City of Falls Church

Meeting Date:	Title: Ordinance To Amend Chapter 48, Zoning, Of The Code Of The City Of Falls Church, Virginia, By Adding A New Section 48-1142(F) In Order To Provide For An Administrative Site Plan Amendment Process To Allow The Planning Director To Permit, With Approval Criteria, The Construction Or Modification Of A Patio Or Attached Open Deck Or Porch In Site Planned Communities Where Such Features Were Not Shown On The Approved Site Plan **(TO10-04)**	Agenda No: 10 (b) (6)
1/11/10		

Proposed Motion: **MOVE passage of TO10-04 on first reading; refer to the Planning Commission and Architectural Review Board for recommendations; and schedule second reading for February 8, 2010.**

Originating Dept. Head: Suzanne Cotellessa, GM Dev. Services SMC 1-6-10		Disposition by Council:
City Manager: Wyatt Shields 703.248.5004 FWS 1-7-10	**City Attorney:** John Foster 703.248.5010 JEF 1-7-10	**CFO:** John Tuohy 703.248.5092 JHT 01-07-2010

REQUEST

Council is requested to adopt on First Reading, and refer to Boards and Commissions an Ordinance to Amend Chapter 48 of the Official Zoning Code of the City of Falls Church by adding a new Section 48-1142(f). Council is further requested to schedule a public hearing and final adoption of this ordinance on February 8, 2010.

RECOMMENDATION

Staff recommends that the City Council adopt this ordinance to amend the Zoning Code on first reading, refer to the Planning Commissions and Architectural Review Board for their comment and recommendation, and to schedule a public hearing and final passage for February 8, 2010.

BACKGROUND

Summary

The *City Code* allows for single-family detached and attached residential uses in several zoning districts. Some of the zoning districts require site plans for development. These districts include the Cluster Residence (R-C), Townhouse Residence (R-TH), Multi-family Residential (R-M), T-1 Transitional (T-1), and Creative Development (C-D) Districts.

The *Code* sets forth the information that must be shown on a site plan, including site layout and structural details such as building location, dimensions and height and building elevations of all building sides, building materials, and architectural features. Some – but not all – approved site plans for residential

development included decks as part of the residential structure and/or showed decks as an optional feature that could be added.

Over time, owners of homes subject to site plans have requested building permits to add a deck and/or to modify or enlarge an existing deck. Staff review of the building permit application includes compliance with the approved site plan. If the approved site plan depicted decks, and the deck proposed in the building permit application was consistent with that which was shown on the approved on the site plan (such as deck height, size, and location), the building permit application could be further processed; if the approved site plan did not include any details on decks, a site plan amendment would be required prior to further processing of the building permit.

Decks have become a very common accessory structure to homes of all types. Where homes are not subject to a site plan, only a building permit is required; and in terms of the zoning review of the building permit, decks are regulated by Sec. 48-1102(e)(1)c of the Code, which allows for open decks to project no greater than 6 feet into the minimum required rear yard.

However, when a site plan amendment is first required, the application includes a substantial fee ($800) and notice to adjacent property owners, and a public hearing before and approval by the Planning Commission. The preparation of the materials required for processing the site plan amendment application often requires homeowners to hire professionals, such as surveyors.

Staff has found that the time, cost and process associated with a site plan amendment to be disproportionate to the limited scope of a request for a deck. In addition, where site plans do not contain information pertaining to decks, neither staff nor the Planning Commission is left with much guidance for determining or evaluating what size deck is appropriate for the site plan amendment, especially when the single family residence is located in a district where minimum yards may not have been required.

Staff believes that a zoning text amendment could reasonably provide for homes subject to site plans to pursue construction and/or modification of a deck through a process which is less expensive and time-consuming than the site plan amendment process, and more consistent with the Code provisions, costs, and process applicable to homes that are not subject to site plans. Within the past six months, at least four homeowners have been frustrated by the current process which is expensive and time-consuming (for the applicant, staff, and Planning Commission). While staff expects to ensure that future site plans for residential communities will include at least a typical drawing establishing the location of such features, there are many existing site planned communities that do not have such standards.

