



Legislation Text

File #: 16-082, Version: 1

Subject:

Request to Set a Public Hearing on Amending the Town Code to Allow for Cash Proffers:

EXPLANATION AND SUMMARY:

Recommendation to the Town Council on a Zoning Ordinance amendment to allow cash contribution proffers, permitted by and consistent with State code Section 15.2-2301.1 "Cash proffers requested or accepted by a locality"

The recent approval of the Maple Avenue Commercial Zone (MAC) ordinance and overlay district has generated interest in rezoning properties along Maple Ave. The MAC Ordinance allows developers to take advantage of height and density incentives but they must in return provide enhanced pedestrian friendly design and mixed use elements. Currently, two rezoning applications have been received and are in the review process. One applicant has requested the Town consider acceptance of a voluntary cash proffer. Town Code, Article 24 "Rezoning and Amendments" does provide for some forms of proffered conditions but specifically prohibits cash proffers. Subsection C currently reads "Such conditions shall not include a cash contribution to the Town". If Town Council wishes to accept cash proffers as permitted under state enabling legislation, we will need to amend the Town code to mirror language in the Virginia State Code Sec. 15.2-2301.1 to allow such proffers. The following is the proposed language change;

Sec. 18-249.1. - Zoning on conditions Conditional Zoning and Proffers.

As a condition to any rezoning or amendment to the zoning map, the council may require suggest reasonable conditions, in addition to the regulations provided for the zoning district or zone by this Code, provided such conditions are voluntarily proffered in writing by the owner prior to a public hearing before the Council and provided further that:

- (a) The rezoning itself must give rise for the need for the conditions;
- (b) Such conditions shall have a reasonable relation to the zoning;
- (c) Such conditions shall not may include a cash contribution to the Town in accordance with the Virginia State Code. Cash proffers may be used for any public improvements consistent with the Town's adopted Capital Improvement Plan and/or goals set forth in the Town's Comprehensive Plan to address transportation or other public facility needs and impacts;
- (d) Such 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 the Town's subdivision or site plan ordinances;
- (e) Such conditions shall not may include payment for or construction of off-site improvements to address transportation and public facility impacts; except those not already provided for in the Town's subdivision or site plan ordinances.
- (f) Except for off-site transportation and public facility improvements, nNo condition shall be proffered that is not related to the physical development or physical operation of the property; and
- (g) All such conditions shall be in conformity with the comprehensive plan.

(Code 1969, § 18-249.1; Ord. of 9-17-1979)

Cash proffers are permitted by state code and are voluntary. There are pros and cons to having a more aggressive proffer system. Proffers can be costly. From an Economic Development perspective, a less aggressive proffer system may be more attractive to a developer in deciding where to build his or her business or project. However, rezoning property usually conveys additional rights and opportunities for a developer that may have an impact on public facility needs. As drafted above voluntary cash proffers will provide a developer with the opportunity to contribute to a public improvement already identified in the CIP and or Comprehensive Plan as a public need. This safeguard assures that there is a consensus of public facility needs identified separate from the rezoning submitted.

Attached for your information is the state proffer bill recently approved by the Governor. The Town Attorney will be available to discuss how it will impact the cash proffer language you are considering.

Departmental Recommendation :

A cash proffer system allows the developer seeking a rezoning an opportunity to voluntarily mitigate the impacts of his or her development and/or make a contribution to an identified public facility need to the betterment of the community. Following a March 23, 2016 public hearing the Planning Commission recommends Council approval of the Zoning Ordinance amendment to allow cash proffers. *(NOTE: This item is currently scheduled to be considered by the Town Council at a Public Hearing on May 9, 2016).*

Finance Recommendation: N/A

Purchasing Recommendation : N/A

Town Attorney Recommendation : The proposed amendments to Town Code Section 18-249.1 are in accordance with the Virginia State code and if the Town Council wishes to consider adopting the proposed amendments the Town Council may set a public hearing in its discretion.

Town Manager's Recommendation : I recommend the Town Council set a Public Hearing on May 9, 2016 as presented.

PROPOSED/SUGGESTED MOTION

"I move to set a public hearing on May 9, 2016 to consider amending the Town Code to allow for cash proffers."

Or

Other action deemed necessary by Council.