



City of Fairfax, Virginia
City Council Regular Meeting

Agenda Item # 8a

City Council Meeting 3/27/2018

TO: Honorable Mayor and Members of City Council

FROM: Robert Sisson, City Manager *RS*

SUBJECT: Public hearing and Council action on proposed amendments to the Code of the City of Fairfax, Chapter 110 (Zoning) to amend portions of articles and sections contained therein pertaining to the Planned Development Districts and the review and approval procedures associated therewith.

ISSUE(S): To conduct a public hearing and consider adoption of proposed amendments to the Code of the City of Fairfax, Chapter 110 (Zoning) to amend portions of articles and sections contained therein pertaining to the Planned Development Districts and the review and approval procedures associated therewith.

SUMMARY: The Virginia General Assembly amended Code of Virginia provisions during the 2016 session that regulate how and when localities may accept proffers as part of the rezoning process (Va. Code §15.2-2303.4). Proffers are reasonable conditions offered by a land owner or developer as part of an application for a rezoning as a way of mitigating the impacts of the proposed development. Some updates to the procedures associated with the acceptance of proffers were included in the amendments to the City's Zoning Ordinance that were adopted on July 12, 2016. The proposed amendments would pertain to the Planned Development (PD) Districts review and approval procedures and would specify that proffers will not be allowed in those districts. A master development plan submitted by the applicant would include all of the components of the proposed PD district including the components that provide benefits to the City and support its goals and objectives, including those in the Comprehensive Plan.

FISCAL IMPACT: None at this time.

RECOMMENDATION: Adopt the proposed amendments.

ALTERNATIVE COURSE OF ACTION: Further amend, defer action, or do not adopt the proposed amendments.

RESPONSIBLE STAFF/
POC: Community Development & Planning

COORDINATION: City Attorney

ATTACHMENTS: Staff Memo; Ordinance; Sample Motion

MEMORANDUM

To: Honorable Mayor and Members of the City Council

From: Brooke Hardin, Director of Community Development & Planning

Subject: Proposed amendments to the Code of the City of Fairfax, Chapter 110 (Zoning) to amend portions of articles and sections contained therein pertaining to the Planned Development Districts and the review and approval procedures associated therewith.



Meeting

Date: March 27, 2018

Background

The Virginia General Assembly amended Code of Virginia provisions during the 2016 session that regulate how and when localities may accept proffers as part of the rezoning process (Va. Code §15.2-2303.4)(the “New Proffer Statute”). Proffers are reasonable conditions offered by a land owner or developer as part of an application for a rezoning as a way of mitigating the impacts of the proposed development. Proffers may include land, infrastructure, monetary contributions and/or conditions/constraints on the use of a property. The New Proffer Statute, which applies to residential and the residential portions of mixed use rezoning applications, included requirements related to the types of proffers that can be received by a locality and the conditions under which a locality may accept proffers.

Prior to the statute becoming effective on July 1, 2016, the City Council held a work session on June 7, 2016 to review the statute and discuss its impact on the City’s development review process. In response to the statute, some updates to the procedures associated with the acceptance of proffers were included in the amendments to the City’s Zoning Ordinance that were adopted on July 12, 2016. These amendments were included as part of the overall Zoning Rewrite that repealed the previous Zoning Ordinance and readopted it with significant revisions.

On December 18, 2017, the Planning Commission adopted a motion to initiate amendments to the Zoning Ordinance pertaining to the review and approval procedures for the Planned Development Districts and to schedule a public hearing. Approval of that motion did not signify approval of any amendments, but authorized staff to prepare the amendments for City Council and Planning Commission consideration following public hearings. The Planning

Commission held a public hearing on the proposed amendments on March 12, 2018 and recommended approval of the amendments to the City Council.

Planned Development (PD) Districts

There are four types of Planned Development (PD) Districts included within the Zoning Ordinance: Residential (PD-R), Mixed Use (PD-M), Commercial (PD-C) and Industrial (PD-I). The PD districts are intended to provide flexibility beyond that available in the general zoning districts in order to create special and unique developments with high quality design that provide benefits that make the community better. In lieu of the requirements specified in the Zoning Ordinance for the general zoning districts, the uses, dimensional standards, and site development standards applicable to a PD district are specified in a master development plan submitted by an applicant that is customized to the particular development. The master development plan includes a narrative and a physical plan that specifies the characteristics of the development, including modifications to the general district standards that are applicable to the PD district. The PD districts are implemented through a map amendment (rezoning) approved by the City Council.

Proposed Zoning Text Amendments

The proposed zoning text amendments pertain to all PD district types and the review and approval procedures associated with the districts. Generally, the amendments clarify that a planned development can only be applied for by an applicant and proffers will not be allowed. The master development plan submitted by the applicant would include all of the components of the proposed PD district including the components that provide benefits to the City and support its goals and objectives, including those in the Comprehensive Plan. The fact that proffers would not be allowed in the PD districts is significant, as it would mean that the terms of the New Proffer Statute would not apply. The commitment of the applicant to construct the proposed development as requested by the applicant would be determined by the terms of the master development plan, which will be drafted and proposed by the applicant. Because the master development plan is the foundation of a PD district, the applicant will be unable to build anything else without requesting a rezoning to the same or a different district. Summaries of the detailed amendments within each section of the Zoning Ordinance are presented in the paragraphs that follow.

The sections of the Zoning Ordinance that include the proposed zoning text amendments are described below:

- §1.6 Transitional Provisions – The Transitional Provisions section outlines the requirements of the Zoning Ordinance associated with items occurring prior to the effective date of the ordinance, including approved PD districts.
- §3.2 Districts Established/Purpose Statements – The Districts Established/Purpose Statements section states the general purposes for all zoning districts in the Zoning Ordinance, including the PD districts.
- §3.8 Planned Development Districts – The Planned Development Districts section includes the requirements of all four types of PD districts, including the recreation and open space standards.

- §4.5 Landscaping – The Landscaping section includes the Zoning Ordinance’s site development standards for landscaping, including the transitional yard requirements for PD districts.
- §6.4 Map Amendments (Rezoning) – The Map Amendments (Rezoning) section provides the procedures by which rezonings, including rezonings for PD districts, are considered and approved.
- §6.6 Planned Development Reviews – The Planned Development Reviews section provides the procedures by which PD districts are considered and approved.

Summaries of the proposed zoning text amendments within each of the applicable sections of the Zoning Ordinance are provided below:

§1.6 Transitional Provisions

The proposed amendments add language regarding applications with proffers, including PD districts, filed before July 1, 2016 (the effective date of the proffer regulations in Va. Code §15.2-2303.4). The proposed amendments acknowledge that proffers filed before this date remain in effect and proffer condition amendments to those applications may be filed and considered by the City.

§3.2 Districts Established/Purpose Statements

The proposed amendments consolidate and amend the purpose statements included in this section with the purpose-type statements included in the Minimum Requirements provisions of each PD district listed in §3.8 (Planned Development Districts). The amendments provide greater clarity as to the intent of each of the PD districts.

§3.8 Planned Development Districts

The proposed amendments revise the general provisions applicable to PD districts as well as the provisions specific to each individual type of PD district. The amendments state that proffers will not be allowed in a planned development, as the master development plan and the applicable provisions of the Zoning Ordinance will control what may be created in an approved planned development. The amendments clarify the contents of the narrative and plan required as part of a master development plan. The purpose-type statements included in the Minimum Requirements provisions of each PD district are proposed to be removed and consolidated with the purpose statements listed in §3.2 (Districts Established/Purpose Statements). The project boundary transitional yard requirements are also proposed to be removed from this section and consolidated with the project boundary transitional yard requirements in §4.5 (Landscaping). Some clarifications to the PD districts sign provisions and minor clarification revisions to the recreation and open space provisions are also proposed.

§4.5 Landscaping

The proposed amendments consolidate and amend the project boundary transitional yard requirements included within this section with the project boundary transitional yard requirements included in the PD districts listed §3.8 (Planned Development Districts). The amendments eliminate any confusion regarding the provisions being contained within two separate sections of the ordinance.

§6.4 Map Amendments (Rezoning)

The proposed amendments revise the procedures associated with processing a rezoning for a PD district. The amendments specify that neither the City Council nor the Planning Commission can initiate a rezoning to a PD district and no proffers may be filed or accepted with a rezoning to a PD district. The amendments also update and revise the approval considerations for rezonings.

