

Docket Item #13
TEXT AMENDMENT #2002-0005

Planning Commission Meeting
October 1, 2002

CASE: TEXT AMENDMENT #2002-0005
CHANGES TO DEVELOPMENT APPROVALS AND PROCEDURES

ISSUE: Consideration of amendments to Articles V and XI of the Zoning Ordinance to revise procedures related to the processing of applications for development plans.

PLANNING COMMISSION ACTION, OCTOBER 1, 2002: On a motion by Ms.Fossum, seconded by Mr. Komoroske, the Planning Commission voted to recommend approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations. The motion carried on a vote of 7 to 0.

Reason: The Planning Commission agreed with the staff recommendations.

Speakers:

David Fromm spoke in favor of the amendment.

Carolyn Merck, Old Town Civic Association, spoke in favor of the amendment.

STAFF RECOMMENDATION:

Staff recommends that the Planning Commission on its own motion initiate the following text amendment proposed by staff:

Note: Underlining denotes new text. ~~Strikeout~~ denotes removed text.

1. Language added requiring applicants for development to post a sign on their properties within five days of filing a complete application, in order to provide additional notice to the public.

11-303 Additional notice required.

- (D) Development Site Plans and Development Special Use Permits. In addition to the notice required by section 11-301, applicants for development site plans and development special use permits shall physically place signs along all street frontages of the property in question within five days of the director of P&Z's determination that an application is complete.
- (1) The signs will clearly indicate that an application has been filed to develop the subject property and shall include a description of the proposed application and contact information for the applicant, in a format and size established by the Director of P&Z.
 - (2) It will be the responsibility of the applicant to ensure that the required signs remain on the property throughout the review period.
 - (3) Along with the certification of notice required pursuant to section 11-301(A)(3) for written notice, the applicant will provide an affidavit to the department stating that the notice required pursuant to this section was installed and has remained on the property until the date of public hearing.

2. Changes to modify the city's current pre-application provisions to require a conceptual review process for certain applications, and a pre-application requirement for all applications.

11-407 Procedures for processing site plan application. The following procedures shall govern the processing and review of applications for site plan approval.

(A) Pre-application Requirements.

(1) Conceptual review conference. The purpose of the conceptual review conference, and subsequent follow-up meetings, is to allow the City to ensure that its basic planning and zoning policies regarding land use, zoning, building footprint, height, density, massing and scale are met before an applicant prepares a specific site design for a project. No fewer than 90 days prior to filing an application for preliminary site plan approval, an applicant who proposes to develop a project meeting any of the following criteria shall meet with the director of planning and zoning to discuss the applicant's intentions with regard to the proposed development.

(a) A project proposed for a site that is within a coordinated development district;

(b) A project requiring a master plan amendment or rezoning of the land;

(c) A project requiring a special use permit for an increase in floor area ratio, density or building height;

(d) A project requiring a transportation management plan special use permit;

(e) A project that includes a parking or open space reduction;

(f) A project located within a historic district; or

(g) A project located on environmentally sensitive lands, including sites with resource protection areas, wooded sites, or steeply sloped sites.

(2) Preapplication conference. No fewer than 45 ~~30~~ days prior to filing an application for preliminary site plan approval, ~~an applicant not may, and an applicant may, and an applicant who proposes to develop one of the following uses shall,~~ all applicants shall meet with the director of ~~transportation and environmental services and the director of~~ planning and zoning to discuss the applicant's intentions with regard to the proposed development and the requirements of this section 11-400, and other city requirements related to land use and site

development. It is the intention of this section 11-407(A) (2) that this meeting shall be held at the conceptual phase of project planning and prior to the time when the site plan and application for site plan approval are prepared. No matters discussed at this meeting shall be binding on either the applicant or the city.

(3) The director of planning and zoning may waive the concept and/or preapplication review requirements for projects that the director determines to be insignificant with respect to their impacts or where no benefit accrues to the city from the established time limits for conceptual or preapplication meetings.

~~(1) Any individual building or structure which contains:~~

~~(a) 50,000 or more usable square feet of commercial and/or professional office space;~~

~~(b) 40,000 or more usable square feet of retail sales space;~~

~~(c) 150,000 or more usable square feet of industrial space;~~

~~(d) 250 or more residential units; or~~

~~(e) Any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 150,000 or more usable square feet of industrial space, or 250 or more residential units.~~

~~(2) Any project, complex or development which is or becomes the subject of common ownership or control, which is or becomes the subject of a common, concerted, coordinated or phased plan of development irrespective of ownership or control, or which is or becomes the subject of a common, concerted, coordinated or phased plan of lease, sale, marketing or operation irrespective of ownership or control, and which when completed or assembled involves two or more buildings or structures containing in the aggregate:~~

~~(a) 50,000 or more usable square feet of commercial and/or professional office space;~~

~~(b) 40,000 or more usable square feet of retail sales space;~~

~~(c) 150,000 or more usable square feet of industrial space;~~

~~(d) 250 or more residential units; or~~

~~(e) Any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 150,000 or more usable square feet of industrial space, or 250 or more residential units.~~

