

ORDINANCE NO. 3421

AN ORDINANCE to amend and reordain Section 7-6-286 (CONDITIONAL ZONING GENERALLY) of Article O (AMENDMENTS, ETC.), Chapter 6 (ZONING), Title 7 (PLANNING AND DEVELOPMENT) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 7-6-286 be and and the same hereby is amended and reordained to read as follows:

Sec. 7-6-286 Conditional zoning generally.

The following regulations shall apply to conditional zoning:

(a) Proffer of conditions. Applicants for changes in zone boundaries, as part of their application, may voluntarily proffer in writing, prior to a public hearing before the city council, reasonable conditions which shall be in addition to those regulations provided in this chapter which are applicable to the particular zone classification sought in the application; provided, that:

(1) the rezoning itself gives rise to the need for the conditions;

(2) the conditions have a reasonable relation to the rezoning; and

(3) the conditions are in conformity with the adopted master plan of the city.

Conditions proffered under this section may include the dedication of real or personal property to the city, the payment of a contribution to the city, and the construction of on-site and off-site improvements, so long as the conditions meet the requirements of subsections (a)(1) through (a)(3); provided, that any proffered conditions involving the dedication of real property or the contribution of cash shall provide for an alternate disposition of the real property or the cash contribution by the city in the event the property or cash is not used for the purpose stated in the conditions.

(b) Acceptance of preferred conditions. The city council may accept conditions proffered under this section by applicants for changes in zone boundaries so long as the requirements in subsection (a) are satisfied and, where the conditions involve a facility or other improvement normally included in the city's capital improvement program, the city has, at the time of its acceptance, adopted such a program pursuant to section 6.14 of the city charter.

(c) Proffered conditions involving real property and cash. If proffered conditions are accepted which involve the dedication of real property, or the contribution of cash, to the city to be used in the construction of a facility or other improvement normally included in the city's capital improvement program, the conveyance of the real property to the city and the payment of the cash contribution to the city shall not occur until the facility or other improvement has been included in the capital improvement program; provided, that the provisions of this subsection shall not prohibit the conveyance of such real property, or the payment of such cash contribution, to an escrow agent, pending inclusion of the facility or other improvement in the capital improvement program.

(d) Enforcement and guarantees.

(1) Failure to meet any proffered condition accepted by city council as part of an amendment to the zoning ordinance shall constitute cause to deny the issuance of any required site plan or use, occupancy or building permit.

(2) The zoning administrator shall administer and enforce conditions attached to a rezoning, including:

a. the ordering in writing of the remedy of any noncompliance with such conditions;

b. the bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and

c. requiring a guarantee, satisfactory to the city council, in an amount sufficient for and conditioned upon the construction of any facility or other improvement required by the conditions, or a contract for the construction of such facility or other improvement and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the city council, or agent thereof, upon the submission of satisfactory evidence that construction of such facility or other improvement has been satisfactorily completed, in whole or in part, and requiring such like additional guarantees of the continued maintenance and operation of such facilities or improvements as council may require.

(3) Any owner of property aggrieved by a decision of the zoning administrator made pursuant to subsection (d)(2)a or (d)(2)c may petition city council for review of the decision.

(e) Records. The zoning map of the city shall show by an appropriate symbol the existence of conditions attaching to the zoning of particular properties. The zoning administrator shall

maintain and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.

(f) **Amendments and variations of conditions.** Once accepted and formally adopted as part of an amendment to the zoning ordinance, proffered conditions shall continue in effect until a subsequent amendment, adopted pursuant to the rezoning procedure established by this chapter, changes the zoning on the property subject to the conditions; provided, that the conditions shall not be effected by a subsequent amendment which is part of a comprehensive revision to the zoning ordinance, unless such comprehensive revision expressly so provides.

(g) **Relation of section to other laws.** The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this code or other city ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this code or other city ordinances. Whenever the conditional rezoning of property granted under the authority of this section contains regulations which differ from the regulations otherwise provided in this chapter, the regulations contained in the conditional rezoning granted under the authority of this section shall govern. Nothing in this section shall be construed to prohibit the imposition of conditions, including dedications and exactions, in addition to those provided in this chapter, when authorized under other provisions of this code.

Section 2. That this ordinance shall become effective upon the date and at the time of its final passage.

JAMES P. MORAN, JR.
Mayor

Final Passage: December 16, 1989