§6.6 Planned Development Reviews

The proposed amendments revise the review procedures associated with the approval of a PD district. The amendments specify that no proffers may be submitted or accepted with a rezoning to a PD district as the master development plan is intended to present the particulars of the proposal. The amendments specify that revisions to a master development plan shall not be accepted by the city less than 21 days prior to a public hearing. If the master development plan is revised less than 21 days prior to a public hearing, the hearing will be continued or deferred. The amendments also update and revise the approval considerations for rezonings. The amendments specify that changes to the development of a property, other than minor modifications, that are inconsistent with the approved master development plan require the property owner to submit an amendment to the master development plan for consideration by the City Council.

Recommendation

Following the public hearing, staff recommends that the City Council approve the ordinance to amend portions of articles and sections of Code of the City of Fairfax, Chapter 110 (Zoning) pertaining to the Planned Development Districts and the review and approval procedures associated therewith.

AN ORDINANCE AMENDING CHAPTER 110 (ZONING) TO AMEND PORTIONS OF ARTICLES AND SECTIONS CONTAINED THEREIN PERTAINING TO THE PLANNED DEVELOPMENT DISTRICTS AND THE REVIEW AND APPROVAL PROCEDURES ASSOCIATED THEREWITH.

BE IT ORDAINED, by the City Council of the City of Fairfax, Virginia, that Chapter 110, Article 1, §1.6.2, of the Code of the City of Fairfax, Virginia, is hereby amended as follows:

§1.6.2. Conforming uses and structures

....

B. Planned Developments

1. Any PD development plan, including “general development plans” and “planned development plans,” lawfully approved prior to the effective date of this chapter shall continue to be valid after the effective date. Development shall be permitted in accordance with an approved development plan, including any associated proffers and/or conditions of approval. Such plans shall comply with the requirements of this chapter, provided that in the event of any inconsistency between an approved development plan and the requirements of this chapter, development in accordance with the approved development plan shall be permitted.
2. Any changes to a previously approved development plan (referred to as a “master development plan” in this chapter) shall be subject to the planned development review requirements of §6.6; provided however, that any proffers included as part of a planned development the application for which was filed prior to July 1, 2016 shall remain in full force and effect except to the extent a proffer condition amendment requested by the applicant may be approved by city council.

....

D. Proffers

Any use or structure ~~existing approved~~ prior to the effective date of this chapter that is subject to a proffer(s) shall continue to be subject to such proffer(s) and any use or structure in a planned development district the application for which was filed prior to July 1, 2016 that is subject to a proffer(s) shall remain subject to any such proffer(s) except to the extent a proffered condition amendment requested by an applicant may be approved by the city council.

....

1 **BE IT FURTHER ORDAINED, by the City Council of the City of Fairfax, Virginia,**
2 **that Chapter 110, Article 3, §3.2.3, of the Code of the City of Fairfax, Virginia, is hereby**
3 **amended as follows:**

4 §3.2.3. Planned development districts

5 ~~A. PD-M, Planned Development Mixed Use~~

6 ~~The PD-M, Planned Development Mixed Use District is intended to provide for~~
7 ~~coordinated mixed use developments which may include residential and nonresidential~~
8 ~~uses within a planned development with appropriate boundary transitional yards (§4.5.5)~~
9 ~~and recreation and open space (§3.8.7). The variety of land uses available in this district~~
10 ~~allows flexibility to respond to market demands and the needs of tenants, which provides~~
11 ~~for a variety of physically and functionally integrated land uses.~~

12 B. PD-R, Planned Development Residential

13 ~~The PD-R, Planned Development Residential District is intended to provide for planned~~
14 ~~residential communities containing a mix of housing types, including associated~~
15 ~~amenities, with appropriate boundary transitional yards (§4.5.5), and recreation and open~~
16 ~~space (§3.8.7). This district is intended for planned residential projects that require~~
17 ~~additional flexibility not available in the residential districts~~The PD-R, Planned
18 Development Residential District, is provided to encourage more flexibility for housing
19 options within a planned development, and allowing an increased density in return for the
20 provision of a higher quality development than may be otherwise provided; i.e., more
21 affordable housing, recreation and open space, or other improvements addressing
22 community needs or values.

23 B. PD-M, Planned Development Mixed Use

24 The PD-M, Planned Development Mixed Use District is intended to provide for
25 coordinated mixed use developments which may include general residential and
26 nonresidential uses within a planned development. The variety of land uses available in
27 this district allows greater flexibility to respond to market demands and the needs of
28 tenants, thereby providing for a variety of physically and functionally integrated land
29 uses.

30 C. PD-C, Planned Development Commercial

31 ~~The PD-C, Planned Development Commercial District is intended to enhance the design~~
32 ~~of a commercial development by allowing for additional flexibility not available in the~~
33 ~~nonresidential districts. The district provides appropriate boundary transitional yards~~
34 ~~(§4.5.5) and allows for innovations and special features in site development, including~~
35 ~~the location and type of structures, the conservation of natural features, the conservation~~
36 ~~of energy, and the efficient use of recreation and open space (§3.8.7). PD-C districts~~
37 ~~protect adjacent uses with appropriate boundary transitional yards (§4.5.5)~~The PD-C,
38 Planned Development Commercial District, is provided to enhance the design of
39 commercial development and any ancillary residential uses included within a planned
40 development by allowing for greater flexibility not available in general nonresidential
41 districts.

42 D. PD-I, Planned Development Industrial

43 ~~The PD-I, Planned Development Industrial District is intended to provide a means of~~
44 ~~achieving unified industrial complexes of high quality to promote amenities beyond those~~
45 ~~expected under conventional techniques, to achieve greater flexibility in design, to~~

1 encourage well-planned industrial developments that provide for community needs, to
2 provide for appropriate use of land which is significantly unique in its physical
3 characteristics, location or other circumstances to warrant special methods of
4 development, and to allow the expansion of existing industrial areas while safeguarding
5 and maintaining the integrity of surrounding uses, especially those of a residential nature.
6 PD-I districts protect adjacent uses with appropriate boundary transitional yards
7 (§4.5.5) The PD-I, Planned Development Industrial District, is provided to encourage
8 unified industrial complexes of high quality by allowing for greater flexibility not
9 available in general nonresidential districts.

10 **BE IT FURTHER ORDAINED, by the City Council of the City of Fairfax, Virginia,**
11 **that Chapter 110, Article 3, §3.8, of the Code of the City of Fairfax, Virginia, is hereby**
12 **amended as follows:**

13
14 §3.8.1. General purposes

15 The planned development districts of this article are intended to allow the city, at the request
16 of an applicant, to set aside rigid zoning rules in order to allow applicants to create special
17 and unique developments by mixing and clustering, where appropriate, mix and cluster land
18 uses and/or dwelling types and ~~provide~~providing more usable recreation and open space in a
19 master development plan proposed by the applicant and approved by the city
20 council. PDsPlanned developments should create a more livable, affordable and sustainable
21 community. Starting from the baseline, which is current zoning, applicants may be given
22 increased development rights, such as increased density and height, as well as increased
23 flexibility, in return for providing benefits that make the project “superior” and the
24 community better in accordance with the goals and objectives of the city, including, but not
25 limited to, those set forth in the comprehensive plan.

26
27 §3.8.2. General provisions

28 A. Review process

29 All planned developments shall be reviewed and approved in accordance with the
30 procedures of §6.6. A planned development can only be applied for by an applicant; the
31 city cannot and will not unilaterally rezone any property to a planned development
32 district without the submission of an application by an applicant, including the applicant's
33 proposed master development plan. No proffers will be allowed in a planned
34 development, as the master development plan and the applicable provisions of the zoning
35 ordinance will control what may be created in an approved planned development.

36 B. Minimum requirements

- 37 1. In approving a rezoning for a planned development, the city council shall find the
38 proposed district designation and master development plan comply with the general
39 provisions for all planned development in §3.8.2 and the specific standards for the
40 planned development listed in §3.8.3 through §3.8.6, below, respectively.
- 41 2. Planned development district rezonings may be approved only when the applicant
42 demonstrates to the satisfaction of the city council that a proposed planned
43 development project would result in a greater benefit to the city than
44 would a development under general zoning district regulations.

