



DEVELOPMENT ADVISORY – Number 32

July 1, 2016

New Residential Rezoning Proffer Legislation

On July 1, 2016, new conditional zoning legislation goes into effect that results in significant changes to the residential rezoning application submittal and process. The new proffer legislation adds Section 15.2-2303.4 to the Virginia State Code which prohibits localities from suggesting, requesting or accepting any unreasonable proffer in connection with a residential rezoning. This legislation applies to all applications filed on or after July 1, 2016 or are substantially amended after July 1, 2016. Applications filed prior to July 1, 2016, will be reviewed under the processes and policies in effect prior to July 1, 2016.

To date, the City of Chesapeake has taken action to comply:

- City Council adopted a resolution directing the Planning Commission to consider and make recommendation on amendments to the conditional zoning provisions contained in the Article 16 of the Chesapeake Zoning Ordinance.
- City Council adopted a resolution prohibiting City staff from enforcing any portion of a City ordinance, policy or other regulation that is contrary to Virginia State Code Section 15.2-2303.4.

Due to the risk of staff or officials inadvertently suggesting or requesting what may be deemed as an unreasonable proffer, effective July 1, 2016, applicants will be required to sign a statement acknowledging that they understand the new law prior to pre-application meetings. At the time of the submittal of a residential rezoning application, a separate statement will need to be signed by applicants and City staff to provide assurances that provisions of the new law will be followed by all parties. Below are the steps to be followed in regard to these statements:

Pre-application Process:

1. Use **Acknowledgement on Residential Rezoning Proffers** form available by [clicking here](#) or by calling or visiting the Planning Department.
2. Submit to Current Planning Administrator Tim Howlett who will sign as received and date-stamps form.
3. A copy of the signed and dated form is provided to the applicant. The copied form must be presented to any staff member that is consulted prior to any discussion of a potential residential rezoning application.
4. Staff can only advise what the potential impacts a residential rezoning may have on a school, transportation, public safety or park and recreation facility; however, by law, staff is prohibited from discussing ways the applicant can mitigate these impacts.

Residential Rezoning Application Process:

1. Use the **Residential Rezoning Certificate** by [clicking here](#) or calling or visiting the Planning Department.
2. Form with original signatures must be submitted to the Planning Department at the time of application submittal. Applications submitted without the original form provided to the Planning Department are automatically considered incomplete and will not be processed.
3. Planning staff signs and date-stamps the form.
4. Signed and dated form will be forwarded to development review departments with the residential rezoning application.
5. Staff can only advise what the potential impacts a residential rezoning may have on school, transportation, public safety and parks and recreation facilities. Discussions with individual City of Chesapeake officials or staff members on ways the impact may be mitigated is prohibited.
6. During the development review process, the applicant may voluntarily submit a proposed proffer package as a means mitigate impacts to schools, transportation, public safety and parks and recreation attributable to the development. The proffer package shall be submitted in writing.
7. The City will assemble a team comprised of the Planning Director or designee, the planner assigned to the application, the Director of the Department of Development and Permits or designee, and the City Attorney or designee to review the voluntary proffer package and to determine if it is consistent with Virginia Code Section 15.2-2303.4. The Planning Department will issue a written determination to the applicant. No other City employee shall have the authority to engage in discussions about proffers, orally or in writing. Any employee, representative or agent who engages in such discussions shall be acting outside of their authority.

Amendments to the Zoning Ordinance regarding conditional zoning are scheduled to be heard by the Chesapeake Planning Commission on July 13, 2016 and by City Council on August 16, 2016, with an effective date retroactive to July 1, 2016. A follow up development advisory will be issued following City Council adoption that describes the adopted ordinance amendments and companion administrative policies.

For more information, please contact Current Planning Administrator Tim Howlett at (757) 382-6176.