la Fe stressed the importance of being careful concerning how land-use information was posted online.

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PROPOSED NEW ZONING APPLICATION FEES

Ms. Coyle noted that she had distributed two documents: 1) Zoning Ordinance Article 18 – Administration, Amendments, Violations, and Penalties, Section 18-106 – Application and Zoning Compliance Letter Fees, and 2) Fiscal Year 2014 Zoning Fee Adjustment Consideration Items, as shown in Attachments A and B. She explained that the Board of Supervisors had requested that DPZ staff review the zoning application fees every two years for appropriateness, noting that the fees had last been increased by 3.1 percent across-the-board, effective July 1, 2011. Ms. Coyle reviewed the items for consideration, as outlined in Attachment B.

Replying to a question from Commissioner Hurley, Ms. Coyle said she would ask Zoning Administration Division staff to determine which fee structure the verification of the incorporation of green building features in a project as conditioned would apply.

Commissioner Hart said he thought that the proffer interpretation fee should not be costly because it was a certain basic function of government officials to respond to questions from residents even if the questions were difficult or research-intensive. However, he suggested drawing a distinction between requests for permission to develop one's property in a particular way and simple requests for information. In addition, he pointed out that charging $8,000 for a simple change in permittee was too expensive and adversely impacted property owners and small business owners.

Ms. Coyle stated that the proposal for zoning fee adjustments would eventually be presented to the Planning Commission as a Zoning Ordinance Amendment. She said staff intended to brief the Committee prior to the authorization of this Amendment by the Board of Supervisors.

Answering a question from Commissioner Flanagan, Ms. Coyle indicated that staff would also examine the organization of the proffered condition amendment structure to help clarify certain circumstances.

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Responding to a question from Chairman Murphy, Ms. Coyle said she would like to present status updates on the same two topics to the Committee before the end of 2012.

Chairman Murphy announced that the Committee would meet again on Thursday, December 6, 2012, at 7 p.m. in the Board Conference Room of the Fairfax County Government Center (*Note: This meeting was subsequently cancelled and rescheduled for Thursday, January 17, 2012, at 7 p.m. in the Board Conference Room*.).

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The meeting was adjourned at 8:02 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: January 17, 2013

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

18-104 Forms for Appeals and Applications

All appeals and applications as provided for in this Ordinance shall be submitted in writing on forms prescribed by the responsible official, body or committee and approved by the County Executive. Each appeal or application shall contain that specific information as may be required by the various provisions of this Ordinance.

18-105 Filing of Applications

Every application required under the provisions of this Ordinance shall be filed with the Zoning Administrator. No application shall be accepted unless it is in accordance with the applicable provisions of this Ordinance and no application shall be officially on file with the County unless and until the application and all required accompanying submissions, with the exception of a development plan, conceptual development plan or generalized development plan, as otherwise provided for in this Ordinance, are submitted to and accepted by the Zoning Administrator. Upon acceptance, an application shall be transmitted to the officer, body or agency having jurisdiction to act on the same, and such official shall promptly notify the Zoning Administrator of the action taken on the application.

18-106 Application and Zoning Compliance Letter Fees

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

1. Application for a variance, appeal, special permit or special exception:

Application for a variance	
• Residential minimum yard variance; maximum fence height variance in residential districts; modification of location regulations or use limitations for residential accessory structures or uses; modification of grade or increase in building height for single family detached dwellings	$910
• All other variances	$8180
Appeal under Sections 18-204 and 18-301	$600
Application for a:	
Group 1 special permit	$16375
Group 2 special permit	$16375
Group 3 special permit	

• Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of 100 or more students daily	$11025
• All other uses	$1100
Group 4 special permit	$4085
Group 5 special permit	$16375
Group 6 special permit	$16375
Group 7 special permit	$16375
Group 8 special permit	
• Temporary portable storage containers approved by the Zoning Administrator	$0
• All other uses approved by the Zoning Administrator	$205
• Temporary portable storage containers approved by the BZA	$0
• All other uses approved by the BZA	$16375
Group 9 special permit	
• Open air produce stand	$1810
• Accessory dwelling unit	$435
• Modification to minimum yard requirements for R-C lots	$185
• Modification to the limitations on the keeping of animals; error in building location; reduction of certain yard requirements on a single family dwelling lot; modification of minimum yard requirements for certain existing structures and uses; certain additions to an existing single family detached dwelling when the existing dwelling extends into a minimum required yard by more than fifty (50) percent and/or is closer than five (5) feet to a lot line; noise barriers on a single residential lot; increase in fence and/or wall height in any front yard on a single family dwelling lot; modification of grade for single family detached dwellings	$910
• Reduction of certain yard requirements on all other uses, increase in fence and/or wall height in any front yard on all other uses	$8180
• All other uses	$16375
Application for a:	
Category 1 special exception	$16375
Category 2 special exception	$16375