45 C. Master development plan

1 The development proposed in the master development plan shall be ~~consistent in~~
2 substantial conformance with the comprehensive plan. A master development plan shall
3 be filed by the applicant and approved by the city council~~approved and filed~~ as part
4 of ~~each PD~~the approval of each planned development rezoning. After a master
5 development plan has been submitted by an applicant and approved by the city council,
6 development of the property that is the subject of that plan shall be in substantial
7 conformance with the approved master development plan. In the event the owner of a
8 property that has been approved for a planned development wishes to make any changes
9 to the master development plan for that property, said owner may request that the city
10 council approve an amendment to the master development plan. In the event the owner of
11 a property that has been approved for a planned development wishes to abandon that
12 planned development, said owner may apply for a rezoning to the same or a different
13 zoning district. At a minimum, such required plan shall set forth the following:

- 14 ~~1. A statement by the applicant describing how the proposed development provides~~
15 ~~greater benefits to the city than would a development carried out in accordance with~~
16 ~~otherwise applicable zoning and development regulations;~~
- 17 21. A narrative addressing the proposed development that includes, but is not limited to,
18 the following:
 - 19 (a) A statement of how the proposed development is in substantial conformance with
20 the comprehensive plan;
 - 21 (b) A description of how the proposed development provides greater benefits to the
22 city than would a development carried out in accordance with general zoning
23 district regulations;
 - 24 (c) An identification of site planning features designed to ensure compatibility
25 between on-site residential and nonresidential uses, and with the surrounding
26 neighborhood and land uses; and
 - 27 (d) An explanation of explaining and tabulating the land uses by acre, number of
28 dwelling units by housing type, residential density and/or square footage of
29 nonresidential uses per acre, common open space acreage, potential traffic
30 generation, overall character and architectural style, the relationship of the
31 proposed development to existing development in the area and other related
32 development features;
- 33 32. A plan identifying the locations of major streets, major utilities, existing and proposed
34 land uses, entrance locations on existing streets, recreation and open space,
35 landscaping plan, a conceptual drainage plan, and other items as may be
36 required; depicting the proposed development that includes, but is not limited to, the
37 following:
 - 38 (a) An existing conditions plan, proposed layout plan with applicable dimensions,
39 grading plan, conceptual utilities plan, tree survey, landscaping plan with tree
40 coverage and impervious coverage, architectural elevations showing exterior
41 building materials, site sections showing building heights, and recreation and
42 open space plan;
 - 43 (b) A tabulation of land uses by acreage, total number and square footage of dwelling
44 units by housing type, residential density and/or square footage of nonresidential
45 uses per acre, and recreation and open space acreage; and

1 (c) General zoning district uses and standards to be applicable within the planned
2 development, including requests for modifications under §3.8.2.D, §3.8.2.E,
3 and/or §3.8.2.F; and

4 ~~4. General district standards to be applicable within the PD district;~~

5 ~~5. Identification of site planning features designed to ensure compatibility between on-~~
6 ~~site residential and nonresidential uses, and with the surrounding neighborhood and~~
7 ~~land uses;~~

8 ~~6. A statement of how the proposed development is consistent with the comprehensive~~
9 ~~plan; and~~

10 ~~7. Other relevant information as may be required for a complete application deemed~~
11 ~~necessary by the city council to demonstrate conformance with the goals and policies~~
12 ~~of the city, including the comprehensive plan.~~

13 D. Specific use standards

14 At the request of an applicant requesting approval of a planned
15 development, the specific use standards of §3.5 may be modified by city council as
16 part of a planned development review in the approval of a master development plan. Any
17 such modifications of the specific use standards of §3.5 requested by the applicant shall
18 be clearly noted on the master development plan. Unless specifically modified by the city
19 council as requested by an applicant in the approval of a master development plan, part of
20 planned development approval all specific use standards specified in §3.5 shall apply.

21 E. Site development standards

22 1. ~~In accordance with the considerations of §6.6.8, planned~~ Planned developments
23 should always result in greater benefit to the city, not less, ~~as compared to~~
24 ~~development under the general district requirements in accordance with the~~
25 ~~considerations of §6.6.8.~~

26 2. Planned developments shall not be approved primarily for the sole purpose
27 of increasing density, reducing site development requirements or avoiding some other
28 applicable requirement.

29 3. At the request of an applicant requesting approval of a planned development, the
30 site development standards of Article 4 and the streets, pedestrian facilities, and lots
31 and blocks design and improvement standards (See Subdivision Ordinance, Sections
32 2.2, 2.3 and 2.4) may be modified by the city council as part of a planned
33 development approval in the approval of a master development plan. Any such
34 modifications requested by the applicant shall be clearly stated on the master
35 development plan. Unless specifically modified by the city council as part of a
36 planned development approval in the approval of a master development plan, all site
37 development standards specified in Article 4, shall apply.

38 F. Design guidelines and dimensional standards

39 1. Each planned development shall provide a comprehensive set of design guidelines as
40 part of the master development plan that demonstrate the project will be consistent in
41 substantial conformance with the comprehensive plan. All dimensional standards
42 shall be established in the master development plan when it is approved by the city
43 council at the time of approval.

44 2. ~~All~~ Each applicant will be required to propose a master development plans to shall
45 include design guidelines and all changes relative to the applicable, current general
46 district modifications to the dimensional standards of §3.6 requested by the

1 ~~applicant. The city council can modify that plan in the review process; only city~~
2 ~~council can approve a planned development rezoning~~ Once a master development plan
3 is approved by the city council, all design guidelines and all modifications stated in
4 the master development plan will be binding on the applicant.

5 G. Recreation and open space

6 The master development plan shall provide recreation and open space in accordance with
7 the requirements of §3.8.7. At least 20 percent of each planned development site shall be
8 designated and provided as recreation and open space ~~for use and enjoyment of the~~
9 ~~residents and occupants of the Planned development.~~

10 H. Phasing

11 If development is proposed to occur in phases, the master development plan shall include
12 a phasing plan for the development, and if appropriate, ~~with~~ shall include specific build-
13 out dates. Guarantees shall be provided by the applicant in the master development
14 plan that project improvements and amenities that are necessary and desirable for
15 residents and occupants of the project or that are of benefit to the city, ~~are~~ shall
16 be constructed with and provided as part of the first phase of the project, or, if this is not
17 possible, then specific deadlines as early in the project as is technically may be feasible
18 shall be provided by the applicant.

19 I. Development schedule

20 No zoning permit shall be issued for a mixed use development to authorize the occupancy
21 of more than 66 percent of the approved residential ~~floor area~~ dwelling units as part
22 of a PD-C or PD-M district development ~~shall be issued~~ prior to the issuance of a zoning
23 permit to authorize the occupancy of 100 percent of the approved nonresidential floor
24 area for that development., The foregoing shall be binding on the applicant unless the
25 applicant proposes a modification to this requirement in the master development plan
26 and unless specifically modified by the city council as part of planned development
27 approval approves such modification when it approves the master development plan.
28

29 §3.8.3. PD-R, Planned Development Residential District

30 The purpose of the district shall be consistent with the provisions set forth in §3.2.3.A and
31 §3.8.1.

32 A. Minimum Requirements

- 33 1. ~~The PD-R, Planned Development Residential District is an option provided to~~
34 ~~encourage a mix of housing options within a comprehensively planned development,~~
35 ~~and allowing a increased density in return for the provision of a higher quality~~
36 ~~development than is otherwise required; i.e., more affordable housing, recreation and~~
37 ~~open space, or other improvements addressing community needs or values.~~
38 2. ~~Unless waived by the city council, the PD-R district is permissible only on sites of~~
39 ~~least two contiguous acres~~ The PD-R district is permissible only on sites of at least
40 two contiguous acres unless the city council waives this requirement in the approval
41 of a master development plan.

42 B. Permitted uses

43 All uses permitted or listed as special uses in the R districts ~~are~~ may be permitted in a
44 PD-R district (see §3.3.1), subject to approval by the city council when it approves a
45 master development plan.