3. Elimination of the Site Plan Coordinating Committee Requirement.

11-407 (C) ~~Site plan coordinating committee.~~

~~(1) A site plan coordinating committee is established which shall meet in order to examine the preliminary site plan, to discuss it in light of the provisions of this section 11-400 and to make recommendations concerning the plan. The coordinating committee shall consist of a representative from each of the following: the department of transportation and environmental services, the fire department, the department of planning and zoning, the sanitation authority, the department of parks, recreation and cultural activities, the office of historic Alexandria, and any other department or staff that the director deems necessary or desirable on a specific application.~~

~~(2) Prior to the time that the planning commission first considers any preliminary site plan, the director of transportation and environmental services shall call a coordinating committee at which such site plan shall be reviewed.~~

~~11-408 Notice of site plan coordinating committee.~~

~~(A) The director of transportation and environmental services shall give notice of the coordinating committee meeting to each individual who and each group that has registered with his office and indicated a desire to receive notice of coordinating committee meetings. The annual cost of receiving such notices shall be as provided by general rule and shall be paid at the time of registration. The notice to such registered individuals and groups shall be sent by regular mail by the city site plan coordinator at least 15 days prior to each committee meeting. The notice shall state the date, time and place of the site plan coordinating committee meeting, shall provide a brief identification of the site plans to be considered at the meeting and, if applicable, shall state the date, time and place of the planning commission meeting at which the site plans are tentatively scheduled to be considered. The notice shall further provide that any person may offer oral comments regarding any of the plans at the meeting of the site plan coordinating committee and/or may file with the director of transportation and environmental services written comments relating to such plans, provided that any written comments must be received in the office of the director of transportation and environmental services at least three working days prior to the meeting.~~

~~(B) The applicant shall be advised of the date, time, and place of the site plan coordinating committee meeting at which the applicant's site plan is to be considered at least 25 days before such meeting. The applicant shall give notice of the site plan coordinating committee meeting to the owners of all abutting properties, as that term is defined in this ordinance; provided, however, if there are fewer than ten abutting properties, the applicant~~

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shall notify additionally the owners of adjacent properties in the immediate vicinity of the site plan property. In no case shall the notice be sent to the owners of fewer than ten abutting or adjacent properties. In the case of a condominium, such written notice may be mailed to the unit owners' association in lieu of each individual unit owner. The notice shall be sent by regular mail at least ten days prior to the committee meeting at which the site plan will be reviewed. The notice shall state the date, time and place of the committee meeting and shall provide a brief identification of the applicant's site plan, including the tax map number and the complete street address of the property in question. The notice shall also indicate that any person may offer oral comments regarding the site plan at the meeting of the site plan coordinating committee and/or file with the director of transportation and environmental services, provided that written comments relating to the site plan and that any such comments must be received in the office of the director of transportation and environmental services at least three working days prior to the site plan coordinating committee meeting. Notwithstanding the foregoing notice requirements, the applicant may be required to mail a notice of the planning commission meeting at which the site plan is to be considered separate from the notice of the meeting of the site plan coordinating committee as required above, in which case the notice of the commission meeting shall conform strictly with the provisions of section 11-300.

~~(C) Any individual or group entitled to notice of a site plan coordinating committee meeting pursuant to this section 11-408 shall be considered to have waived such entitlement only if a written waiver has been filed with the city site plan coordinator prior to the meeting.~~

~~(D) Failure of any individual or group to receive any notice required by this section 11-408, shall not, in and of itself, invalidate any action taken at the meeting for which notice was given.~~

4. Elimination of time limit requirements for processing site plans.

11-407 ~~(F) Changes to application. If an applicant submits materials to supplement its application prior to final action by the planning commission, the director of transportation and environmental services and the director of planning and zoning shall review the additional material to determine whether additional staff time is necessary to assess the application. If additional time is necessary, the director of transportation and environmental services or director of planning and zoning may extend the review period accordingly, not to exceed an additional 90 days, or, in the event of a major revision, may require that a new application be filed.~~

11-409 Action on site plans.

(A) Action on preliminary site plan.

~~(1) Within 90 days of the time an applicant is sent notice regarding the completeness of his application, the planning commission shall hold a public hearing and act on the application for preliminary site plan approval by approving or disapproving the plan or approving it with conditions, required revisions, additions or changes. In the case of disapproval, the commission shall give its reasons therefor. Two copies of the site plan shall be returned to the applicant with the date of approval or disapproval noted thereon over the signature of the director of transportation and environmental services planning and zoning. Any action by the planning commission shall be entered in the minutes of the commission.~~

~~(2) Failure of the commission to act within 90 days shall be deemed to constitute approval of the plan unless, prior to the expiration of such period, the planning commission, for good cause shown and by vote of a majority of all of its members, shall have extended the period not to exceed an additional 45 days.~~

11-409 (C) Appeal of action on preliminary site plan.

(1) The planning commission's approval or disapproval of a preliminary site plan or combined site plan may be appealed to the city council by the applicant, by the city manager, and by an owner of property located within 1,000 feet of the boundaries of the site plan property, ~~by an owner of property notified pursuant to section 11-408(B) or by a person or group notified pursuant to section 11-408(A)~~ who submits a petition signed by at least 25 property owners or residents of the city. The appeal shall be made in writing, shall state clearly the grounds of the appeal and shall be filed with the city clerk within 15 days after the decision is announced. Following the filing of such an appeal, the director of transportation and environmental services planning and zoning shall verify that each person

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filing the appeal has the right of appeal as set forth in this subsection. The filing of an appeal shall stay the effect of site plan approval by the planning commission.

