

ORDINANCE NO. 3974

AN ORDINANCE to amend and reordain Section 12-600 (COMMUNITY UNIT PLAN, PLANNED UNIT DEVELOPMENT, CLUSTER SPECIAL USE PERMIT, TRANSITIONAL SPECIAL USE PERMIT AND CO PLANNED RESIDENTIAL/ COMMERCIAL DEVELOPMENT) of Article XII (NONCOMPLIANCE AND NONCONFORMITY) of the City of Alexandria Zoning Ordinance (TA NO. 97-0004).

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 12-600 of the City of Alexandria Zoning Ordinance be, and the same hereby is, amended to read as follows:

Sec. 12-600 Community unit plan, planned unit development, cluster special use permit, transitional special use permit and CO planned residential/commercial development.

(A) Rules generally not applicable. The rules in this Article XII for nonconforming uses and noncomplying uses and structures shall not apply to Community Unit Plan, Planned Unit Development, Cluster Special Use Permit and CO Planned Residential/Commercial Development for which a development plan has been approved by special use permit or ordinance and has not expired prior to June 24, 1992. Such developments shall be governed by the approval documents therefor and the provisions of this section 12-600, and shall not be considered nonconforming or noncomplying development. In the case of a conflict between the specific approval documents and the provisions of sections 12-600(B)(2) and 12-600(B)(3), the provisions of such sections shall control.

(B) CO Planned Residential/Commercial Development. Notwithstanding any contrary provision of this ordinance, a CO planned residential/commercial development described in section 12-600(A) may proceed pursuant to the following rules.

(1) SUP process for amendment. An approved CO planned residential/commercial development is a special use permit use. Any amendment to such an approved development may be approved pursuant to the procedures for amending special use permits in section 11-500 of this ordinance.

(2) Recording requirement removed. An approved CO planned residential/commercial development, the approval of which was required to be and was recorded as a contract between the City and the special

use permit permittee (SUP permittee) in the official land records on or before December 12, 1997, is hereby relieved of the requirement that amendments to that contract approved on or after December 13, 1997, be recorded; provided, that a notice approved by the City Attorney is recorded in the land records stating that:

- (a) the development is bound and governed by the special use permit by which it was originally approved and any subsequently approved amendments;
  - (b) all amendments approved on or before December 12, 1997, have been recorded and may be reviewed in the public land records; and
  - (c) all amendments approved on or after December 13, 1997, are maintained and may be reviewed at the Department of Planning and Zoning.
- (3) No contract required. No contract amendment between the SUP permittee, applicant, landowners and the city is required for any amendment to an approved CO planned residential/commercial development which amendment was approved on or after December 13, 1997.
- (4) Prior amendments. Any amendment to an approved CO planned residential/commercial development which amendment was approved and recorded on or before December 12, 1997, is valid.
- (5) Permitted Amendments.
- (a) A change to a CO planned residential/commercial development or a portion thereof which, as of January 24, 1998, has been fully constructed, and for which an as-built site plan has been required, is permitted by an amendment to the special use permit authorizing the development; provided, that the change is consistent with the regulations applicable to the zone in which the development is situated.
  - (b) A change to a CO planned residential/commercial development or a portion thereof which, as of January 24, 1998, has not been fully constructed, and for which an as-built site plan has not been required, is permitted by an amendment to the special use permit

authorizing the development that is in effect on January 24, 1998; provided, that the change:

- (i) does not cause the maximum floor area of the development to exceed the floor area authorized in the permit in effect on January 24, 1998;
  - (ii) does not cause the development to contain any uses that are (a) not approved by the permit in effect on January 24, 1998, or (b) not permitted uses or special uses under the regulations applicable to the zone in which the development is situated;
  - (iii) does not cause the height of more than one building in the development to exceed by more than 15% the height of the tallest authorized building; provided, that (a) this clause (iii) shall apply only to developments located in a coordinated development district, (b) the tallest authorized building in such developments shall be the tallest building height authorized by the CDD special use permit provisions in section 5-602(A) of this ordinance in effect on January 24, 1998, (c) this clause (iii) shall be effective only through December 31, 1998, but any approval granted hereunder prior to such date shall continue to be valid and effective after December 31, 1998, and (d) this clause (iii) shall only apply to applications for the Patent and Trademark Office development project; and
  - (iv) otherwise does not cause the development to be noncompliant or inconsistent with the regulations applicable to the zone in which the development is situated, which regulations, in the case of a development located in a coordinated development district, shall be the CDD special use permit provisions in section 5-602(A) of this ordinance in effect on January 24, 1998, except that the requirement for compliance with such zone regulations may be modified pursuant to clauses (i), (ii) or (iii) above.
- (6) Amendment applicant. The applicant for an amendment to an approved CO planned residential/commercial development shall be the owner or owners of each lot or parcel which is the subject of the proposed amendment, with the written consent of either of the following:
- (a) the SUP permittee, or a successor to the permittee, if such permittee or successor to the permittee is in control of the

association or corporation of all owners of land within the development, formed pursuant to the Virginia Property Owners' Association Act, ' 55-508, et seq., Code of Virginia; or

- (b) the association or corporation of all owners of land within the development, formed pursuant to the Virginia Property Owners' Association Act, ' 55-508, et seq., Code of Virginia, if such association or corporation is not under the control of the SUP permittee or a successor to the permittee.

Section 2. That Section 12-600 of the City of Alexandria Zoning Ordinance, as amended by this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 3. That this ordinance shall become effective upon the date at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which are on such date pending before any city department, agency or board, or before city council, or on judicial review; shall apply to all such applications which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

KERRY J. DONLEY  
Mayor

Introduction: 1/13/98  
First Reading: 1/13/98  
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