

MEMORANDUM

April 24, 2014

TO: Planning, Housing, and Economic Development Committee
FROM:  Jeff Zyontz, Legislative Attorney
SUBJECT: Resolution to revise Office of Zoning and Administrative Hearings'
Local Map Amendment Filing Fee Schedule

A draft resolution concerning Local Map Amendment fees was introduced on April 22, 2014. The Council will conduct a public hearing on May 13, 2014. This item is being brought to the Committee before the public hearing in anticipation that no objections will be raised at the public hearing.

Staff recommendation: Approve all revised LMA fees as introduced.

The Council approved the Zoning Ordinance Rewrite (ZTA 13-04) that established new zones and allowed for Local Map Amendment applications under the new code after May 1, 2014. Existing zones are different; there are few minimum lot size requirements. The current resolution that approved Local Map Amendment filing fees referenced zones in the current code. The fee schedule must be changed to reflect the new zones. Under Section 59-H-2.3.2(b), the Council must amend the filing fees by resolution after the District Council has held a reasonably noticed public hearing.

The new fees were developed to be comparable to current fees. The draft fees were developed by Staff using the following principles:

- 1) New zones have proposed fees comparable to equivalent existing zones. For example, Staff equated the new Apartment Floating (AF) zone to the existing PD zone; fees for the new Residential Detached Floating (RDF) zone were made comparable to fees for the RMX zones.
- 2) Where there are both Euclidean and floating zones in the same general category, Staff used the same fee for the floating zones as for the Euclidean zones.
- 3) In some instances, different existing zones that are now equivalent to the same new zone had minimum lot sizes. The current fees are based on these minimum lot sizes. Few of the new zones have minimum lot sizes. Where minimum lot sizes were removed, the base fee was made the same as for a comparable zone that does not have a minimum lot size, and then increased based on the applicant's acreage.
- 4) Where there were equivalent existing zones with fees assessed per acre and fees assessed based on more than one acre, Staff chose the lowest per acre fee.

A memorandum to Mr. Grossman from Lynn Robeson, dated April 21, 2014, details the reasoning for the recommended fees. That memorandum is attached. It provides detail on how the new fees were calculated.

The Hearing Examiner will propose a comprehensive fee schedule that relates to all processes, zones, and land uses in the new code before the end of May. The fees in the attached resolution will expire on October 30, 2014 and will be superseded by a more comprehensive fee schedule.

On May 13, 2014, the Council will hold a public hearing on the proposed revised filing fee schedule. Depending upon the testimony received, the Council may approve, disapprove, or amend the resolution immediately after the public hearing.

This Packet Contains

Resolution

Memorandum from Ms. Robeson

© number

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Resolution No.: _____
Introduced: _____
Adopted: _____

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION
OF THE MARYLAND-WASHINGTON REGIONAL DISTRICT
WITHIN MONTGOMERY COUNTY, MARYLAND**

By: District Council

SUBJECT: Resolution to revise Office of Zoning and Administrative Hearings' Local Map Amendment Filing Fee Schedule

Background

1. The Council approved the Zoning Ordinance Rewrite (ZTA 13-04) that established new zones and allowed for Local Map Amendment applications under the new code after May 1, 2014.
2. The current resolution that approved Local Map Amendment filing fees referenced zones in the current code.
3. The Council expects to revise all zoning related fees before the effective date of the Zoning Rewrite, October 30, 2014.
4. Under Section 59-H-2.3.2(b), the Council must amend the filing fees by resolution after the District Council has held a reasonably noticed public hearing.
5. The Council introduced this resolution to revise Local Map Amendment filing fees on April 22, 2014. On May 13, 2014, the County Council held a public hearing on the proposed revised filing fee schedule. On May 13, 2014, the County Council reviewed the proposed filing fee schedule.

Action

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland approves the following resolution:

The attached filing fee schedule must be used for Local Map Amendments filed after May 1, 2014 and before October 30, 2014.