(2) Whenever an appeal is filed, the commission shall forward the record and its reasons for approval or disapproval to the city council, which may be in the form of the transcription of the public hearing, and shall designate at least one member of the commission to appear before the city council at the public hearing.

(3) In the event an appeal is filed, the city council shall schedule at least one public hearing on the matter. The council shall review the record, documents and actions taken by the planning commission and may take additional evidence if necessary for complete and competent review of the issues before it. The council may affirm, reverse or modify the decision of the commission or vacate and remand the matter to the commission for further consideration.

(4) The issues on appeal shall be limited to the grounds identified in the appeal papers filed with the city clerk. The proposed use shall not be grounds for appeal.

(5) The council's action on appeal may be reviewed by appeal to the circuit court to determine whether substantial evidence exists to support the decision of council provided the appeal to court is filed within 60 days of the council action.

5. Elimination of the Public Notice Requirements for Final Site Plans submitted pursuant to CDD regulations.

Sec 5-600 CDD/coordinated development district

5-606 Final development plan approval.

(D) Upon determination by the director that the application is complete, the application shall be submitted for comment and review to appropriate city departments and agencies. ~~Notice of consideration of the application shall be given in the manner provided in section 11-300, such notice to state that the application is available for public review and comment. The director shall receive comments for a period of 30 days.~~

(E) ~~Promptly after the close of the comment period,~~The director shall consider the final development plan and shall determine if said plan complies with all prior approvals under this section 5-600 and all other applicable provisions of law. Upon the determination that the final development plan does comply, the director shall approve the plan. Upon the determination that the plan does not comply, the director shall disapprove same, stating his reasons therefor, in which event the applicant shall be afforded reasonable opportunity to amend the plan.

~~(F) The director shall certify his determination on the plan to the city council. Within 14 days thereafter, any person aggrieved may appeal the director's determination to the city council, by filing a written petition, setting forth the reasons for appeal, with the city clerk, and paying a filing fee in the amount of \$250.00. The basis for the appeal shall be that the final development plan is or is not in substantial conformity with all prior approvals. City council shall hold a public hearing on the appeal and may affirm, reverse or modify the determination of the director.~~

6. Corrections resulting from TA98-011. This text amendment approved in 1998 changed the administration of the site plan process from the Department of T&ES to the Department of P&Z, but reference to the Director of T&ES was not accurately struck in several locations to be replaced with Director (P&Z).

Corrections are needed to the following sections (for more information see the attached staff report for TA #98-011):

Section 11-400 (A)
Sections 11-407 (B,D,E,F)
Sections 11-409 (D)(1,2,3,4)

Discussion

The changes proposed to the zoning ordinance in this text amendment represent the implementation of the recommendations of the '*City of Alexandria, Virginia, Development Review Process and Policies*' report, prepared in January 2002 for the Planning Department by the Phipps Group. The report was the culmination of a study of the City's development review processes, and recommended a series of changes to the development review process in order to achieve a more streamlined development review process that results in higher quality development in keeping with the City's goals, providing more certainty for applicants and also providing more opportunities for citizen participation in the process.

The changes to the development process were designed with input from every stakeholder in the development process; as the report was being developed, input was solicited from city staff, city officials, engineers, builders, developers, attorneys, and representatives from the Alexandria Chamber of Commerce and citizen groups and their representatives. The recommendations of the study report were presented to the Planning Commission and City Council in June, 2002, with Council providing direction to staff to proceed with implementation. Subsequent meetings were held with the stakeholders to review the reports recommendations.

Most of the changes being implemented in the process do not require amendment of the Zoning Ordinance text. New coordination procedures and policies have already been implemented based on the recommendations of the report, and additional changes, including preparation of revised forms, checklists, and documentation of procedures and standards are in progress. The text changes here are merely a small part of the changes and are all recommended by the study. Staff expects most of the key recommendations of the report to be fully implemented this fall.

Specific Amendments

Within the text amendment, staff has highlighted and numbered each set of proposed changes. Those changes are listed again here, with an explanation for each of the changes.

1. **Language added requiring applicants for development to place a sign on their properties within five days of filing a complete application, in order to provide additional notice to the public.**

Applicants are currently required to provide written mailed notice to property owners adjacent to the land on which they seek development approval. Prior to Planning Commission public hearings, the City posts the proposed site and places legal notices in the newspaper listing projects to be heard. The study found that these mechanisms, while legally meeting all of the requirements of state law, do not occur early enough in the development review process to alert the public or adjoining property owners. The study recommended that applicants for development site plans and development special use permits be required to post a sign on their properties within five days of filing a complete preliminary application. The sign would indicate that an application for development had been filed, describe the proposed application, and give contact information about the applicant.

2. **Changes to modify the city's current pre-application provisions to require a conceptual review process for certain applications, and a pre-application requirement for all applications.**

One of the fundamental conclusions of the development process study was that the city should spend more time in conceptual review early in the process. The study found that most site plan applications were difficult to review because overarching issues had not been addressed before submission, and that the existing pre-application requirements in the ordinance did not capture many of the complex projects that would most benefit from a conceptual review. The study further concluded that all applications would benefit from a requirement for a pre-application conference with staff.

