



ARLINGTON COUNTY, VIRGINIA

**County Board Agenda Item
Meeting of June 13, 2009**

DATE: June 3, 2009

SUBJECT: Request to Advertise “On the County Board’s Own Motion” a rezoning from “R-5” One Family Dwelling Districts to “CP-FBC” Columbia Pike – Form Based Code Districts for the properties located at 1036, 1100, and 1106 South Highland Street (RPC # 32-007-167, -168, -022).

Applicant:

Tsehaye Teferra, President
ECDC – Ethiopian Community Development Council
1100 S. Highland Street
Arlington, Virginia 22204

C.M. RECOMMENDATION:

Adopt the Resolution to authorize advertisement of public hearings “On the County Board’s Own Motion” on the subject rezoning for the June 29, 2009 Planning Commission meeting and the July 11, 2009 County Board meeting, concurrent with the public hearings for the associated Columbia Pike Form Based Code Use Permit application; and, waive the additional fee associated with the “On the County Board’s Own Motion” request.

ISSUE: Rezoning requests are required to be heard within 120 days from the time of application submission, unless the County Board authorizes a shorter time period. In this case, the rezoning must occur prior to the Form Based Code application hearing, which is scheduled to be heard at the July 11, 2009 County Board meeting. Although the Use Permit project has been under review by staff, the rezoning application form was not filed 120 days before the anticipated hearing schedule. No issues have been identified.

SUMMARY: The applicant is requesting a rezoning of properties at 1036, 1100, and 1106 S. Highland Street which is located within the “Columbia Pike Special Revitalization District” as designated on the General Land Use Plan. This is an area where revitalization is encouraged and use of the Columbia Pike Form Based Code (FBC) is permitted. However, properties zoned “R”

County Manager: _____

County Attorney: _____

Staff: Jennifer Smith, DCPHD, Planning Division

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within this District, must be rezoned to an eligible zoning district, such as Section 20 “CP-FBC” Columbia Pike Form Based Code Districts, in order to utilize the FBC for redevelopment.

Rezoning cases are typically considered by the County Board at least 120 days after an application is accepted by the County, per the Zoning Ordinance, unless the County Board authorizes public hearings in a shorter time frame, “On the County Board’s Own Motion”. For this project, the rezoning application form was not submitted to the County in time to consider the rezoning at the July 11th County Board meeting, concurrent with the time anticipated for the review of the FBC Use Permit application. The Zoning Ordinance provides for an additional filing fee for requests made “On the County Board’s Own Motion” which would typically require an expedited staff review, except where approval is in the public interest.

BACKGROUND: In March 2002, the *Columbia Pike Initiative-A Revitalization Plan* was adopted by the County Board. A major recommendation of the plan was to develop a new review process to evaluate redevelopment proposals in the corridor, which became the Form Based Code (the Code). In February 2003, the County Board adopted the FBC, which made development sites within the “Columbia Pike Special Revitalization District,” designated on the General Land Use Plan, eligible for development following the Code. However, in some cases, when properties are zoned to an “R” district, a rezoning would be necessary in order to utilize the FBC. In contrast, “C” and “RA” districts, such as “C-2” Service Commercial and “RA6-15” Apartment Dwelling Districts have direct access to the FBC and a rezoning is not required.

DISCUSSION: The applicant proposes to utilize the optional FBC tool to redevelop property at 1036, 1100, and 1106 S. Highland Street, which are zoned “R-5”. Therefore, a rezoning is necessary and the applicant proposes to rezone to the “CP-FBC” District. A rezoning to this district will allow use of the FBC zoning tool for redevelopment of the site, and it provides limited by-right uses in the event that the FBC proposal is not executed.

The rezoning step for “R” properties is intended to provide additional protection for the community and County so as to determine the appropriateness of a particular FBC proposal for a specific “R” property, or consolidated “R” properties. In this case, staff has been working with the applicant to examine how the three “R” parcels, owned by the Ethiopian Community Development Council, LLC, could develop under the FBC. The FBC Use Permit application is on track to be considered by the Planning Commission on June 29, 2009 and the County Board on July 11, 2009. In order to consider the FBC application, the County Board must first consider and approve the rezoning. Rezoning cases are typically considered by the County Board at least 120 days after an application is accepted by the County, per the Zoning Ordinance, unless the County Board authorizes public hearings in a shorter time frame “On the County Board’s Own Motion”. For this project, the rezoning application form was not submitted to the County in time to consider the rezoning at the July 11th County Board meeting, although staff and the applicant were working toward a Form Based Code development proposal for months. Therefore, the County Board must authorize the rezoning “On the County Board’s Own Motion” in order for the rezoning and FBC applications to be heard concurrently.

The Zoning Ordinance provides for an additional fee when a request to rezone property “On the County Board’s Own Motion” is made in order to compensate for the expedited staff review. In this case, however, staff has already been working with the applicant on the preliminary FBC application, pursuant to the Administrative Regulations 4.1.2, and analyzing the various County policies and zoning regulations for this site. Therefore, no expedited staff review is needed. In addition, the Zoning Ordinance allows for no fee payment when the application is in the public interest. It is in the interest of the County and community to consider both the rezoning and FBC applications concurrently and it is also in the interest of both parties to continue reviewing FBC applications as soon as they are ready—both complete and FBC compliant—in an effort to maintain revitalization efforts along the Columbia Pike corridor. Furthermore, this project will likely provide affordable housing units which would be in the public interest.

The preliminary FBC application for this site—referred to as “*Axumite Village*”—has been reviewed with the Form Based Code Advisory Working Group (FBC AWG). The AWG members are aware of the rezoning request and no issues were raised.

CONCLUSION: Staff concludes that a rezoning from “R-5” to “CP-FBC” is necessary to implement the FBC, and finds that the preliminary development proposal follows the FBC regulations. In addition, staff has found that advertising this rezoning “On the County Board’s Own Motion” will be in the public interest, thus no additional fee should be charged. Therefore, staff recommends that the County Board adopt the Resolution to authorize advertisement, “On the County Board’s Own Motion”, of public hearings on the subject rezoning for the June 29, 2009 Planning Commission meeting and July 11, 2009 County Board meeting, concurrent with the public hearings anticipated for the FBC Use Permit application. Additionally, staff recommends that the County Board waive the additional fee assessed for expedited staff review.

RESOLUTION

Whereas, the County Board of Arlington County ("County Board") finds that Ethiopian Community Development Council has requested a rezoning of properties located at 1036, 1100, and 1106 South Highland Street ("property"); and

Whereas, the County Board finds that advertisement of the requested rezoning to "CP-FBC" Columbia Pike – Form Based Code District should be considered before a Columbia Pike Form Based Code application is considered; and

Whereas, the County Board finds that the "CP-FBC" District is one type of zoning district that is appropriate for the property that is located within the Columbia Pike Special Revitalization District on the General Land Use Plan; and

Whereas, without deciding whether the rezoning should ultimately be approved, the County Board desires to consider the rezoning request;

Whereas, authorizing advertisement "On the County Board's Own Motion" will be in the public interest by advancing revitalization efforts along Columbia Pike.

Therefore, the County Board resolves to authorize staff to advertise public hearings on the subject rezoning by the Planning Commission on June 29, 2009 and the County Board on July 11, 2009, as shown on the attached map, and

The County Board finds that, advertising this rezoning "On the County Board's Own Motion" is in the public interest, and therefore no fee is due.