46 C. ~~Project boundary transitional yards~~

- 1 ~~1. Project boundary transitional yards shall not be required where the width of the~~
2 ~~project's perimeter residential lots is equal to or greater than the minimum lot width~~
3 ~~of the adjoining development or the minimum lot width required by the zoning~~
4 ~~district applied to any adjoining undeveloped parcel.~~
- 5 ~~2. Unless modified by the city council, where narrower lot widths are provided, a~~
6 ~~project boundary transitional yard TY2 (§4.5.5) shall be provided along all project~~
7 ~~boundaries.~~

8 ~~DC.~~Signs

9 Signs allowed in the PD-R district shall be the same as signs allowed in
10 the general residential districts in accordance with §4.6.8.

11
12 §3.8.4. PD-M, Planned Development Mixed Use District

13 The purpose of the district shall be consistent with the provisions set forth in §3.2.3.B and
14 §3.8.1.

15 A. Minimum Requirements

- 16 ~~1. The PD-M, Planned Development Mixed Use District is an option provided to~~
17 ~~encourage coordinated mixed use developments.~~
- 18 ~~2. Unless waived by the city council, the PD-M district is permissible on sites of least~~
19 ~~two contiguous acres~~The PD-M district is permissible only on sites of at least two
20 contiguous acres unless the city council waives this requirement in the approval of a
21 master development plan.

22 B. Permitted Uses

- 23 ~~1. All uses permitted or listed as special uses in those permitted in the R districts and in~~
24 ~~the C districts may be permitted in a PD-M district (see §3.3.1), subject to approval~~
25 ~~by the city council when it approves a master development plan.~~
- 26 ~~2. The mix of uses shall be established by the city council at the time of approval.~~

27 ~~C. Project boundary transitional yards~~

- 28 ~~1. No project boundary transitional yard is required where the width of the project's~~
29 ~~perimeter, residential lots is equal to or greater than the minimum lot width of the~~
30 ~~adjoining development or the minimum lot width required by the zoning district~~
31 ~~applied to any adjoining undeveloped parcel.~~
- 32 ~~2. Unless modified by the city council, a project boundary transitional yard TY3~~
33 ~~(§4.5.5) shall be provided along all site area boundaries.~~

34 ~~DC.~~Signs

35 Signs allowed in the PD-M district shall be the same as signs allowed in
36 the general residential and nonresidential districts, respectively, in accordance with
37 §4.6.8.

38
39 §3.8.5. PD-C, Planned Development Commercial District

40 The purpose of the district shall be consistent with the provisions set forth in §3.2.3.C and
41 §3.8.1.

42 A. Minimum Requirements

- 43 ~~1. The PD-C, Planned Development Commercial District is an option provided to~~
44 ~~enhance the design of a commercial development within a comprehensively planned~~
45 ~~development by allowing for additional flexibility not available in nonresidential~~
46 ~~districts.~~

1 2. ~~Unless waived by the city council, the PD-C district is permissible on sites of at least~~
2 ~~two contiguous acres~~The PD-C district is permissible only on sites of at least two
3 ~~contiguous acres unless the city council waives this requirement in the approval of a~~
4 ~~master development plan.~~

5 B. Permitted uses

6 All uses permitted or listed as special uses in the C districts ~~are~~may be permitted in a PD-
7 C district (see §3.3.1), subject to approval by the city council when it approves a master
8 development plan.

9 ~~C. Project boundary transitional yards~~

10 ~~Unless modified by the city council, a project boundary transitional yard TY3 (§4.5.5)~~
11 ~~shall be provided along all project boundaries.~~

12 ~~D. Signs~~

13 Signs allowed in the PD-C district shall be the same as signs allowed in the
14 general nonresidential districts in accordance with §4.6.8, provided that signs allowed for
15 any single-family detached or townhouse uses shall be the same as signs allowed in the
16 least intensive otherwise applicable general residential districts, in accordance with
17 §4.6.8.

18
19 §3.8.6. PD-I, Planned Development Industrial District

20 The purpose of the district shall be consistent with the provisions set forth in §3.2.3.D and
21 §3.8.1.

22 A. Minimum requirements

23 1. ~~The PD-I, Planned Development Industrial District is an option provided to~~
24 ~~encourage unified industrial complexes of high quality by allowing for additional~~
25 ~~flexibility not available in nonresidential districts.~~

26 2. ~~Unless waived by the city council, the PD-I district is permissible on sites of least five~~
27 ~~contiguous acres~~The PD-I district is permissible only on sites of at least five
28 ~~contiguous acres unless the city council waives this requirement in the approval of a~~
29 ~~master development plan.~~

30 B. Permitted uses

31 1. ~~All Uses~~uses permitted or listed as special uses in the CG, IL and IH districts ~~are~~may
32 be permitted in a PD-I district (see §3.3.1), subject to approval by the city council
33 when it approves a master development plan.

34 2. ~~Non industrial or non manufacturing uses located in a PD-I district are intended to~~
35 ~~serve the needs of the development and not the needs of a surrounding area. Areas~~
36 ~~designated for non industrial and non manufacturing activities shall be oriented~~
37 ~~towards the interior of the project and shall not be located on exterior or perimeter~~
38 ~~streets or property boundaries, but shall be centrally located within the project to~~
39 ~~serve the employees of the district.~~

40 ~~C. Project boundary transitional yards~~

41 ~~Unless modified by the city council, a project boundary transitional yard TY4 (§4.5.5)~~
42 ~~shall be provided along all project boundaries.~~

43 ~~D. Signs~~

44 Signs allowed in the PD-I district shall be the same as signs allowed in the CG, IL and IH
45 districts in accordance with §4.6.8.

46

1 §3.8.7. Recreation and Open Space

2 A. General

- 3 1. Recreation and open space is an integral part of planned developments (residential,
4 commercial, industrial and mixed use), ~~and may be provided for conventional~~
5 ~~subdivisions and development.~~
- 6 2. Where recreation and open space is included in a planned development ~~on a voluntary~~
7 ~~basis~~ in addition to the individual lots ~~or to comply with minimum recreation and~~
8 ~~open space requirements (planned developments)~~, such lands must be in one or more
9 parcels dedicated to or otherwise protected as permanent (active or passive)
10 recreation and open space.
- 11 3. Any city-accepted parks, schools and other public land dedication
12 made (~~voluntarily~~) as part of a planned development will be counted towards
13 complying with the requirements of §3.8.7.

14 B. Configuration and use

- 15 1. The location, size, character and shape of required recreation and open space in a
16 planned development district must be appropriate for its intended use. Recreation and
17 open space land must be useable for recreational purposes ~~and/or provide visual and~~
18 ~~aesthetic appeal.~~
- 19 2. No more than 50 percent of any area otherwise containing ~~obvious~~ development
20 challenges, ~~including such as~~ the presence of the ~~regulated~~ 100-year floodplain, open
21 water, jurisdictional wetlands, a slope greater than or equal to 25 percent grade or
22 geological hazards, may be considered to comply with the recreation and open space
23 requirement.
- 24 3. The minimum width for any required recreation and open space shall be 50 feet. The
25 zoning administrator may grant exceptions for items such as trail easements, and mid-
26 block crossings ~~and linear parks, medians~~, when their purpose meets the intent of
27 §3.8.7.
28

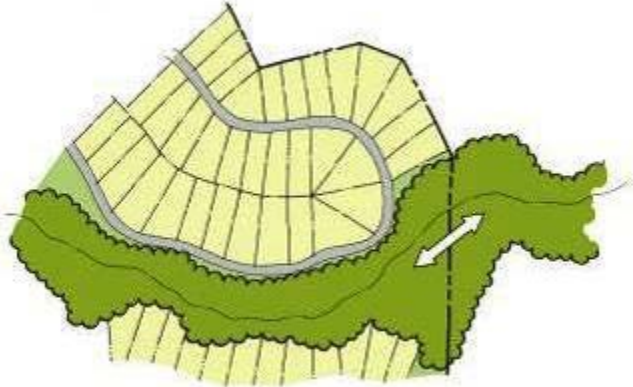


- 29
30
31 4. At least 60 percent of the required recreation and open space shall be contiguous. For
32 the purposes of §3.8.7, the term contiguous shall include any recreation and open
33 space bisected by a residential street, i.e. ~~one primarily serving a residential uses~~ local
34 street, provided that:
- 35 (a) A pedestrian crosswalk or underpass is constructed to provide safe and adequate
36 access to the recreation and open space ~~on~~ from both sides of the street; ~~and~~

1
2
3
4
5
6

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

- (b) The right-of-way area is not included in the minimum recreation and open space calculation;
- (c) The recreation and open space shall adjoin any neighboring recreation and open spaces, protected lands, and non-protected natural lands that would be candidates for inclusion as part of future recreation and open spaces or protected lands;



- (d) Adopted city plans shall be taken into consideration when evaluating land use and development applications;
- (e) Where appropriate, the required recreation and open space shall be directly accessible to the largest practicable number of lots within the subdivision planned development. Non-adjoining lots shall be provided with safe, convenient access to the recreation and open space (i.e. mid-block connections in logical locations);
- (f) Access to the recreation and open space shall be provided either by an abutting street or easement. Any Such such easement shall be not less than at least 30 feet wide for its entire length;
- (g) Trails may be developed in recreation and open space; and
- (h) At least 20 percent of the recreation and open space shall be improved in accordance with the options set forth below. The shape, topography and subsoil shall be appropriate to the improvements proposed.