The conceptual review meeting—or series of meetings—allows staff the opportunity to review City policies, plans and regulations and assist the applicant in meeting its needs prior to the applicants expending significant resources on the development of a preliminary application. While staff has already been informally utilizing a conceptual review process for the past year, this proposed text amendment formalizes the requirement for an applicant to participate in conceptual review for

Changes to Development Approvals and Procedures

projects which are particularly complex or which have significant issues. The text amendment creates a concept review requirement for the types of projects specifically listed in the development report:

1. projects within CDDs,
2. projects requiring a master plan amendment or rezoning,
3. projects requiring a special use permit for an increase in FAR, units/acre, or building height,
4. projects requiring a TMP (i.e., projects of a certain size)
5. projects requesting a parking or open space reduction,
6. projects located within a historic district;
7. projects located in environmentally sensitive lands, including sites with resource protection areas, wooded sites, or steeply sloped sites.

The new procedures will also require that all development projects be subject to a preapplication meeting at least 30 days before filing a formal site plan.

In order to maintain flexibility in the process, the report recommends that the Director of Planning and Zoning be authorized to waive the concept review/preapplication requirements for projects that the Director determines to be insignificant with respect to their impacts or where no benefit accrues to the City from the established time limits for the requirements.

3. **Elimination of the Site Plan Coordinating Committee Requirement.**

The existing ordinance includes regulations requiring the formation of a site plan coordinating committee comprised of staff from various city agencies to review site plans, and for a formal meeting of this group where comments are presented to applicants and the public is able to observe. These provisions were adopted decades ago and have been helpful in the past. However, the provisions do not address current needs and reality of the process. As a result, the study found that while the goal of the requirement was laudable, the results are frequently not productive because the requirements apply only to site plans that do not require special use permits (which is the minority of cases in the city) and because the meeting comes quite late in the process. Furthermore, as an opportunity for public participation, the meeting has not been particularly effective; site plan coordinating meetings are rarely attended by any members of the public and, in any case, the participation they offer again comes very late in the process. Staff and the applicant spend a significant amount of time coordinating and meeting legal notice requirements for these meetings, with very little benefit to anyone.

The study proposed the elimination of the site plan coordinating committee, and replacement of it with an informal meeting or series of meetings for every application where staff and the applicant review City comments. Reviewing detailed comments with applicants prior to publishing the staff report should streamline the process, provide an opportunity for applicants to understand and address the recommendations, and reduce the need to modify comments during the public hearing process.

While this change will eliminate one established point of public participation in the current review process, the existing meetings actually rarely are attended by the public. More importantly, many other measures to expand opportunities for more timely and effective public participation were recommended by the report and are in the process of being implemented by staff. These expanded opportunities include: meetings with the public on projects prior to filing of formal applications, posting of properties upon filing of an application, and other mechanisms to disseminate information to the general information about development projects.

4. Elimination of time limit requirements for processing site plans.

Regardless of complexity or quality of materials submitted, preliminary site plans are currently required to be docketed for the Planning Commission within 90 days of the date the applications are deemed complete by the City. An extension of up to 90 days may be granted for revisions to a plan being reviewed but not yet before the Planning Commission. The study found that the physical and regulatory complexity of some plans and the chronic deficiencies in submitted materials on others preclude maintaining all on a consistent time schedule.

Site plans and revisions to them will be reviewed by staff in a timely fashion, and the study found that in other jurisdictions without strict time limits, the process nevertheless proceeded deliberately; long delays do not occur as a result.

5. Elimination of the Public Notice Requirements for Final Site Plans submitted pursuant to CDD regulations.

The development process report identified the requirement for public notice of final site plans within Coordinated Development Districts as a cumbersome process for staff and applicants. The regulations include strict deadlines that must be adhered to, and occurs at the end of the process where timing is critical to the applicant. Because of the size of most CDDs, notice requirements typically include hundreds, if not more, adjoining property owners. Planning staff believes the notice provides little benefit to the community because it occurs late in the process when the opportunity for citizen input or appeal is severely limited by the Zoning Ordinance to technical rather than

substantive issues. The report recommended that the CDD final plan requirements be eliminated, to be replaced with a newly proposed package of notice procedures and citizen outreach, including the additional posting of properties at application and additional citizen meetings earlier in the process.

- 6. Corrections resulting from TA98-011. This text amendment, approved in 1998, changed the administration of the site plan process from the Department of T&ES to the Department of P&Z, but reference to the Director of T&ES was not accurately struck in several locations to be replaced with Director (P&Z).**

When the new zoning ordinance was adopted in 1992, most development applications were considered as part of a special use permit application, with the Department of Planning and Zoning (P&Z) charged with coordinating the review of those development plans among all city agencies. However, the minority of development applications which did not require a special use permit remained under the administration of the Department of Transportation and Environmental Services (T&ES). In 1998, the City decided to place the administration of both types of development plans under a single agency, the Department of Planning and Zoning. A text amendment (TA98-0011) to formalize that structure was adopted in 1998. However, the text amendment for that change was not completely and correctly codified in the printing of the zoning ordinance, so that some references remain in the provisions to the Director of T&ES where the responsibility has shifted to the Director of P&Z. The development review study identified this technical problem with the ordinance, noting that it caused confusion about the process among applications. The report recommended that the zoning ordinance be amended to correctly replace 'Director of Transportation and Environmental Services' with 'Director of Planning and Zoning' where appropriate for the administration of the site plan ordinance, and as had been specifically identified in the text amendment adopted by Planning Commission and City Council in 1998. That text amendment report is attached, with the correct language.