Category 3 special exception	
• Child care centers, nursery schools and private schools which have an enrollment of less than 100 students daily, churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of less than 100 students daily and independent living facilities for low income tenants, whether a new application or an amendment to a previously approved and currently valid application, with or without new construction, home child care facilities	$1100
• Churches, chapels, temples, synagogues and other such places of worship with a child care center, nursery school or private school which has an enrollment of 100 or more students daily	$11025
• All other uses	$16375
Category 4 special exception	$16375
Category 5 special exception	$16375
Category 6 special exception	
• Reduction of yard requirements for the reconsideration of certain single family detached dwellings that are destroyed by casualty	$0
• Modification of minimum yard requirements for certain existing structures and uses; modification of grade for single family detached dwellings	$910
• Modification of shape factor limitations	$8180
• Waiver of minimum lot width requirements in a residential district	$8180
• All other uses	$16375
Amendment to a pending application for a special permit, variance or special exception	10 percent of the prevailing application fee
Application for an extension of a special permit or special exception	1/8 prevailing fee
Application to amend a previously approved and current valid variance	Prevailing fee for a new application
Application to amend a previously approved and currently valid special permit or special exception with no new construction	½ prevailing fee
Application to amend a previously approved and currently valid	Prevailing fee

special permit or special exception with new construction	for new application
Amendment to a previously approved and currently valid special permit or special exception for a reduction of certain yard requirements or an increase in fence and/or wall height in any front yard on a single family dwelling lot	$910
Amendment to a previously approved and currently valid special permit or special exception for a reduction of certain yard requirements or an increase in fence and/or wall height in any front yard on all other uses	$8180
All other amendments to a previously approved and currently valid special permit or special exception	
• With no new construction	½ prevailing fee
• With new construction	Prevailing fee for new application

Note: Additional fees may be required for certain special permit and special exception uses to pay for the cost of regular inspections to determine compliance with performance standards. Such fees shall be established at the time the special permit or special exception application is approved.

When one application is filed by one applicant for two (2) or more special permit uses on the same lot, only one filing fee shall be required. Such fee shall be the highest of the fee required for the individual uses. This shall also apply to an application for two (2) or more special exceptions or two (2) or more variances filed by one applicant on the same lot.

The fee for an amendment to a pending application for a special permit, variance, or special exception is only applicable when the amendment request results in a change in land area, change in use or other substantial revision.

2. Application for an amendment to the Zoning Map:

District Requested	**Filing Fee**
All R Districts	$27280 plus $570 per acre
All C, I and Overlay Districts	$27280 plus $910 per acre
PRC District	$27280 plus $910 per acre
• Application with concurrent filing of a PRC plan	$27280 plus $1345 per acre

• PRC plan	$13640 plus $435 per acre
PDH, PDC, PRM and PTC Districts	
• Application with conceptual development plan	$27280 plus $910 per acre
• Application with concurrent filing of conceptual and final development plans	$27280 plus $1345 per acre
• Final development plan	$13640 plus $435 per acre
Amendment to a pending application for an amendment to the Zoning Map in all Districts	$4545 plus applicable per acre fee for acreage affected by the amendment
Amendment to a pending application for a final development plan or development plan amendment or PRC plan	$4130
Amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan, PRC plan or concurrent conceptual/final development plan for a reduction of certain yard requirements on a single family dwelling lot or an increase in fence and/or wall height on a single family dwelling lot	$910
Amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan, PRC plan or concurrent conceptual/final development plan for a reduction of certain yard requirements on all other uses or an increase in fence and/or wall height on all other uses	$8180
Amendment to a previously approved proffered condition, development plan, final development plan, conceptual development plan, PRC plan or concurrent conceptual/final development plan for the addition of or modification to an independent living facility for low income tenants, whether or not there is new construction	$1100
All other amendments to a previously approved development plan, proffered condition, conceptual development plan, final development plan, PRC plan or concurrent conceptual/final development plan	
• With new construction	$13640 plus applicable per acre fee for acreage affected by the

	amendment
• With no new construction	$13640

Note: For purpose of computing acreage fees, any portion of an acre shall be counted as an acre.

The fee for an amendment to a pending application is only applicable when the amendment request results in a change in land area, change in use or other substantial revision.

3. Comprehensive sign plan: $8260

   Amendment to a comprehensive sign plan: $4130

4. Refund of fees for withdrawal of applications shall be in accordance with the provisions of Sections 112, 208 and 308. There shall be no refund of fees for applications that have been dismissed in accordance with the provisions of Sections 113 and 209.

5. Fees for home occupations, sign permits and site plans shall be as specified in Articles 10, 12 and 17, respectively.

6. Zoning compliance letter:

   Single family: $ 115 for each lot requested
   All other uses: $320 for each lot requested

7. Modification to the requirements of the Affordable Dwelling Unit Program: $2755

8. Non-Residential Use Permit: $70

9. Interpretation of approved zoning applications: $520

10. Public hearing deferrals after public notice has been given under Sect. 110 above and which are related solely to affidavit errors:

    Planning Commission: $260 plus cost of actual advertising, not to exceed $1000
    Board of Supervisors: $260 plus cost of actual advertising, not to exceed $1000

18-107 Processing of Applications

1. Except as qualified by Par. 2 below, all applications and appeals shall, in general, be scheduled and considered in the order in which they are accepted, except that the public hearing date for an application or appeal may be changed by an order of the respective hearing body for a good cause shown. The clerks of the respective hearing bodies shall keep a calendar of cases to be heard in their proper priority.

2. All applications for an amendment to the Zoning Map shall, in general, be scheduled and considered in the order in which the required development plan is submitted. All

Attachment B

FY 2014 ZONING FEE ADJUSTMENT

CONSIDERATION ITEMS

1. Consistent Fee for CSP and SE for Waiver of Sign Regulations
2. Clarify No Fee Post Acceptance:
    a. Increase or Decrease in Land Area for SE or SP
    b. Change in Agent or Applicant Name
    c. Change to requested Zoning District
3. Flat Fee for Amendments to Proffers or Development Conditions, limited to:
    a. Change in Operator
    b. Hours of Operation
4. Adding Uses to Existing Buildings with no change in building footprint, etc.
5. Clarify Fees Associated with SE or SP Concurrent with PRC plans
6. BZA Items – Keeping of Animals, Increase in Fence Height, etc.
7. Proffer Interpretation Fee – Possible Charge Per Question