

ORDINANCE NO. 4652

AN ORDINANCE to amend Section 11-1710 (SUBDIVISION REQUIREMENTS) and Section 11-1713 (VARIATIONS), to Division E (SUBDIVISION REGULATIONS), Article XI (DEVELOPMENT APPROVALS AND PROCEDURES), all of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 2009-0004.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2009-0004, the planning commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on January 5, 2010 of a text amendment to the Zoning Ordinance to clarify the subdivision variation process, which recommendation was approved by the City Council at public hearing on January 23, 2010;
2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;
3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 11-1710 and Section 11-1713 of the Zoning Ordinance be, and the same hereby are, amended by deleting and inserting new language, as shown:

11-1710 Subdivision requirements. In reviewing an application, the commission shall consider the following:

***(intervening text unchanged)

(B) No lot shall be resubdivided in such a manner as to detract from the value of adjacent property. Lots covered by a resubdivision shall be of substantially the same character as to suitability for residential use and structures, lot areas, orientation, street frontage, alignment to streets and restrictions as other land within the subdivision, particularly with respect to similarly situated lots within the adjoining portions of the original subdivision. In determining whether a proposed lot is of substantially the same character for purposes of complying with this provision, the commission shall consider the established neighborhood created by the original subdivision, evidence of which may be shown by:

- (1) Subdivision plat documents, including amendments to the subdivision over time, as well as the development that has occurred within the subdivision; and
- (2) Land in the same general location and zone as the original subdivision with the same features so as to be essentially similar to the original subdivision area.
- (3) No resubdivision shall be approved which results in the creation or the continuation of a lot, building or structure which does not comply with the provisions of this ordinance, unless the commission expressly authorizes a variation pursuant to section 11-1713 of this ordinance.

*** (subsequent text unchanged)

11-1713 Variations.

(A) The commission may, by vote of a majority of its members, authorize specific variations from the provisions of this section 11-1700, when the commission finds that (i) a strict adherence to such provisions would result in substantial injustice (ii) the use and character of the resulting lots or parcels in such a subdivision would not be inconsistent with the use provisions of the zone in which the property is situated and with the existing development in the immediate area; (iii) and one or more of the following special circumstances exists:

- (1) Extremely rugged topography.
- (2) Irregularity in shape of parcel preventing conformance with normal lot area or frontage requirements.
- (3) Insufficient frontage on existing street where the interior of the tract can be served only by a street substandard in width when not serving more than five lots, provided the street is not less than 30 feet in width. If only a single lot is served, the width may be less than 30 feet. A turn around area may be required.
- (4) Streets along border of the subdivision where the subdivision borders on unsubdivided land and the remaining street width will be provided from adjacent land.
- (5) Resubdivision of lots in subdivisions of record as of January 1, 1952, where, because of existing structures or gross area of land involved, the subdivided lots would not conform to all of the requirements of the zone in which the subdivision is located.

(B) As used in this section, “substantial injustice” means that the strict application of this ordinance would create an unreasonable burden on the development, use and enjoyment of the property which outweighs the land use or land development purposes served by the specific zoning provision or provisions of this ordinance at issue.

(C) The applicant shall have the burden of establishing each element required for the grant of a variation.

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 11-1710 and 11-1713, as amended pursuant to Section 1 of this ordinance, be, and the same hereby are, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and 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 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.

WILLIAM D. EUILLE
Mayor

Final Passage: April 17, 2010