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council

LOCAL MAP AMENDMENT FEE SCHEDULE –May 2, 2014 – October 29, 2014

Zone Classification	Basic Fee for Designated Acreage or Less	Additional Fee Per Acre or Portion of Acre Above Designated Acreage
<u>Residential, One-Family Detached Zones</u>		
Agricultural Reserve (AR) (25 acres)	\$725	\$175
Rural (R) (5 acres)	725	175
Rural Cluster (RC) (5 acres)	800	225
Rural Neighborhood Cluster (RNC) (5 acres)	1,000	225
Low-density Residential & TDR (1 acre)		
- RE-2, RE-2C and RE-1	2,500	450
- R-200, Residential—200	3,900	450
Medium-density Residential & TDR (1 acre)		
- R-90, R-60 and R-40	5,000	450
Residential Detached Floating (RDF) (1 acre)	6,600	575
<u>Residential, One-Family Attached Zones</u>		
TLD, Townhouse Low Density (1 acre)	6,000	450
TMD, Townhouse Medium Density (1 acre)	6,000	450
THD, Townhouse High Density (1 acre)	6,000	450
Townhouse Floating Zone (TFZ) (1 acre)	6,000	450
<u>Residential, Multi-Family Zones</u>		
R-30, R-20, R-10, R-H (1 acre)	6,000	500
Apartment Floating (AF) (2 acres)	11,000	650
<u>Commercial/Residential Zones</u>		
Commercial Residential Neighborhood (CRN) (1 ac.)	7,200	575
Commercial Residential Town (CRT) (1 acre)	7,200	650
Commercial Residential (CR) (1 acre)	7,200	650
Commercial Residential Neighborhood Floating (CRNF) (1 acre)	7,200	575
Commercial Residential Town Floating (CRTF) (1 acre)	6,600	650
Commercial Residential Floating (CRF) (1 acre)	7,200	650
<u>Employment Zones</u>		
General Retail (GR) (1 acre)	7,200	650
Neighborhood Retail (NR) (1 acre)	7,200	650
Life Sciences Center (LSC)	18,150	875

LOCAL MAP AMENDMENT FEE SCHEDULE –May 2, 2014 – October 29, 2014

Zone Classification	Basic Fee for Designated Acreage or Less	Additional Fee Per Acre or Portion of Acre Above Designated Acreage
Employment Office (EO)	7,200	650
General Retail Floating (GRF) (1 acre)	7,200	650
Neighborhood Retail Floating (NRF)	7,200	650
Employment Office Floating (EOFF)	18,150	875
Life Sciences Center Floating (LSCF)	18,150	875
Industrial Zones		
Light Industrial (IL) (2 acres)	8,800	775
Moderate Industrial (IM) (2 acre)	6,600	600
Heavy Industrial (IH) (1 acre)	7,200	775
Light Industrial Floating (ILF) (2 acres)	8,800	775
Moderate Industrial Floating (IMF) (2 acre)	6,600	600

MEMORANDUM

TO: Martin Grossman
FROM: Lynn Robeson
DATE: April 23, 2014
RE: Equivalent Filing Fees

Not all of the existing zones fall within the same equivalent zone in the new Zoning Ordinance. There are several new zones as well. In addition, some zones had minimum site areas, which have now been eliminated. I applied the following general principles:

- In the case of the brand new zones, I have estimated which of the existing zones are most comparable to the new zone. For instance, I equated the new Apartment Floating (AF) zone to the existing PD Zone, which has been eliminated. I've equated the new Residential Detached Floating (RDF) Zone with the RMX zones. **You may wish to have Jeff review these equivalencies as I am not as familiar with the new zones.**
- Where there are both Euclidean and floating zones in the same general category, I have used the fee for the Euclidean zones for the floating zones as well.
- In some instances, different existing zones that are now equivalent to the same new zone had minimum lot sizes. The fees were based on these minimum lot sizes. For instance, the MXP Zone had a minimum lot size of 20 acres; therefore, the fee is \$18,140 per 20 acres. Few of the new zones have minimum lot sizes. Where there were equivalent existing zones with fees assessed per acre and fees assessed based on more than 1 acre, I chose the lowest *per acre* fee because the new zone has no restriction on minimum site area.

I do not think we have the ability to charge new fees in the absence of a Council Resolution. Nevertheless, we could possibly convert the existing fees to the equivalent under the new zoning ordinance. Below is some of my rationale for choosing particular equivalents:

Single-Family Detached Zones: These are relatively easily converted, as the zones have not changed very much. The RMH-200 and R-150 have been eliminated and are now considered equivalent to the R-200 Zone. **The new RNC Zone has a minimum site size**

of 10 acres, but I have kept our existing fee assessment based on five acres because the Planning Board may waive the 10-acre minimum site size.

There is a new "Residential Detached Floating Zone." After briefly reviewing this, I believe that the RMX Zones are a good comparison because they are optional method (a project plan is required) and permit single-family detached homes.

Single-Family Attached Zones

The R-T zones have been eliminated, except that they will be retained on the maps for properties that are already zoned R-T. The R-T Zones have been replaced with three new Euclidean townhouse zone and one floating townhouse zone:

1. Townhouse Low Density (TLD)
2. Townhouse Medium Density (TLD)
3. Townhouse High Density (THD)
4. Townhouse Floating (TF)

Our existing fee schedule did not differentiate between the different densities of townhouse zoning, so I have put in the single (existing) fee for R-T Zoning.

Multi-Family Residential Zones:

The R-30, R-20, and R-10 Euclidean Zones remain (R-MH has been eliminated). There is a new Apartment Floating (AF) zone. I did not see a minimum lot size for the AF Zone. Therefore, there may be applications containing fewer than 20 acres. For this reason, I used the existing PD zone fees for the AF zone. These potentially comparable existing fees are:

PD: \$11,000/650 per 2 acres
MXPD: \$18,150/650 per 20 acres
MXN: Same as MXPD
Planned Neighborhood: 26,500/650 per 20 acres.

