

COUNTY OF ALBEMARLE

STAFF REPORT

AGENDA TITLE: Resolution of Intent to Amend Zoning Ordinance Section 35 Fees	AGENDA DATE: 8/7/18
SUBJECT/PROPOSAL/REQUEST: Changes to Section 35 Fees to correspond with changes to Section 33 Zoning Map Amendments (ZMAs) and Special Use Permits (SPs)	ACTION: X INFORMATION:
STAFF CONTACT(S): Greg Kamptner, Elaine Echols, Bill Fritz	CONSENT AGENDA: ACTION: INFORMATION:
	ATTACHMENTS: Yes

DESCRIPTION: This resolution serves to begin the process of amending the fee schedule to correspond with changes proposed in Section 33 related to deferrals (primarily) and timing for payment of fees.

PUBLIC PURPOSE TO BE SERVED: To simplify a process that is excessively complicated and time consumptive at present.

BACKGROUND: On July 17, staff explained several proposed changes to Section 35 Fees to help simplify administering a process for deferrals. Attachment A contains the staff report, which identifies the proposed changes.

DISCUSSION: The Commission is asked to adopt the Resolution of Intent in Attachment B to make the following changes to the Fees section in the Zoning Ordinance:

- Remove a fee for a citizen-initiated zoning text amendment (ZTA)
- Include a flat fee in the application for notice of the first public hearing to be held by the Planning Commission and Board of Supervisors
- Include a fee for readvertisement and notification of additional public hearings
- Provide a fee for reapplication of a zoning or SP request that is substantially the same as a withdrawn application, when authorized by the Board of Supervisors
- Remove a fee for deferral
- Modify the fee reduction for simultaneous review of a ZMA or special use permit and site development plan to apply only to outdoor display and sales
- Add credit or debit transaction to the mode of payment of fees
- Add a specific refund for withdrawn requests within 70 days of the official submittal date

As described on July 17, staff recommended a change to collect notification fees up-front with ZMA or SP applications rather than waiting until an applicant requests a public hearing. Staff explained that the primary fee change would be to increase the application fee by \$852, which is the average cost for public hearing notification for SPs and ZMAs.

Since 2011 when it began collecting a separate public hearing fee after giving the applicant comments, staff has heard many applicants say they prefer to pay a single fee upfront. However, feedback was recently received from a regular applicant that this practice would be unfair and overly burdensome to some applicants, especially small SP requests. Staff explained that the refund policy already exists for the Zoning Administrator to authorize a refund of monies which have not been spent in reviewing an application, if a withdrawal is requested. However, staff recommended that a standard process for refunds be codified so that an applicant knows how and when a withdrawal may result in a refund. Staff suggested that refunding a percentage of the application cost might serve to standardize reimbursements in a fair and consistent way.

After looking at refunding a percentage of the cost or lowering the cost, staff believes that a less cumbersome way to achieve the same goal would be to raise the application fee by \$435 and make that amount available for refund if an applicant withdrew prior to any notifications (70 days after official submittal). This would place the burden on the applicant to request the refund before any more staff time is spent on the project.

The current proposed fee increase represents the minimum (rather than the average) cost for any SP or ZMA notification. Although the County would be responsible for the remainder of the advertisement cost, having this set amount would still allow the County to recover a majority of the cost for many SPs which go to public hearing. It would allow the County to typically recover less of the cost for ZMAs which go to public hearing. If an applicant is serious about a proposal and wants it to proceed in a timely manner, payment up front should not be an issue. By day 70, an applicant has received comments from a mandatory preapplication meeting and a comprehensive set of comments from all reviewers.

Staff notes that a formal review of all zoning and subdivision fees is scheduled for 2019. A Board of Supervisors member has asked that fees for non-profit organizations, such as religious institutions and private fire/rescue companies be reevaluated. Staff is not in a position to provide such an evaluation right now and would like for changes associated with Section 33 be acted upon at the earliest possible date. When all fees are reevaluated collectively and comprehensively, further changes to Section 35 are likely.

RECOMMENDATION: Staff recommends approval of the attached Resolution of Intent for Section 35 fees. The Planning Commission will review specific fee changes in ordinance form at a future public hearing. Staff is anxious that all changes related to Section 33, including collection of public hearing fees up front, be in place before the end of 2018 so that review schedules for 2019 can reflect those changes.

ATTACHMENTS:

Attachment A: Staff Report dated July 17, 2018

Attachment B: Resolution of Intent to Amend Section 35

COUNTY OF ALBEMARLE

STAFF REPORT

AGENDA TITLE: ZTA 2017-06 Updates and Clarifications to Section 33 Zoning Text Amendments (ZTAs), Zoning Map Amendments (ZMAs), Special Use Permits (SPs) and Special Exceptions	AGENDA DATE: 7/17/18
SUBJECT/PROPOSAL/REQUEST: Work Session on Zoning Text Amendment related specifically to Deferrals	ACTION: X INFORMATION:
STAFF CONTACT(S): Elaine Echols, Bill Fritz, Greg Kamptner, John Blair	CONSENT AGENDA: ACTION: INFORMATION:
	ATTACHMENTS: Yes

PUBLIC PURPOSE TO BE SERVED: The purpose for the full amendment to Section 33 of the Zoning Ordinance is to update terms and definitions and clarify regulations and procedures related to ZTAs, ZMAs, SPs, and special exceptions. It is expected not only to improve the administration of these Zoning regulations, but also to provide more clarity for the public and others who use them.