Recommendation

The text amendments proposed here are a small, but critical part of the larger changes being implemented to improve the development review process. Staff recommends approval.

STAFF: Eileen Fogarty, Director, Planning and Zoning;
Barbara Ross, Deputy Director, Planning and Zoning
Kimberley Johnson, Chief, Development Division;
Rob McLeod, Urban Planner;
Ignacio Pessoa, City Attorney.

Docket Item # 2
TEXT AMENDMENT #98-0011

Planning Commission Meeting
June 2, 1998

CASE: TEXT AMENDMENT #98-0011
SITE PLAN PROCESS

ISSUE: Consideration of an amendment to Section 11-400 (Site Plan) of the Zoning Ordinance to change the administration of the site plan process from the Department of Transportation and Environmental Services to the Department of Planning and Zoning.

CITY COUNCIL ACTION, JUNE 13, 1998: Approved the recommendation of the Planning Commission and approved the text amendment, and noted the staff memorandum dated June 2, 1998, with respect to Section 11-407(a) which keeps the Director of T&ES in the language.

PLANNING COMMISSION ACTION, JUNE 2, 1998: By unanimous consent, the Planning Commission recommended approval of the text amendment.

Reason: The Commission agreed with the staff analysis, noting the one change added by staff.

STAFF RECOMMENDATION: Staff recommends that the Planning Commission on its own motion initiate the following text amendment:

ARTICLE XI: DEVELOPMENT APPROVALS AND PROCEDURES

Sec. 11-400 **Site plan.**

Sec. 11-402 *Administration.* Unless otherwise specifically provided herein, the director¹ of ~~transportation and environmental services~~ has the duty and responsibility to administer and enforce the provisions of this section 11-400 and the authority to establish rules and regulations to do so. To the extent delegated herein, other department directors shall have the duties and responsibilities provided and the authority to establish rules and regulations to administer such responsibilities. The director of ~~transportation and environmental services~~ or the head of any other department referred to in this section 11-400 may delegate in writing to an employee under his supervision any of the functions hereunder for which the director or such department head is responsible. These provisions of section 11-400 are included herein for administrative convenience; they derive from section 9.33 of the charter and are technically not part of the zoning ordinance for purposes of section 9.12 of the charter.

[The remainder of the site plan regulations text will be amended, replacing "Director of Transportation and Environmental Services" with "Director of Planning and Zoning" where appropriate to the administration of the site plan process. The full amended text is attached.]

¹In the zoning ordinance, the term "director" is defined as the director of planning and zoning.

DISCUSSION

This text amendment will change the language in the zoning ordinance consistent with the management change of site plan review administrative responsibilities from the Department of Transportation and Environmental Services to the Department of Planning and Zoning. Each department's substantive reviews of proposed development will remain the same. However, the processing of applications, the facilitation of the application among departments, the report writing and other required paperwork will be organized by the Department of Planning and Zoning. The administrative change will begin with applications for the September, 1998 Planning Commission docket.

Historically, new development was reviewed and approved as part of the City's site plan process. In more recent years, as the special use permit process has expanded, it has encompassed almost all new development. Now, it is most common that new development is reviewed and approved under the Development Special Use Permit process. Those permits require a hearing before the Planning Commission and approval by City Council. Significantly, that process incorporates, as part of the overall review and approval, preliminary site plan and subdivision approvals.

The "site plan" process that is not part of the Development Special Use Permit process is governed by section 11-400 of the zoning ordinance, which is the subject of this text amendment. Those provisions apply only to those building proposals that are large enough to require a site plan (typically, over 3,000 square feet) but do not require special use permit approval. What the proposed text amendment does is make the site plan process identical to the development special use permit process in terms of agency responsibilities. Although the site plan process is simpler and involves only one public hearing and approval of only the Planning Commission, the agency review responsibilities are the same in both. The proposed changes will simply take the administration of the plain site plan applications from T&ES and move it to P&Z, where it will be handled as Development Special Use Permits are.

The Development Special Use Permit process is administered by the Department of Planning and Zoning which receives applications, and facilitates them through the review process. As part of that process, the Department of T&ES reviews and comments on the plan regarding such matters at drainage, utilities, road standards, and many other technical aspects of the proposed development. The Department of T&ES maintains its review and final approval authority through the final (post

Council approval) site plan stage and is the agency in charge of the requirement for and management of the bond for construction of improvements. Precisely the same steps will be part of the proposed process for site plans under this text amendment.²

Both agencies believe the proposed administrative rearrangement is a good change. While initially developers will have to learn that site plan applications are now filed with the Department of P&Z, instead of with Geoff Byrd in T&ES, otherwise the proposed process should be less confusing to the development community than it has been in the recent past. All development applications will be filed with one agency. All paperwork will be handled by one agency. Filing deadlines and notice requirements will be handled by one agency. (See attached schedule of deadlines and dates for applicants for 1998-99.)

Staff recommends approval of the text amendment.

STAFF: Sheldon Lynn, Director, Planning and Zoning; Barbara Ross, Deputy Director.