Commercial/Residential Zones

There are three Euclidean commercial/residential zones and three commercial residential floating zones. These include:

1. Commercial Residential Neighborhood (CRN)
2. Commercial Residential Town (CRN)
3. Commercial Residential (CR)
4. Commercial Residential Neighborhood Floating (CRNF)
5. Commercial Residential Town Floating (CRTF)
6. Commercial Residential Floating (CRF)

Equivalent commercial residential zones:

1. Commercial residential neighborhood: CRN is equivalent only to the existing C-T Zone. **Therefore, I have put the existing fees for C-T Zoning in the fee schedule.**
2. Commercial residential town: CRT is the equivalent for several existing zones. These include medium to high density C-1 uses, specifically, CRT 0.5 C 0.5 R 0.25, H 35; CRT .75 C 0.5 R 0.25 H 45; CRT 2.0 C 1.5 R 0.7 H 45; CRT 2.25 C 1.5, R 0.75 H 45. Low density C-1 zone development in the C-1 Zone is equivalent to the new "Neighborhood Retail" Zone. The CRT is also equivalent to some C-2 Zones with roughly medium to higher densities, heights, etc., that can go up to 75 feet. CRT is also deemed equivalent to C-4, C-Inn Zone, and the H-M Zone. Our fees for equivalent zones are:

C-1, C-2, C-4: \$7,200/650 per acre
H-M: \$8,800/650 per 2 acres
C-Inn: \$6,600/650 per 2 acres

I did not see a minimum lot size in the CRT zone, so used the lowest per acre fee, which is the C-1 fee.

3. Commercial Residential: CR is equivalent to the existing CBD zones, transit station zones, MXN Zone, and MXPD Zone. OZAH's existing filing fees are:

CBD-1, CBD-R1, CBD-R2, CBD-0.5: \$7,200/650 per acre.
CBD 2 and CBD-3: \$8,800/775 per acre.
TS-M and TS-R: \$9,350/750 per acre.
MXPD: \$18,150/650 per 20 acres.
MXN: \$18,150/650 per 20 acres.

Because there is no minimum lot size for the commercial/residential zones, **I used the fees for the CBD-1, -R2, -0.5 because they are the lowest per acre fees.**

Employment Zones

There are 4 Euclidean employment zones and 4 floating employment zones. These are:

1. General Retail
2. Neighborhood Retail
3. Life Sciences Center
4. Employment Office
5. General Retail Floating (FRF)
6. Neighborhood Retail Floating (NRF)
7. Employment Office Floating (EOF)

8. Life Sciences Center Floating (LSCF)

These zones equivalent to the following existing zones:

1. General Retail: GR is listed as the equivalent to the C-3 and C-4 Zones, and lower density C-2 uses (GR-1.5 H-45). The fees for all of these are the same, i.e., \$7,200/650 per 1 acre. **I used that fee for the GR Zone.**
2. Neighborhood Retail: NR is listed as the equivalent of lower density C-1 uses (i.e., GR-1.5 H-45). **I've used the C-1 fees.**
3. Life Sciences Center (LSC): **I have used the existing fee for this zone.**
4. Employment Office: Many existing zones are deemed the equivalent of the EO Zone. These include:
 - a. O-M (EOF-1.5 H60, EOF-1.5 H-75): \$7,200/650 per acre
 - b. CO Zone: \$7,200/650 per acre
 - c. C-P Zone: \$9,350/650 per 5 acres.
 - d. I-3 Zone: \$8,800/775 per 2 acres.

I've used the lowest of the fees for equivalent zones that are divisible by acre because I found no minimum lot size in the EO Zone (i.e., \$7,200/650 per acre).

Industrial Zones

There are three Euclidean industrial zones and two floating industrial zones:

1. Light Industrial (IL)
2. Moderate Industrial (IM)
3. Heavy Industrial (IH)
4. Light Industrial Floating (ILF)
5. Moderate Industrial Floating (MLF)

The zones are equivalent to the following existing zones:

Light Industrial: The IL Zone is equivalent to the I-4 Zone (IL-1.0 H-50). **I have inserted our existing fees for the I-4 zone, which are \$8,800/775 per acre.**

Moderate Industrial: The IM zone is equivalent to the Rural Service Zone (IM-0.25 H-50), the I-1 Zone (IM-2.5 H-50), and the R& D Zone (IM 0.5 H-75). OZAH's existing fees for these zones is:

Rural Service Zone: \$1,600/400 for every 2 acres.

I-1 Zone: \$7,200/650 for every acre.

R&D Zone: 14,500/775 for every 2 acres.

I've used the I-1 Zone fees because they are the lowest per acre fee. I found no minimum lot size for the IM Zone.

Heavy Industrial: The IH Zone is listed as being equivalent to the I-2 Zone (IH 2.5 H-70). Fees for the I-2 Zone are \$7,200/650 per acre.