BACKGROUND: The Board of Supervisors adopted a resolution of intent to amend the Zoning Ordinance to make changes to Section 33 on April 5, 2017 (Attachment A). Included with other "clean-ups" are changes to Section 33 to codify existing practice and provide greater precision with deferrals of ZMAs and SPs. A deferral occurs when an applicant requests that staff suspend review of an application for a period of time or to extend the time for action by the Planning Commission or Board of Supervisors.

At present, there are 35 zoning map amendment and special use permit requests under review. Over half are in some state of deferral. Activity with staff is taking place on a few of these projects; however, for some of the others, applicants have not been in contact with staff for many months or years. Current wording in the zoning ordinance implies a three-year limit for a project to achieve action by the Board of Supervisors but is not explicit. This lack of precision creates problems about the status of a project for applicants and the public. It is even more troublesome for staff who must spend at least ten hours per project ascertaining where a project sits on a time schedule for action by the Board of Supervisors if action has not been taken within one year or has not been to the Planning Commission. More hours are then spent cajoling applicants to make a written request for deferral. For example, on a controversial project submitted in early 2015, an additional fifteen hours was spent trying to get an applicant to provide a written request to defer a project. This project has not yet reached the Planning Commission for a public hearing and it is unknown when or if it will be scheduled. Such a situation is not uncommon. Because these activities are so time consuming and unpredictable for the public, staff is recommending that firm deadlines for action be included in the zoning ordinance.

DISCUSSION: Proposed zoning text changes are included in Attachment B. They codify current practice relating to community meetings, provide a definitive time for action by the Board of Supervisors, and establish parameters and procedures for requesting deferral and withdrawal of an application. The proposed timeline is for a maximum of 36 months from acceptance of an application for review to action by the Board of Supervisors. Attachment C contains information on the purpose for each proposed change. Proposed changes also relate to the timing for payment of fees and for fee reductions if time runs out before the Board acts and an applicant must reapply. A roundtable discussion with members of the development community is scheduled for July 16. Results of this meeting will be shared with the Commission on July 17.

Additional changes to Section 33 are under development by the County Attorney, which are similar to the "housekeeping" amendments approved for other sections in the Zoning Ordinance in recent months. These minor non-substantive changes will be provided with the amendments scheduled for public hearing later in the summer.

BUDGET IMPACT: The zoning text amendments related to deferrals and community meetings will allow for increased staff time for development review or other planning projects. No additional staff or funding will be needed because of the amendments.

RECOMMENDATION: Staff recommends that the Commission review the proposed changes, take public comment, and advise on any desired changes prior to holding a public hearing on Section 33 of the Zoning Ordinance.

ATTACHMENTS:

Attachment A: Resolution of intent for Section 33 ZTA adopted April 5, 2017

Attachment B: Draft Zoning Text Amendment for a portion of Section 33

Attachment C: Table of Proposed Changes for Zoning Text Amendment draft July 2, 2018

RESOLUTION OF INTENT

WHEREAS, Section 35, Fees, of the Zoning Ordinance (Chapter 18 of the Albemarle County Code) establishes a schedule of fees for various zoning related applications and approvals under the Zoning Ordinance, and procedures and other requirements related thereto; and

WHEREAS, it is desired to amend Section 35.1 of the Zoning Ordinance in order to delete the fee for a citizen-initiated zoning text amendment; raise the application fee for zoning map amendments and special use permit but attribute a portion of the fee for notice for a single public hearing by the Planning Commission and the Board of Supervisors; provide for a refund of this portion of the fee before a certain date; add a fee to re-advertise and provide other public notice for additional public hearings; add a fee to reapply for a zoning map amendment or a special use permit that is substantially the same as a withdrawn application, when authorized by the Board of Supervisors; delete the fee to defer an application; and allow fees to be paid by credit or debit card; and

WHEREAS, it is desired to amend Section 35.2 of the Zoning Ordinance to limit the availability of the reduced fee when there is a simultaneous review of an application for a zoning map amendment or a special use permit and a site plan or subdivision plat to only when an application for a special use permit for outdoor display and sales is reviewed simultaneously with a site plan; and

WHEREAS, it is desired to amend Section 35.3 of the Zoning Ordinance in order to allow paid fees to be refunded if an application is withdrawn within 70 days after the date the application is officially submitted.

NOW, THEREFORE, BE IT RESOLVED THAT for purposes of public necessity, convenience, general welfare and good zoning practices, the Albemarle County Board of Supervisors hereby adopts a resolution of intent to amend Section 35.1 of the Zoning Ordinance to achieve the purposes described herein; and

BE IT FURTHER RESOLVED THAT the Planning Commission shall hold a public hearing on the zoning text amendment proposed pursuant to this resolution of intent, and make its recommendations to the Board of Supervisors at the earliest possible date.

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