

Article 4:
ZONING AMENDMENTS

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A. Initiation of Zoning Amendments and Changes:

Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Town Council may by ordinance amend, supplement or change (a) the text of the Zoning Ordinance, (b) the zoning district boundaries of the Official Zoning Map or (c) the zoning district classification of property.

Any such amendment may be initiated by:

1. Town Council on its own motion;
2. Recommendation by the Planning Commission to the Town Council;
3. Petition of the owner(s), contract purchaser with the owner's written consent or the owner's agent with the owner's written consent, of the property which is the subject of the proposed amendment.

B. Requirements for Zoning Amendment Application:

For zoning amendment applications initiated by a property owner's petition in accord with paragraph A.3. above, the applicant shall be responsible for the preparation and cost of all materials, exhibits, notifications, fees and other considerations related to the application. All petitions for zoning map amendment (rezoning) or zoning ordinance text change related thereto shall include a complete and signed rezoning application as well as other materials as specified hereinafter.

Ten (10) copies of the application must be submitted to the office of the Planning and Zoning Administrator and shall include, at a minimum, the following:

1. Names, addresses and relationship to the land of all owners and applicants for rezoning of the property described in the application or who may have an interest in the development of the subject property. Where the application is filed by an agent, contract purchaser or lessee, a written and notarized statement shall be provided signed by the title owner or owners indicating endorsement of the application by the owner or owners and authorizing the applicant to seek the rezoning on their behalf.

2. A notarized affidavit, signed by the applicant(s), stating whether or not any member of the Planning Commission or the Town Council has any interest in the land to be rezoned either individually, by ownership of stock in a corporation owning such land, partnership, as the beneficiary of a trust, or the settler of an irrevocable trust or whether any member of their immediate household has any such interest in the outcome of the decision.
3. Tax map of the property to be rezoned.
4. A certified plat showing the metes and bounds of the property to be rezoned, with the seal and signature of the Certified Land Surveyor preparing the plat.
5. A legal description of property and area (in square feet or acres) of the property to be rezoned.
6. Location of all existing buildings and structures.
7. Statement of purpose, feasibility and justification of the proposed amendment, to include:
 - a. A statement addressing the relationship of the proposed zoning to the Comprehensive Plan or any adopted ordinance, land use plan, facility plan or other Town document which may be related to the application.
 - b. A statement addressing the physical, transportation, public infrastructure, community facilities, schools and environmental impact of the proposed land use(s) for the property to be rezoning.
 - c. Description of areas having environmental or historic significance.
 - d. Description of proposed development, including a statement addressing the impact of the development on adjoining properties and neighborhoods.
 - e. A statement addressing the adequacy of public services and infrastructure to serve the proposed land uses.
 - f. A statement addressing special amenities and improvements to be included with the proposed development.
 - g. A statement setting forth the timing and phasing of the proposed development.

- h. Any conditional elements and additional information that the applicant may desire to proffer in the consideration of the zoning amendment (see Conditional Zoning and Proffers, Article 5).
- 8. A General Development Plan which graphically depicts the scope and intent of the proposed development to include the following:
 - a. Schematic land use plan (to be prepared on an accurate base map with 2' contour intervals (minimum interval) and a horizontal scale of 1" = 50' or other appropriate scale to be approved by the Planning and Zoning Administrator prior to submission of application.)
 - b. Proposed location and height of building and other physical improvements including parking and loading spaces.
 - c. Proposed location, type, size and area of open spaces, recreational areas and other community facilities.
 - d. Proposed density of development, maximum floor area coverage, dwelling unit count and estimate of net developable areas in accord with the provisions of the applicable zoning district(s).
 - e. Plan of vehicular and pedestrian circulation.
 - f. Environmental features (including 100 year flood plain, wetlands, soils with high shrink/swell characteristics, sinkholes, quarried and filled land and other sensitive environmental areas.)
 - g. Schematic plan for storm drainage and stormwater management improvements.
 - h. Schematic plan for public water and sewer services.
 - i. Schematic plan depicting how adjacent and neighboring properties shall be protected from any adverse effects of the proposed development, including screening, buffering, fencing and related landscape treatments.
 - j. Schematic development and/or subdivision plan depicting the phasing of the proposed development if the project is to be developed in more than one phase.

9. When deemed necessary by the Planning and Zoning Administrator or the Planning Commission, the following studies and additional information shall be provided:
 - a. A Traffic Impact Assessment, prepared in accord with standards and criteria included in the Smithfield Design and Construction Standards Manual and Appendix 14.B of this ordinance, showing the effect of traffic generated by this project on surrounding streets and neighborhoods.
 - b. A public infrastructure utility impact analysis, showing the effect (location, demands, cost, etc.) of the project on public water, sewer and storm drainage facilities.
 - c. A fiscal impact analysis indicating the relative revenues and expenditures of the proposed development.
 - d. Any additional information which is deemed necessary to fully evaluate a zoning amendment proposed within an adopted overlay district.
10. A fully complete application package and a signed application form as provided by the Town.
11. The names, addresses and tax map identification numbers of all owners of abutting property and property immediately across the street from the property requested to be rezoned and any abutting property or property immediately across the street from the property requested to be rezoned which lies in the County.
12. An application fee as provided for in Planning and Zoning Administrator's Schedule of Fees.