ATTACHMENT:

1. Article XI: Development Approvals and Procedures
2. Schedule of Deadlines for Site Plan Applications

²The last remaining procedure in the zoning ordinance unique to site plans under section 11-400, and not applicable to development special use permits, is the requirement of a coordinating committee meeting. While a desirable step in the review process, as prescribed in section 11-400 the meeting has a long list of cumbersome requirements such as legally required public notice, appeals, and other steps, that make the simple site plan process more elaborate and longer than otherwise necessary. Staff may return with a text amendment in the future eliminating that historical procedure.

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ARTICLE XI: DEVELOPMENT APPROVALS AND PROCEDURES

Sec. 11-400 **Site plan.**

Sec. 11-402 *Administration.* Unless otherwise specifically provided herein, the director³ of ~~transportation and environmental services~~ has the duty and responsibility to administer and enforce the provisions of this section 11-400 and the authority to establish rules and regulations to do so. To the extent delegated herein, other department directors shall have the duties and responsibilities provided and the authority to establish rules and regulations to administer such responsibilities. The director of ~~transportation and environmental services~~ or the head of any other department referred to in this section 11-400 may delegate in writing to an employee under his supervision any of the functions hereunder for which the director or such department head is responsible. These provisions of section 11-400 are included herein for administrative convenience; they derive from section 9.33 of the charter and are technically not part of the zoning ordinance for purposes of section 9.12 of the charter.

Sec. 11-407 *Procedures for processing site plan application.* The following procedures shall govern the processing and review of applications for site plan approval.

(A) *Preapplication conference.* No fewer than 45 days prior to filing an application for preliminary site plan approval, an applicant may, and an applicant who proposes to develop one of the following uses shall, meet with the director of ~~transportation and environmental services~~ and the director of planning and zoning to discuss the applicant's intentions with regard to the proposed development and the requirements of this section 11-400. It is the intention of this section 11-407(A) that this meeting shall be held at the conceptual phase of project planning and prior to the time when the site plan and application for site plan approval are prepared. No matters discussed at this meeting shall be binding on either the applicant or the city.

(1) Any individual building or structure which contains:

(a) 50,000 or more usable square feet of commercial and/or professional office space;

³In the zoning ordinance, the term "director" is defined as the director of planning and zoning.

ATTACHMENT 1

- (b) 40,000 or more usable square feet of retail sales space;
 - (c) 150,000 or more usable square feet of industrial space;
 - (d) 250 or more residential units; or
 - (e) Any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 150,000 or more usable square feet of industrial space, or 250 or more residential units.
- (2) Any project, complex or development which is or becomes the subject of common ownership or control, which is or becomes the subject of a common, concerted, coordinated or phased plan of development irrespective of ownership or control, or which is or becomes the subject of a common, concerted, coordinated or phased plan of lease, sale, marketing or operation irrespective of ownership or control, and which when completed or assembled involves two or more buildings or structures containing in the aggregate:
- (a) 50,000 or more usable square feet of commercial and/or professional office space;
 - (b) 40,000 or more usable square feet of retail sales space;
 - (c) 150,000 or more usable square feet of industrial space;
 - (d) 250 or more residential units; or
 - (e) Any combination of space which includes 50,000 or more usable square feet of commercial and/or professional office space, or 40,000 or more usable square feet of retail sales space, or 150,000 or more usable square feet of industrial space, or 250 or more residential units.

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(B) *Filing application.*

- (1) An application for site plan approval shall be filed with the director of ~~transportation and environmental services~~ and shall contain the information specified in section 11-406.
- (2) No application shall be accepted and reviewed unless determined to be complete by the director of transportation and environmental services and the director of planning and zoning. A complete application is one which includes the minimum submission requirements expressly listed in section 11-406. Within 15 calendar days of the date it is filed, each application shall be reviewed to determine if it includes the minimum submission requirements and notice regarding the completeness of the application shall be mailed to the applicant. If no notice is sent, the time limits of this section shall begin to run on the 16th calendar day after the filing of the application.

(C) *Site plan coordinating committee.*

- (1) A site plan coordinating committee is established which shall meet in order to examine the preliminary site plan, to discuss it in light of the provisions of this section 11-400 and to make recommendations concerning the plan. The coordinating committee shall consist of a representative from each of the following: the department of transportation and environmental services, the fire department, the department of planning and zoning, the sanitation authority, the department of parks, recreation and cultural activities, the office of historic Alexandria, and any other department or staff that the director deems necessary or desirable on a specific application.
- (2) Prior to the time that the planning commission first considers any preliminary site plan, the director of ~~transportation and environmental services~~ shall call a coordinating committee meeting at which such site plan shall be reviewed.

- (D) *Staff report and recommendation.* The director of ~~transportation and environmental services~~ shall prepare a staff report for the planning commission on each application which report shall include all staff comments and analysis, including any report and recommendation prepared by another department, and a recommendation for approval, for approval with conditions

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or for disapproval. If the director of ~~transportation and environmental services~~ disagrees with the recommendations of another department or of the site plan coordinating committee, the report to the planning commission shall so indicate and the reasons for disagreeing shall be given. In the case of a site plan subject to the preapplication requirements of section 11-407(A), the director of planning and zoning shall be responsible for preparing the staff report in accordance with this section 11-407(D).

