



Legislation Text

File #: 16-148, Version: 1

Subject:

Intent to adopt a Zoning Ordinance amendment to allow cash contribution proffers and non-cash proffers as permitted by and consistent with State code Section 15.2-2301.1

EXPLANATION AND SUMMARY :

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, the Town code needs to be amended to mirror language in the Virginia State Code Sec. 15.2-2301.1 that allows such proffers. The following is the proposed language change:

~~Section 15.2-2301.1 Zoning Ordinance 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, n**No 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)

Departmental Recommendation : The Planning Commission held a public hearing on March 23, 2016 to consider this item and recommended approval. The Planning and Zoning Department also recommends that Council approve the amendments to section 18-249.1 of the Town of Vienna Zoning Ordinance to allow for cash proffers and non-cash proffers consistent with State Code provisions.

Finance Recommendation : N/A

Purchasing Recommendation : N/A

Town Attorney Recommendation : Town Council conducted a Public Hearing on the proposed amendments to Town Code Section 18-249.1 and Town Council may approve the proposed amendments in its discretion.

Town Manager's Recommendation : I recommend the Town Council close the Public Hearing and amend the Zoning Ordinance as presented.

Cost and Financing: N/A

Account Number: N/A

Decision Needed by This date: N/A

PROPOSED/SUGGESTED MOTION

"I move to amend section 18-249.1 of the Town of Vienna Zoning Ordinance to allow for cash proffers and non-cash proffers consistent with State Code provisions"

Or

Other action deemed necessary by Council.