C. Pre-Application Conference Requirement:

1. A Pre-Application Conference shall be conducted with the Planning and Zoning Administrator and the Staff Review Committee prior to the submission of an application for zoning amendment.
2. An application for zoning amendment shall not be deemed "complete" unless and until the Pre-Application Conference has been conducted.

D. Action on Application by Planning and Zoning Administrator:

1. The application for zoning amendment shall be reviewed for completeness by the Planning and Zoning Administrator and designated members of the Town staff. A determination of completeness of the application shall be made within fourteen (14) days from date of submission. If the applicant is not deemed "complete", it shall be returned to the applicant with written correspondence provided which outlines the nature and areas in which the applicant is incomplete. No further review shall be conducted on an application which is deemed incomplete.
2. Within thirty (30) days of the receipt of a complete application, the Planning and Zoning Administrator shall prepare a staff report outlining the review findings and other relevant comments and recommendations related to the proposed zoning amendment. This report shall be forwarded to the Planning Commission prior to the first public meeting on the application.

E. Action on Application by Planning Commission:

1. Upon receipt of the staff review report of a complete application, the Planning and Zoning Administrator shall set a time and place for a public hearing by the Planning Commission on said amendment and direct that the public notice for said amendment be given as required in Section 15.2-2204 of the Code of Virginia.
2. No zoning amendment or change shall be adopted, amended or reenacted unless a complete application on the proposed amendment has been reviewed by the Planning Commission.
3. The Commission shall hold at least one (1) public hearing on such proposed amendment after required notice have been given. Following the hearing, the Planning Commission shall prepare and by motion adopt its recommendations, which may include changes in the original proposal resulting from the hearing and shall report such recommendations, together with any explanatory matter and the Commission's statement, by motion or resolution, indicating the public purposes to the Town Council.
4. Failure of the Planning Commission to report within one hundred (100) days after the first meeting of the Commission after the proposal has been referred to the Commission shall be deemed a recommendation for approval, unless such proposal has been withdrawn by the applicant prior to the expiration of such time period.
(Ord. of 5-4-2004)

F. Posting of Property by Applicant:

1. A "Public Notice" sign or signs indicating the zoning case number and other information required by the Planning and Zoning Administrator shall be posted in a prominent place on the property subject to the application and such sign shall be visible from a public street. The sign or signs shall be erected by the Zoning Administrator and shall be located within ten (10) feet of a boundary which abuts a public street.
2. The sign or signs shall be posted fourteen (14) days prior to the scheduled Planning Commission public hearing and shall remain on the property until action on the application has been taken on the application by the Town Council.
3. The Zoning Administrator shall be responsible for ensuring that the sign is maintained during this period. It shall be unlawful for any person, except the Planning and Zoning Administrator to remove or tamper with any sign during the period it is required to be maintained.

(Ord. of 5-4-2004)

G. Action on Application by Town Council:

1. Before approving and adopting any amendment to this chapter, the Town Council shall hold at least one (1) public hearing thereon (whether or not jointly held with the Planning Commission), after public notice and written notice as required in Section 15.2-2204 of the Code of Virginia, after which the Town Council may make appropriate changes or corrections in the proposed amendment; provided, however, that no additional land may be zoned to a different classification than was contained in the public notice without an additional public notice and written notice as required in Section 15.2-2204 in the Code of Virginia.
2. An affirmative vote of at least a majority of the members of Town Council shall be required to approve a zoning amendment.

H. Reconsideration of Request:

1. No consideration of a new request for amendment or change initiated by a property owner's petition in accord with paragraph A.3. hereinabove and as further provided for in this Article, including any change to the boundaries or designations on the Official Zoning

Map, which is deemed substantially the same request as an earlier application filing, shall be considered within three hundred sixty-five (365) calendar days of the date of the earlier filing acted upon by the Town Council.

2. The provision of paragraph H.1. hereinabove shall not impair the right of either the Planning Commission or the Town Council to propose any amendment to this Ordinance on their own motion at any time.

I. Withdrawal of Application:

1. Applications for a change in zoning may be withdrawn from consideration by the applicant at any time prior to any vote by the Planning Commission or Town Council, provided that no new application concerning any or all of the same property shall be filed within twelve (12) months of the date of action by the Planning Commission or Town Council unless the body approving the withdrawal specifies that the time limitation shall not apply and, thereby, permits the application to be withdrawn "without prejudice."
2. The applicant shall not be entitled to any refund of application fees upon withdrawal of an application.

J. Amendments and Variations of Conditions:

There shall be no amendment, change or variation of any condition created pursuant to the provisions of this Article until after a public hearing before Town Council advertised pursuant to the provisions of the Code of Virginia.