



COUNTY OF AMHERST



Department of Community Development Division of Planning & Zoning

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AMHERST COUNTY ADMINISTRATION BUILDING
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P. O. Box 390
AMHERST, VIRGINIA 24521

Rezoning/Conditional Zoning Procedures

WHAT IS A REZONING/CONDITIONAL ZONING?

A *rezoning* is a legal change to the Official Zoning Map. Because a rezoning is a legal matter, we strongly recommend you have an attorney represent you and assist with the preparation of a rezoning application. A rezoning may be initiated by the property owner, by a contract purchaser with the owner's written consent, or by the owner's agent.

A *conditional zoning* is a type of rezoning where the owner voluntarily proffers certain conditions related to the development or use of the property.

A process similar to a rezoning is used for an *amendment of proffered conditions*. Once conditions are placed on a property as part of a conditional zoning, they remain in effect until they are amended or repealed.

HOW IS THE DECISION MADE?

A rezoning/conditional zoning decision involves two public hearings. The Planning Commission considers the issue and makes a recommendation to the Board of Supervisors. The Board of Supervisors then makes a final decision.

HOW LONG DOES IT TAKE?

The process takes approximately 8-10 weeks once an application is filed. However the Planning Commission and Board of Supervisors can delay the process if desired.

HOW MUCH WILL IT COST?

A rezoning/conditional zoning requires a public hearing; all public hearings are subject to a \$300 dollar fee.

WHAT IS THE PROCESS?

A rezoning, a conditional rezoning, or an amendment of proffered conditions follows the same general process.

1. Pre-application conference with Planning Department;
2. Completing and filing the application;
3. Staff review and public notice;

4. County Attorney Review & Preparation of an Ordinance;
5. Planning Commission public hearing; and
6. Board of Supervisors public hearing.

PURPOSE

It is the purpose of conditional zoning to provide a flexible and adaptable zoning method to cope with situations whereby a zoning classification may be allowed subject to certain conditions voluntarily proffered by the petitioner for the protection of the community that are not generally applicable to land similarly zoned.

PRE-APPLICATION CONFERENCE

Applicants must schedule a pre-application conference with the staff prior to submittal of the rezoning/conditional zoning application package. *Staff may reject any application without a pre-application conference.* Please schedule a conference with staff by calling (434) 946-9303. Staff will review submitted applications to ensure all required materials and information is provided. If the application is not complete, the required information must be provided prior to formal staff review and acceptance of the application.

Applicants are strongly encouraged to discuss the proposed rezoning/conditional zoning with neighboring properties prior to filing an application.

APPLICATION REQUIREMENTS

A conditional rezoning application consists of three parts:

1. Rezoning/Conditional Zoning Application form;
 2. Written voluntary proffers;
 3. Site plan; and
1. **Rezoning/Conditional Zoning Application Form:** The application is available in the Planning Department and may also be found on the department's website at www.countyofamherst.com. It must be signed by all owners of the property. If a legal representative signs for a property owner, a copy of the executed power of attorney is required.
 2. **Written Voluntary Proffers form:** All written proffers must be signed by the property owner and applicant as provided on the Proffers form. Written proffers shall be drafted in such a way so that they are clearly understood and enforceable and shall adhere to the following standards:
 - a. The rezoning itself must give rise for the need for the conditions;
 - b. The conditions shall have a reasonable relation to the rezoning;
 - c. The conditions shall not include a cash contribution to the county;
 - d. The conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments, or other public facilities not otherwise provided for in Sec. 15.2-2241, Code of Virginia (1950), as amended;
 - e. Such condition shall not include payment for or construction of off-site improvements except those sewage or drainage facilities otherwise authorized by law;
 - f. No condition shall be proffered that is not related to the physical development or physical operation of the property;

- g. All such conditions shall be in conformity with the County's comprehensive plan.

Conditions that can be proffered: The conditions that can be voluntarily proffered cover just about every physical and operational element of a development process. They go far beyond the matters normally treated in a zoning review. They can include:

- Uses and mixture of uses
- Densities (both people and of buildings)
- Height, setbacks, orientation of facilities
- Landscaping (internal) and buffering (to the outside)
- Internal street systems and pedestrian pathways
- Exterior design and materials
- Lighting
- Method of handling and retaining storm drainage, effluent discharge, and solid waste
- Staging and timing of development
- Security provisions (both internal and in regard to adjacent areas)
- Restrictions on certain types of activities and/or uses
- Construction and maintenance by the developer of a landscaped berm between certain abutting properties and the facility
- Provision of recreation facilities within the development (type, number of each, location, etc.)
- Controls on noise emissions during the construction process

Examples of Conditions Proffered (R-2 to B-2)

- a) Granting to the Virginia Department of Transportation (VDOT) sufficient right-of-way for the construction of a deceleration lane in the eastbound lane of Route 29.
- b) Convey to the VDOT a 12' additional right-of-way along Route 29 for street widening.
- c) Construction and maintenance of pathways to and from the apartment dwellings lying to the west or rear of the subject property.
- d) Acquiring and conveying to the Amherst County Service Authority an easement for water and sewer utilities to service the subject property.
- e) Those usages which will be prohibited from being established on the property as follows: hotels and motels, auditorium, banquet hall, vocational schools and colleges, funeral or undertaking establishment, movie theaters, gymnasiums, health salons, outdoor restaurants, fast food restaurants, auto service stations, rentals, veterinary hospitals, auto rentals, trailer rentals, or commercial recreation areas.

- 3. Site Plan:** An acceptable site plan is required per Section XI Site Plan Review Requirements of the Amherst County Code.

POST FILING INFORMATION

- 1. Staff Review and Public Notices:** Once staff has accepted the complete application and filing fees have been paid, adjoining property owners are notified that a rezoning/conditional zoning request has been filed and of the

time and date of the public hearing. Notice of public hearing is published as a legal advertisement, and the subject property is posted with a notice for rezoning/conditional zoning. Staff prepares a staff report and recommendations for the Planning Commission and Board of Supervisors.

2. **Public Hearing:** At the public hearing, the staff presents the report and recommendation, the applicant also presents the request. The Commission takes public comment and the Commission discusses the request and makes a recommendation to the Board of Supervisors.

The Board of Supervisors considers a request that has been heard by the Planning Commission. The Board of Supervisors approves, denies, continues or refers the matter back to the Commission.

FILING/FEES/DEADLINES

Rezoning/Conditional zoning applications, and accompanying fees, are filed with the:

Department of Community Development
Division of Planning & Zoning
P.O. Box 390
Amherst, VA. 24521
(434)946-9303

Public hearing fees are \$300 dollars, paid with filing of application.