- (E) *Review by planning commission.* The director of ~~transportation and environmental services~~ shall see that all required staff and committee reviews are completed and that the application is docketed in sufficient time for the planning commission to act within 90 days from the day the applicant was notified that the application was complete, unless the applicant agrees to a longer period of time.
- (F) *Changes to application.* If an applicant submits materials to supplement its application prior to final action by the planning commission, the director of transportation and environmental services and the director of planning and zoning shall review the additional material to determine whether additional staff time is necessary to assess the application. If additional time is necessary, the director of transportation and environmental services or director of planning and zoning may extend the review period accordingly, not to exceed an additional 90 days, or, in the event of a major revision, may require that a new application be filed.

Sec. 11-408 *Notice of site plan coordinating committee.*

- (A) The director of ~~transportation and environmental services~~ shall give notice of the coordinating committee meeting to each individual who and each group that has registered with his office and indicated a desire to receive notice of site plan coordinating committee meetings. The annual cost of receiving such notices shall be as provided by general rule and shall be paid at the time of registration. The notice to such registered individuals and groups shall be sent by regular mail by the city site plan coordinator at least 15 days prior to each committee meeting. The notice shall state the date, time and place of the site plan coordinating committee meeting, shall provide a brief identification of the site plans to be considered at the meeting and, if applicable, shall state the date, time and place of the planning commission meeting at which the site plans are tentatively scheduled to be considered. The notice shall further provide that any person may offer oral comments regarding any of the plans at the meeting of the site plan coordinating committee and/or may file with

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the director of ~~transportation and environmental services~~ written comments relating to such plans, provided that any written comments must be received in the office of the director of ~~transportation and environmental services~~ at least three working days prior to the meeting.

- (B) The applicant shall be advised of the date, time, and place of the site plan coordinating committee meeting at which the applicant's site plan is to be considered at least 25 days before such meeting. The applicant shall give notice of the site plan coordinating committee meeting to the owners of all abutting properties, as that term is defined in this ordinance; provided, however, if there are fewer than ten abutting properties, the applicant shall notify additionally the owners of adjacent properties in the immediate vicinity of the site plan property. In no case shall the notice be sent to the owners of fewer than ten abutting or adjacent properties. In the case of a condominium, such written notice may be mailed to the unit owners' association in lieu of each individual unit owner. The notice shall be sent by regular mail at least ten days prior to the committee meeting at which the site plan will be reviewed. The notice shall state the date, time and place of the committee meeting and shall provide a brief identification of the applicant's site plan, including the tax map number and the complete street address of the property in question. The notice shall also indicate that any person may offer oral comments regarding the site plan at the meeting of the site plan coordinating committee and/or file with the director of ~~transportation and environmental services~~, provided that written comments relating to the site plan and that any such comments must be received in the office of the director of ~~transportation and environmental services~~ at least three working days prior to the site plan coordinating committee meeting. Notwithstanding the foregoing notice requirements, the applicant may be required to mail a notice of the planning commission meeting at which the site plan is to be considered separate from the notice of the meeting of the site plan coordinating committee as required above, in which case the notice of the commission meeting shall conform strictly with the provisions of section 11-300.
- (C) Any individual or group entitled to notice of a site plan coordinating committee meeting pursuant to this section 11-408 shall be considered to have waived such entitlement only if a written waiver has been filed with the city site plan coordinator prior to the meeting.
- (D) Failure of any individual or group to receive any notice required by this section 11-408, shall not, in and of itself, invalidate any action taken at the meeting for which notice was given.

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Sec. 11-409 *Action on site plans.*

(A) *Action on preliminary site plan.*

- (1) Within 90 days of the time an applicant is sent notice regarding the completeness of his application, the planning commission shall hold a public hearing and act on the application for preliminary site plan approval by approving or disapproving the plan or approving it with conditions, required revisions, additions or changes. In the case of disapproval, the commission shall give its reasons therefor. Two copies of the site plan shall be returned to the applicant with the date of approval or disapproval noted thereon over the signature of the director of transportation and environmental services. Any action by the planning commission shall be entered in the minutes of the commission.
- (2) Failure of the commission to act within 90 days shall be deemed to constitute approval of the plan unless, prior to the expiration of such period, the planning commission, for good cause shown and by vote of a majority of all of its members, shall have extended the period not to exceed an additional 45 days.

(B) *Standard for approval by planning commission.* An applicant for preliminary site plan approval shall demonstrate to the satisfaction of the commission that:

- (1) The applicable factors of section 11-410 have been appropriately considered in the site plan;
- (2) The development will not adversely affect the public health safety and welfare; and
- (3) The application complies with all provisions of this ordinance and all applicable laws.

(C) *Appeal of action on preliminary site plan.*

- (1) The planning commission's approval or disapproval of a preliminary site plan or combined site plan may be appealed to the city council by the applicant, by the city manager, by an owner of property located within 1,000 feet of the boundaries of the site plan property, by an

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owner of property notified pursuant to section 11-408(B) or by a person or group notified pursuant to section 11-408(A) who submits a petition signed by at least 25 property owners or residents of the city. The appeal shall be made in writing, shall state clearly the grounds of the appeal and shall be filed with the city clerk within 15 days after the decision is announced. Following the filing of such an appeal, the director of transportation and environmental services shall verify that each person filing the appeal has the right of appeal as set forth in this subsection. The filing of an appeal shall stay the effect of site plan approval by the planning commission.