1
2
3

RECREATION AND OPEN SPACE OPTIONS

TOT LOT & PLAYGROUNDS (PRIVATE ONLY)

Playgrounds provide play areas for children as well as open shelter and benches. Playgrounds may be built within squares, greens, mini-parks and neighborhood parks or may stand alone within a residential block.

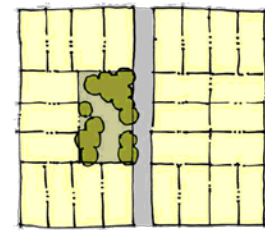
Playgrounds shall be designed with commercial grade play equipment and may include picnic units and shelters. Minimum requirements include two park benches, and one trash receptacle and one trash recycling receptacle. Must have a shock-absorbing surface with a maximum two percent slope. Playgrounds must meet all federal, state and local regulations and be compliant with the Americans with Disabilities Act.



MINI-PARK (PRIVATE ONLY)

Mini-Parks provide active recreational facilities for the use by the residents of the immediate neighborhood within the development.

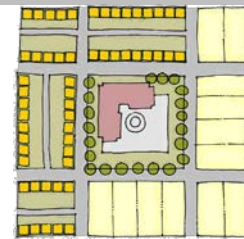
Size is from 2,500 sq. ft. to one acre. May include: tennis courts, basketball courts, playgrounds and seating accommodations. Each mini-park shall be centrally located and easily accessible so that it can be conveniently and safely reached and used by those persons in the surrounding neighborhood it is designed to serve. Rear facing lots are allowed. Mini-parks shall be attractively landscaped and be provided with sufficient natural or man-made screening or transitional yard areas to minimize any negative impacts upon adjacent residences.



PLAZA

Plazas are for passive recreation use adjacent to a civic or commercial building. Plazas are paved in brick or another type of impervious surface.

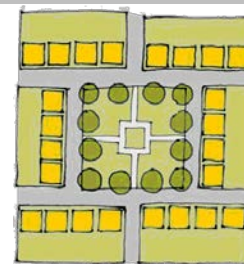
Plazas shall be level, stepped or gently sloping. At no time shall a plaza's horizontal length or width be greater than three times the height of surrounding buildings. Size may range from 2,000 to 30,000 sq. ft.



SQUARES

Squares are formal areas for passive recreation use bounded by roads or front facing lots.

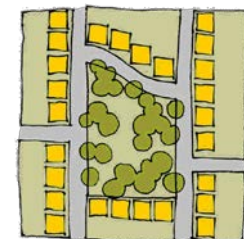
Squares shall be bounded by roads on a minimum of three sides or 75 percent of their perimeter and may be bounded by front facing lots on one side or 25 percent of their perimeter. No rear facing lots allowed adjacent to a square. Trees plantings are encouraged parallel to the street. Geometrical tree planting layouts for internal plantings are encouraged. Size may range from 500 sq. ft. to one acre.



GREEN

Greens are informal areas for passive use bounded by roads or front facing lots.

A green shall be bounded by roads on a minimum of three sides or 75 percent of their perimeter and may be bounded by front facing lots on one side or 25 percent of their perimeter. No rear facing lots are allowed adjacent to a Green. Tree plantings can be informal and the topography irregular. Greens may be used to preserve specimen trees. Size may range from 500 sq. ft. to one acre.

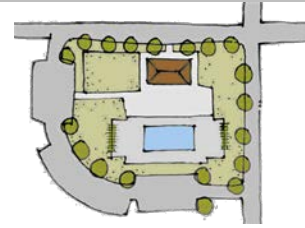


RECREATION AND OPEN SPACE OPTIONS

CLUBHOUSE/POOL AMENITY AREA

Clubhouse/pool areas can be found in a neighborhood park, mini-park or alone as an amenity area for the residents of a developed community. Clubhouse/pool areas can include: swimming pools, group activity room, gazebos, outdoor dining and service areas, and exercise stations.

Pools should be a minimum size of 1,000 sq. ft. Clubhouses and swimming pools must meet all applicable building and health codes for the city and the Commonwealth of Virginia.



NEIGHBORHOOD PARK

Neighborhood parks are designed for active or passive recreation use. Size may range from one to five acres, however park size can exceed five acres if the neighborhood park creates an open space that services an entire neighborhood or a group of neighborhoods; or incorporates physical features that are an asset to the community.

Neighborhood parks shall be accessible via residential streets. Front facing lots are encouraged around the perimeter. Neighborhood parks shall include benches and walking paths.

Neighborhood Parks may include but are not limited to: tennis courts, racquetball courts, basketball courts, volleyball courts, ball fields, swings, slides, playgrounds, dog parks, community gardens, restrooms, picnic units, shelters and parking lots.

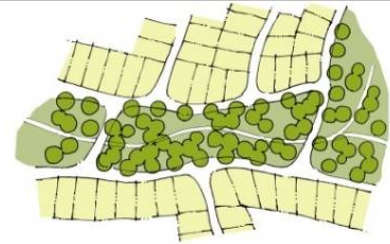


GREENWAY

Greenways typically follow natural or constructed features such as streams or roads and are designed to incorporate natural settings such as creeks and significant stands of trees within neighborhoods, and are used for transportation, recreation, and environmental protection.

Greenways differ from parks; plazas and squares in that their detailing is natural (i.e. informally planted) except along rights-of-way, and may contain irregular topography.

Design of the greenway should incorporate conservation of existing mature tree canopy and landscape, protection of existing natural drainage ways and creeks. Improvements shall include paved walks/trails and benches, and trash and trash recycling receptacles.



- 1 C. Permitted uses of recreation and open space
- 2 Uses of recreation and open space may include the following:
- 3 1. Conservation areas for natural, archeological or historical resources;
- 4 2. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar
- 5 conservation-oriented areas;
- 6 3. Pedestrian or multipurpose trails;
- 7 4. Passive recreation areas;
- 8 5. Active recreation areas, provided that impervious surfaces ~~is~~are limited to no more
- 9 than 50 percent of the total recreation and open space;
- 10 6. Above-ground utility rights-of-way, provided the area does not exceed 50 percent of
- 11 the required recreation and open space;
- 12 7. Agriculture uses, provided that all applicable best management practices are used to
- 13 minimize environmental impacts;
- 14 8. Landscaped stormwater management facilities;
- 15 9. Easements for drainage, access, and underground utility lines; and
- 16 10. Other conservation-oriented uses compatible with the purposes of this chapter.
- 17 D. Prohibited uses of recreation and open space
- 18 Recreation and open space shall not include roads (except for road crossings as expressly
- 19 provided above) and parking lots.
- 20 E. Ownership and management of recreation and open space
- 21 1. Ownership

1 Recreation and open space shall be accepted and owned by one of the following
2 entities:

3 (a) City of Fairfax

4 For those areas that will be owned by the city and available for use by the
5 public. The responsibility for maintaining the recreation and open space, and
6 any facilities in those areas shall be borne by the city, subject to city council
7 approval.

8 (b) Land conservancy or land trust

9 For those areas subject to a land conservancy or land trust, The responsibility
10 for maintaining the recreation and open space and any facilities in those
11 areas shall be borne by a land conservancy or land trust recognized by the laws of
12 the Commonwealth of Virginia.