Staff recommends a zoning text amendment to create an administrative site plan amendment process that would allow the planning director to permit the construction or modification of a patio or an attached open deck or porch or similar feature provided that a set of standards can be met.

Methodology

Staff recommends that a new Section 1142(f) be added to the zoning text to:

1. Add language to the site plan regulations to provide for an administrative approval of minor features in site planned communities.
2. Articulate criteria for review and approval of such features.

Zoning Code Text Change Analysis

Comprehensive Plan Analysis

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The *Comprehensive Plan* offers the following guidance:

"Encourage the preservation and improvement of the City's existing housing stock."

The effect of inflexible legislative zoning requirements on minor improvements to the existing housing stock in site planned communities has been in some cases to discourage improvements such as the addition of decks and porches that were not envisioned as functional features of single family detached and attached homes when their original development occurred. In addition, the consideration of site plan amendments involving such limited structural changes adds to the workload of the Planning Commission.

FISCAL IMPACT

Minimal

TIMING: Routine

(TO10-04)

ORDINANCE TO AMEND CHAPTER 48, ZONING, OF THE CODE OF THE CITY OF FALLS CHURCH, VIRGINIA, BY ADDING A NEW SECTION 48-1142(F) IN ORDER TO PROVIDE FOR AN ADMINISTRATIVE SITE PLAN AMENDMENT PROCESS TO ALLOW THE PLANNING DIRECTOR TO PERMIT, WITH APPROVAL CRITERIA, THE CONSTRUCTION OR MODIFICATION OF A PATIO OR ATTACHED OPEN DECK OR PORCH IN SITE PLANNED COMMUNITIES WHERE SUCH FEATURES WERE NOT SHOWN ON THE APPROVED SITE PLAN

THE CITY OF FALLS CHURCH, VIRGINIA, HEREBY ORDAINS THAT Chapter 48, Zoning, of the Code of Falls Church, Virginia, be amended by adding a new Section 48-1142 (f) as follows:

Section 48-1142 Approval by the planning commission or planning director.

(f) Notwithstanding any provisions in this chapter to the contrary, the planning director is authorized to accommodate and permit by administrative site plan amendment the location of limited improvements to existing single family attached or detached homes in site planned communities, provided such features are not explicitly prohibited in the approved site plan for the community. Limited improvements include decks, porches and patios and similar features which are deemed to result in only minor effect on the character of established residential

communities subject to site plan approval. Nothing herein shall prevent the planning director from referring the plan amendment to the Commission for approval.

The Director shall be guided in his decisions by the standards below and may request modifications of a specific proposal in order that the proposal may comply with zoning ordinance standards and provided the following requirements are met:

(1) The property owner shall make application to the Planning Director requesting an administrative site plan amendment and shall provide all information deemed necessary to consider the application. At the time of application, the applicant shall pay a fee in accordance with the City's adopted fee schedule;

(2) The applicant shall provide notice, by certified mail, to the homeowners association in the community to which the subject property belongs and to owners of each property abutting to or across the street from the subject property informing them that a request for administrative site plan amendment has been submitted and will be considered by the Planning Director. If the property abutting to or across the street from the subject property is of condominium ownership, then notification sent to the condominium association shall be sufficient to satisfy this provision;

(3) For applications concerning properties located in communities with homeowners association architectural review processes, the applicant shall submit evidence of approval of the amendment proposed by the applicable homeowners association. For properties without homeowners association architectural review processes, the applicant shall submit a notarized affidavit stating that an architectural review process does not exist in the subject community;

(4) The proposed improvement shall be located no closer than half the distance to the rear lot line, except that it may be permitted five feet from any rear property line if such rear property line is contiguous to common open space within the site planned development. The proposed structure may be no closer than one foot to a side lot line (for attached single family dwellings) or consistent with the community's established detached single family home side setbacks.

(5) The Planning Director may impose conditions upon the approval as deemed necessary in the public interest to secure compliance with the considerations in this section; and

(6) If the Planning Director does not approve an administrative site plan amendment, the applicant may file a request for consideration of a site plan amendment by the Planning Commission, in accordance with the provisions of this chapter.

1st Reading: January 11, 2010
2nd Reading: Scheduled for February 8, 2010
(TO10-04)