- (2) Whenever an appeal is filed, the commission shall forward the record and its reasons for approval or disapproval to the city council, which may be in the form of the transcription of the public hearing, and shall designate at least one member of the commission to appear before the city council at the public hearing.
 - (3) In the event an appeal is filed, the city council shall schedule at least one public hearing on the matter. The council shall review the record, documents and actions taken by the planning commission and may take additional evidence if necessary for complete and competent review of the issues before it. The council may affirm, reverse or modify the decision of the commission or vacate and remand the matter to the commission for further consideration.
 - (4) The issues on appeal shall be limited to the grounds identified in the appeal papers filed with the city clerk. The proposed use shall not be grounds for appeal.
 - (5) The council's action on appeal may be reviewed by appeal to the circuit court to determine whether substantial evidence exists to support the decision of council provided the appeal to court is filed within 60 days of the council action.
- (D) *Action on final site plan.*
- (1) If a preliminary site plan is approved, or approved with modifications, and no appeal as provided in section 11-409(C) is taken, the applicant shall cause a final site plan to be prepared by a professional engineer or land surveyor duly authorized by the Commonwealth of Virginia, or, if required by the director of transportation and environmental

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services, by both, and to be submitted to the director of ~~transportation and environmental services~~ for consideration. Final site plans shall be on reproducible permanent base material and shall be on sheets which shall not exceed 24 x 36 inches in size. The plan may show only part of the land designated on the preliminary site plan if desired. The original tracing and 20 prints of the final site plan shall be at a scale no smaller than one inch to 40 feet unless, in the opinion of the director of transportation and environmental services or the director of planning and zoning, a one inch to 50-foot scale would be satisfactory where detail is not necessary.

- (2) The final site plan shall show all of the information required by sections 11-406(C) through (E) for preliminary site plans, but the information shown shall be specific, precise and accurate to usual and recognized professional standards and not general in nature. Calculations of storm water runoff shall be submitted. The final site plan submission shall include test borings and soil tests, when the subject property contains marine clay or fill or when otherwise found necessary by the director of transportation and environmental services and the director of planning and zoning, including proposals for sheeting, shoring, dewatering, excavating, foundation design and backfilling. Final site plans shall be checked for compliance with preliminary site plans previously approved and the requirements of this section 11-409(D). If the director of transportation and environmental services and the director of planning and zoning finds that a final site plan complies in all respects, ~~he~~ they shall indicate ~~his~~ their approval thereon and submit it to the chairman or vice-chairman of the commission for approval. The date of the final approval signature shall be noted on the plan.
- (3) If the director of ~~transportation and environmental services~~ finds that a final plan does not comply with a previously approved preliminary site plan or the provisions of this section 11-409(D), the applicant shall be so advised, and shall be allowed to either bring the final plan into compliance in all respects, submit a new preliminary site plan for processing as if no plan had been previously considered, or withdraw his application without refund of fees.
- (4) The director of transportation and environmental services shall release the approved final site plan to any applicant who has complied with all applicable requirements.

TEXT AMENDMENT # 2002-0005

ISSUE DESCRIPTION: DEVELOPMENT APPROVALS and
PROCEDURES:
to revise procedures related to
the processing of applications for
development plans.

ZONING ORDINANCE SECTION: ARTICLES V and VI

CITY DEPARTMENT: PLANNING + ZONING

ACTION - PLANNING COMMISSION: 10/01/02 RECOMMEND APPROVAL 7-0

ACTION - CITY COUNCIL: 10/19/02PH -- See attached.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

ACTION CONSENT CALENDAR (continued)

Planning Commission (continued)

~~10~~ Councilwoman Eberwein did not remove docket item #10 from Action Consent but wished to comment on it. Ms. Eberwein complimented both the Planning staff and City Manager in moving forward with Council's effort to streamline the process of approving land use applications in order to provide a more cooperative effort between the neighborhoods and those who are proposing the applications in the City.

City Council approved the Planning Commission recommendation.

11. City Council approved the Planning Commission recommendation.

12. City Council approved the Planning Commission recommendation.

13. Councilman Speck removed this item from Action Consent to question staff about the Planning Commission's thinking due to the intensification of this automobile-related use. He directed questions to Planning and Zoning Deputy Director Ross, and Members of City Council participated in the discussion.

City Council approved the Planning Commission recommendation with the addition of Condition #17, as suggested by Mayor Donley, to read: **"17. The applicant shall clear the property of trash and debris within 60 days of issuance of the SUP, and Code Enforcement shall inspect the property within the 60 days to ensure that everything is in compliance."** (Separate Motion)

14. City Council approved the Planning Commission recommendation.

15. City Council approved the Planning Commission recommendation.

END OF ACTION CONSENT CALENDAR

Council Action: _____

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

16. Public Hearing on and Consideration of Report from the Citizen Committee Appointed to Review Council Compensation. (#20 9/24/02)

The public hearing was held and concluded.

Mayor Donley requested a report from staff, or at least an assessment, of what the fiscal impact is, plus Council's eligibility for benefits, to come forward with the proposed ordinance. The City Manager explained that Council is not eligible for retirement benefits under VRS but will be eligible for the City's supplemental plan.