13 (c) Common interest community association or similar entity

14 ~~A common interest community association or similar entity representing residents~~
15 ~~of the subdivision shall own the recreation and open space.~~ For those areas that
16 will be covered by the covenants of a common interest community association or
17 similar entity, The responsibility for maintaining the recreation and open
18 space, and any facilities in those areas shall be borne by the common interest
19 community association or similar entity in accordance with the requirements of
20 §4.13.

21 (d) ~~Private landowner~~ Landowner

22 For those areas not covered by any of the entities described in paragraphs (a), (b),
23 or (c), the ~~A private landowner may retain ownership of recreation and open space.~~
24 The responsibility for maintaining the recreation and open space and any
25 facilities in those areas shall be borne by the ~~private~~ landowner.

26 2. Management

27 Applicants shall submit as part of the proposed master development plan and record,
28 upon approval of that master development plan, a plan for the management of
29 recreation and open space and other common facilities that:

30 (a) Allocates responsibility and guidelines for the maintenance and operation of the
31 recreation and open space, and any facilities located thereon, including provisions
32 for ongoing maintenance and for long-term capital improvements;

33 (b) Estimates the costs and staffing requirements needed for maintenance and
34 operation of, and insurance for, the recreation and open space and outlines the
35 means by which such funding will be obtained or provided;

36 (c) Provides that any changes to the plan for the management of recreation and open
37 space and other common facilities must be approved by the city council as an
38 amendment to the master development plan; and

39 (d) Provides for enforcement of the plan for the management of recreation and open
40 space and other common facilities.

41 3. Maintenance

42 (a) Passive recreation and open space maintenance is limited to removal of
43 litter, removal of dead tree and plant materials and brush; ~~and~~, weeding, and
44 mowing.

45 (b) No specific maintenance is required for agricultural uses.

1 (c) Active recreation and open space areas shall be accessible to all residents of the
2 development. Maintenance is limited to ensuring that there exist no hazards,
3 nuisances or unhealthy conditions.

4 F. Legal instrument for permanent protection

5 1. ~~The~~All recreation and open space in planned development districts shall be protected
6 in perpetuity by a binding legal instrument that is made a part of the master
7 development plan and is recorded with the deed among the land records of Fairfax
8 County. The instrument shall be one of the following:

9 (a) A permanent conservation easement in favor of ~~either~~:

10 (1) A land trust or similar conservation-oriented nonprofit organization with legal
11 authority to accept such easements. The organization shall be bona fide and in
12 perpetual existence and the conveyance instruments shall contain an
13 appropriate provision for re-transfer in the event the organization becomes
14 unable to carry out its functions; ~~or~~

15 (2) A governmental entity with an interest in pursuing goals compatible with the
16 purposes of this chapter. If the entity accepting the easement is not the city,
17 then a third party right of enforcement favoring the city shall be included
18 in the master development plan and in the easement; ~~or~~

19 (3) Another person or entity that meets with the approval of the city council.

20 (b) A permanent restrictive covenant for conservation purposes in favor of a
21 governmental entity.

22 (c) An equivalent legal tool that provides permanent protection, if approved by the
23 city attorney.

24 2. The instrument for permanent protection shall include clear restrictions on the use of
25 the recreation and open space. These restrictions shall include all restrictions
26 contained in this chapter, as well as any further restrictions the applicant chooses to
27 place on the use of the recreation and open space as may be approved by the city
28 council when it approves the master development plan.

29 G. Alternative compliance

30 Upon the request of the applicant in the master development plan, Thethe city council
31 may approve alternatives to the recreation and open space requirements of §3.8 based
32 upon exceptional design or recreational amenities.

33 **BE IT FURTHER ORDAINED, by the City Council of the City of Fairfax, Virginia,**
34 **that Chapter 110, Article 4, §4.5.5, of the Code of the City of Fairfax, Virginia, is hereby**
35 **amended as follows:**

36 §4.5.5. Transitional yards

37

38
39 C. Transitional yard types

40 There are three types of required transitional yards that may occur on any given parcel
41 (for the specific width and plant material for each transitional yard classification see
42 §4.5.5.D).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

....

2. Project boundary transitional yards

Project boundary transitional yard requirements are established to mitigate the effect of planned developments on adjacent properties. ~~Where a project boundary transitional yard is required, such transitional yard shall be in accordance with one of the following alternatives as specified for the respective planned development district (§3.8.3, §3.8.4, §3.8.5 and §3.8.6):~~ The following shall be used to determine project boundary transitional yard requirements.

(a) No transitional yard is required where the width of the project’s perimeter single-family detached residential lots is equal to or greater than the minimum lot width of the adjoining single-family detached development or the minimum lot width required by the respective single-family detached zoning district ~~applied that applies~~ to any adjoining undeveloped parcel.

(b) ~~Where narrower lot widths are provided (narrower than the minimum lot width of the adjoining development or the minimum lot width required by the zoning district applied to any adjoining undeveloped parcel)~~ Except as provided in paragraph (a) above or unless modified by the city council in the approval of a master development plan, the following boundary transitional yards shall be provided along project boundaries in accordance with §4.5.5.D.: ~~Project boundary transitional yards shall not be required along arterial or collector streets.~~

- (1) PD-R: TY2 transitional yards
- (2) PD-M: TY3 transitional yards
- (3) PD-C: TY3 transitional yards
- (4) PC-I: TY4 transitional yards

....

BE IT FURTHER ORDAINED, by the City Council of the City of Fairfax, Virginia, that Chapter 110, Article 6, §6.4, of the Code of the City of Fairfax, Virginia, is hereby amended as follows:

§6.4.1. Applicability

A. Amendments to the zoning map shall be made in accordance with the provisions of §6.4. The city council ~~shall~~may consider amendments to the zoning map, as may be required or requested from time to time.

B. Rezoning ~~should~~requests shall correspond with the boundary lines of existing or proposed platted lots or parcels. ~~Where the boundaries of a rezoning request stop short of an exterior property line, it must be possible to subdivide and develop that portion of the property outside the proposed rezoning boundary in accordance with the existing zoning and other requirements of this chapter.~~

§6.4.2. Initiation

A rezoning may be initiated by:

- 1 A. The affirmative vote of the city council or the planning commission, provided, however,
2 that neither the city council nor the planning commission shall have any authority to
3 initiate an application requesting a rezoning to any planned development district; or
4 B. An owner of land within the city, or an authorized agent or representative (§6.2.3.B), may
5 submit an application for rezoning, including an application requesting a rezoning to any
6 planned development district.
7

8 §6.4.3. Pre-application meeting

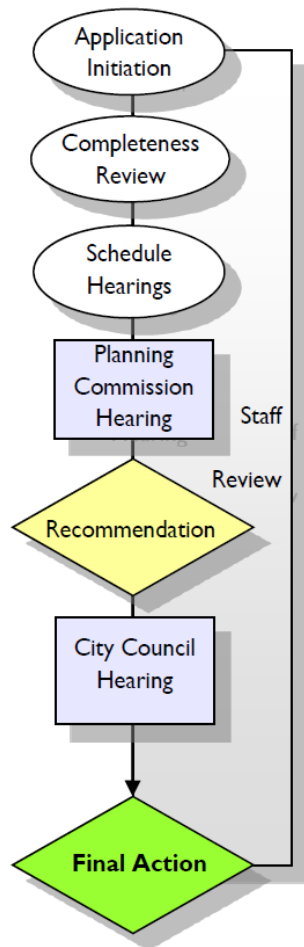
9 Applicants submitting rezoning applications shall hold a pre-application meeting as described
10 in §6.2.1.
11

12 §6.4.4. Application requirements

- 13 A. An application for a rezoning shall be submitted in accordance with §6.2.3.
14 B. If an applicant for rezoning wishes to submit proffers, such proffers may be submitted as
15 part of the application. (See also §6.4.10) No proffers will be filed or accepted in
16 conjunction with rezoning applications requesting a planned development district, as the
17 master development plan submitted by the applicant for a proposed planned development
18 shall itself constitute the applicant's proposal and binding commitment for that
19 development.
20

21 §6.4.5. Notice and hearings

22 The city shall hold all required public hearings and give notice in accordance with §6.2.5.
23



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

§6.4.6. Action by director of community development and planning

The director of community development and planning shall review each proposed rezoning application, including any proffers, in accordance with the approval considerations of §6.4.9, and distribute the proposed plan to appropriate agencies and reviewers. Based on the results of those reviews, director will provide a report and recommendation to the planning commission and city council.

§6.4.7. Action by planning commission

After receiving the director’s report, the planning commission shall review the proposed rezoning, including any proffers (§6.4.10), in a public hearing and in accordance with the approval considerations of §6.4.9, and recommend that the city council approve the application, ~~approve with modifications or conditions~~ recommend that the application be revised and recommend that the city council approve the application if so revised, ~~table,~~ or defer the application, or recommend that disapprove the proposed rezoning be disapproved by the city council.

§6.4.8. Action by city council

After receiving the planning commission’s recommendation, the city council shall review the proposed rezoning, including any proffers (§6.4.10), in a public hearing and in accordance

1 with the approval considerations of §6.4.9 and as otherwise required by law, and
2 approve, ~~approve with modifications, table, or defer,~~ or disapprove the proposed rezoning.

3
4 §6.4.9. Approval considerations

5 In determining whether to approve, ~~approve with modifications or conditions,~~ or disapprove
6 a proposed rezoning to any district other than a rezoning requesting a planned development
7 district, planning commission and city council shall consider any proffers, and the following:

- 8 A. ~~Consistency~~Substantial conformance with the comprehensive plan;
9 B. ~~Whether the~~Any greater benefits the proposed rezoning provides ~~greater benefits~~ to the
10 city than would a development carried out in accordance with ~~the purpose for the current~~
11 zoning district (§3.2), and otherwise applicable requirements of this chapter; ~~and~~
12 C. Suitability of the subject property for the development and uses permitted by the current
13 versus the proposed district; ~~and~~
14 D. Adequacy of existing or ~~proffered~~proposed public facilities such as public transportation
15 facilities, public safety facilities, public school facilities, and public parks~~infrastructure,~~
16 ~~including, but not limited to transportation infrastructure, utility infrastructure, schools,~~
17 ~~public safety, and recreation and open space.;~~
18 E. Adequacy of existing and proposed public utility infrastructure;
19 F. Compatibility of the proposed development with adjacent and nearby communities; and
20 G. Consistency with the stated purpose of the proposed district.

21
22 §6.4.10. Proffers

23 A. Intent

24 The intent of §6.4.10 is to provide, pursuant to the authority granted to the city by § 15.2-
25 2303, Code of Virginia, a more flexible and adaptable method to cope with situations
26 found in such zones whereby a zoning reclassification may be allowed, subject to certain
27 conditions proffered by the rezoning applicant, for the protection of the community.

28 B. ~~Site~~General development plan

29 In granting applications for rezonings to districts other than planned development
30 districts, the ~~decision-making body~~city council may accept, through proffering or
31 otherwise as permitted by law, development of the subject property as shown on
32 a ~~proffered master~~general development plan.

33 C. Proffer of conditions

34 An owner may voluntarily proffer reasonable conditions including cash, real property,
35 services, land use restrictions and other conditions, in addition to the regulations
36 established elsewhere in this chapter, as part of an application requesting an amendment
37 to the zoning district regulations or the official zoning district map(s) or a change in
38 zoning of individual parcel(s). No proffers will be submitted by the applicant or accepted
39 by the city council in conjunction with applications requesting a rezoning to a planned
40 development district. In addition, all conditions proffered shall ~~be consistent~~comply with
41 the requirements of ~~the §§15.2-2303, and 2303.4, of the~~ Code of Virginia, and any other
42 applicable provisions of the Code of Virginia.

43 D. Persons entitled to sign proffer statements

- 44 1. Whenever proffers are submitted to the city council by a rezoning applicant, The~~the~~
45 proffer statement must be signed by all owners of the subject property. Agents,
46 contract purchasers and alike may not sign the proffer statement.

- 1 2. If the owner(s) is a corporation, limited liability company or other similar entity,
2 written documentation must be provided that indicates to the satisfaction of the city
3 attorney that the person(s) signing the proffer statement is(are) legally empowered to
4 sign the statement on behalf of that legal entity.

5 E. Procedure

6 Proffered conditions shall be submitted only in connection with and as an integral part of
7 an application for rezoning and as permitted by applicable law and shall be considered
8 procedurally by the city council and planning commission concurrent with each body's
9 consideration of the application.

- 10 1. If an applicant for a rezoning desires to proffer reasonable conditions as permitted in
11 §6.4.10, then either the proffers or a statement of intent to submit proffers shall
12 accompany the rezoning application. No proffers will be submitted by the applicant
13 or accepted by the city council in conjunction with applications requesting a rezoning
14 to a planned development district. Within 60 days from the date a statement of intent
15 to submit proffers is filed, the applicant may request a conference with the director to
16 discuss the proffers or any other matter relative to the application, which is deemed
17 pertinent by the applicant or the director.
- 18 2. The applicant shall submit proffers in writing to the director not less than 21 calendar
19 days prior to the first public hearing on such application before the planning
20 commission. The director shall file such proffers with the zoning administrator, and
21 the proffers shall be attached to, and made a part of the application for a rezoning.
22 The applicant may ~~change~~amend the proffers or submit additional proffers provided
23 that the changes shall be submitted in writing no less than seven calendar days prior
24 to the public hearing before the planning commission, and shall be
25 forwarded forthwith to the planning commission for its consideration. All proffers,
26 and any subsequent changes including additions, shall be signed by the applicant and
27 the property owner(s). No proffers will be submitted by the applicant or accepted by
28 the city council in conjunction with applications requesting a rezoning to a planned
29 development district.
- 30 3. At or before the first public hearing before the planning commission, the director
31 shall submit recommendations for proffers and forward to the planning commission
32 such recommendations with the proffers proposed by the applicant.
- 33 4. The planning commission may recommend to the city council any additional proffers,
34 which the commission may deems appropriate or as submitted by the applicant.
- 35 5. Not less than 17 calendar days prior to the first public hearing before the city council
36 on the subject application, the applicant may submit additional proffers in writing to
37 the director; provided that such additional proffers are among those previously
38 recommended by the director or the planning commission. The director shall file such
39 additional proffers in the manner described in §6.4.10.E.2.
- 40 6. If the applicant submits additional proffers as provided for in §6.4.10.E.7 less than 17
41 calendar days prior to the first public hearing before the city council on the subject
42 application, any scheduled public hearing before the city council shall be tabled or
43 deferred and the costs of any additional advertising and expenses of remailing
44 additional notice shall be borne by the applicant.
- 45 7. If the applicant desires to submit additional proffers or amend previously submitted
46 proffers in a manner that will materially alter the application, the application shall be

1 referred to the planning commission for an additional public hearing and
2 recommendation, and thereafter the application shall be considered as provided in
3 §6.4.10. Costs of additional advertising and expenses of remailing additional notice
4 shall be borne by the applicant.

- 5 8. In the event that the city council adopts any such proffers as a part of the enactment
6 of an amendment to the zoning map, the zoning administrator shall indicate the
7 existence of such conditions when amending the zoning map by affixing the suffix
8 "(p)" to the zoning district designated for the subject property in any such amendment
9 to the zoning map (e.g., CO(p); RT(p)).

10
11 §6.4.11. Time lapse between similar applications

12 Except on its own initiative, the city council will not accept, hear or consider substantially
13 the same application for a proposed rezoning within a period of 12 months from the date a
14 similar application was denied, but nothing herein shall prevent the city council and planning
15 commission from accepting, hearing or considering, or the city council from subsequently
16 approving a rezoning application that is substantially the same at any time if it has been
17 initiated the second or subsequent time by the council itself, rather than by the planning
18 commission or a property owner. In no event will the city council have the authority to
19 initiate a rezoning to a planned development district. However, for good cause shown, the
20 city council may waive the foregoing 12 month requirement upon the applicant's request
21 with respect to applications requesting a rezoning to a planned development district or an
22 amendment to a master development plan.

23
24 §6.4.12. Appeals to court

25 Any final decision of the city council on a rezoning may be appealed within 30 days of the
26 decision in accordance with §6.22.3.
27

28 **BE IT FURTHER ORDAINED, by the City Council of the City of Fairfax, Virginia,**
29 **that Chapter 110, Article 6, §6.6, of the Code of the City of Fairfax, Virginia, is hereby**
30 **amended as follows:**

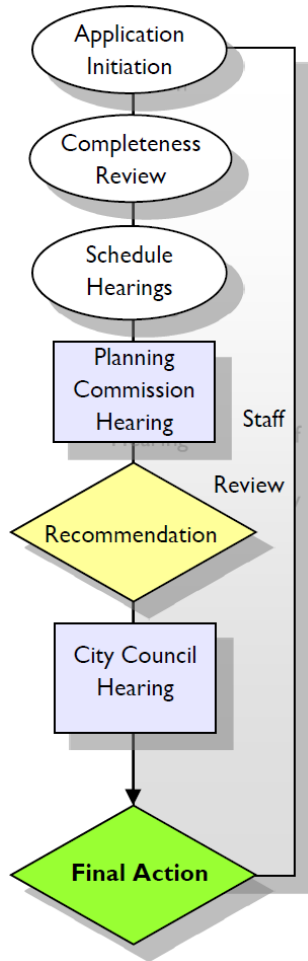
31
32 §6.6.1. Applicability

- 33 A. Applications for rezonings to Planned development applications districts
34 shall occur in accordance with the provisions of §6.6 and shall be considered map
35 amendments (rezoning). Upon approval, a planned development district, as governed by
36 the master development plan, shall replace the underlying general zoning district as the
37 zoning district category that applies to the subject property.
- 38 B. Approval of a master development plan, and ~~recording~~ recording of that master
39 development plan in the public records of the city, shall occur before any zoning permit
40 or building permit is issued, and before any development takes place in a planned
41 development district.
42

43 §6.6.2. Pre-application meeting

44 All applicants submitting planned development district applications shall hold a pre-
45 application meeting in accordance with §6.2.1.

1



2

3

4

§6.6.3. Application requirements

5

Applications for planned development districts shall be submitted in accordance with §6.2.3.

6

Concurrent with an application for a planned development, an applicant shall submit a master

7

development plan that is in accordance with §3.8.2.C. Revisions to a master development

8

plan shall not be accepted by the city less than 21 days prior to a public hearing. In the event

9

an applicant seeks to make revisions to a master development plan less than 21 days prior to

10

a public hearing, the public hearing will be continued or deferred.

11

A. Additional information

12

In addition to the information required above, the applicant shall submit a study of the

13

anticipated revenues to the city, the cost to the city to maintain and serve the proposed

14

development, and other ~~pertinent~~ applicable information pertaining to the economic

15

feasibility of the proposed development. The applicant shall also submit an analysis of

16

potential traffic generation. Such ~~study~~ studies shall be consistent with the format

17

provided by the director.

18

B. Community benefits

19

Each application for a rezoning to a planned development ~~review~~ district must include a

20

written statement from the applicant describing the community benefits of the proposed

21

development and how the proposed development provides greater benefits to the city than

1 would a development carried out in accordance with the purpose for the current zoning
2 district (§3.2), and otherwise applicable requirements of this chapter. The provision of
3 any such benefits shall be specifically set forth in the master development plan proposed
4 by the applicant in support of such application.

5 C. Phasing schedule

6 If the applicant proposes to develop a planned development in phases, the application
7 shall ~~contain~~ include a proposed phasing schedule as part of the master development plan.

8 D. Proffers prohibited

9 No proffers may be submitted by an applicant or accepted by the city council in the
10 approval of a rezoning to a planned development district. The master development plan
11 submitted by the applicant as part of a request for a rezoning to a planned development
12 district is intended to present the particulars of the proposed planned development. If a
13 master development plan is approved by the city council, that master development plan,
14 as supplemented by the provisions of this ordinance, will control the development of the
15 subject property that has been rezoned to a planned development district. Any proposal
16 by the applicant to amend an approved master development plan must be approved by the
17 city council.

18
19 §6.6.4. Notice and hearings

20 A. The city shall hold all required public hearings and give notice in accordance with §6.2.5.

21 B. The applicant for a planned development shall submit the proposed master development
22 plan to the city no less than 21 days before the public hearing date for the proposed
23 rezoning. In the event the applicant for a planned development wishes to make any
24 revisions to the proposed master development plan after such submission but before the
25 planning commission or city council acts on the proposed rezoning, then the revised
26 master development plan shall be submitted to the city no less than 21 days before the
27 date of the new or continued public hearing.

28 C. The applicant shall be responsible for any costs and expenses resulting from the need to
29 advertise or otherwise provide public notice for any new or continued public hearing on a
30 revised master development plan.

31
32 §6.6.5. Action by director of community development and planning

33 The director of community development and planning shall review each proposed rezoning
34 to a planned development application district, including ~~any proffers~~ the proposed master
35 development plan, in accordance with the approval considerations of §6.6.8 and distribute the
36 proposed master development plan to appropriate agencies and reviewers. Based on the
37 results of those reviews, the director will provide a report and recommendation to the
38 planning commission and city council.

39
40 §6.6.6. Action by planning commission

41 After receiving the director's recommendation and that of the board of architectural review,
42 where applicable, the planning commission shall review the proposed planned development,
43 including ~~any proffers~~ (§6.4.10) the proposed master development plan, in a public hearing
44 and in accordance with the approval considerations of §6.6.8, and recommend that the city
45 council approve the proposed planned development as submitted, ~~approve with modifications~~
46 or ~~conditions~~ recommend that the application be revised and recommend that the city council

1 approve the application if so revised, table, or defer the application, or recommend
2 that ~~disapprove~~ the proposed planned development ~~be disapproved by the city council.~~

3
4 §6.6.7. Action by city council

5 After receiving the planning commission's recommendation, the city council shall review the
6 proposed planned development, including ~~any proffers (§6.4.10)~~ the proposed master
7 development plan, in a public hearing and in accordance with the approval considerations of
8 §6.6.8, and approve, ~~approve with modifications or conditions,~~ table, or defer, or disapprove
9 the proposed planned development.

10
11 §6.6.8. Approval considerations

12 In determining whether to approve, ~~approve with modifications or conditions,~~ or disapprove
13 a proposed planned development, the planning commission and city council shall consider
14 the following:

15 A. Substantial conformance with the comprehensive plan;

16 ~~A.B. Whether the~~ Any greater benefits the proposed planned development provides ~~greater~~
17 ~~benefits~~ to the city than would a development carried out in accordance with
18 the current general zoning district regulations ~~or other general zoning district and~~
19 ~~otherwise applicable requirements of this chapter.;~~

20 ~~B. Consistency with the comprehensive plan;~~

21 C. Suitability of the subject property for the development and uses permitted by the general
22 zoning district regulations versus the proposed district;

23 D. Adequacy of existing or proposed public facilities such as public transportation facilities,
24 public safety facilities, public school facilities, and public parks;

25 E. Adequacy of existing and proposed public utility infrastructure;

26 ~~E.F.~~ Consistency with the applicable requirements of this chapter, including the general
27 provisions of §3.8.2;

28 ~~D.G.~~ Compatibility of the proposed planned development with the adjacent community;

29 ~~E.H.~~ Consistency with the stated general purpose of the ~~respective~~ planned development
30 districts in §3.8.1 and the ~~general~~ stated purposes of §3.2.3;

31 ~~F.I. Compatible~~ Compatibility relationships between ~~of~~ each component of the overall
32 development with all other components of the proposed planned development;

33 ~~G.J.~~ The quality of design intended for each component of the project and the ability of the
34 overall master development plan to ensure a unified, cohesive environment at full build-
35 out;

36 ~~H.K.~~ Self-sufficiency requirements for each phase of the overall project of §3.8.2.H;

37 ~~I.L.~~ The effectiveness with which the ~~proposal~~ proposed planned development protects and
38 preserves the ecologically sensitive areas within the development; and

39 ~~J.~~ Adequacy of existing or proffered public infrastructure, including, but not limited to
40 transportation infrastructure, utility infrastructure, schools, public safety, and recreation
41 and open space; and

42 ~~K.M. Whether~~ The extent to which the residential component of the proposed planned
43 development promotes the creation and preservation of affordable housing suitable
44 for ~~meeting~~ supporting the current and future needs of the city.

45
46 §6.6.9. Action after approval

1 A. General

- 2 1. Upon approval of a planned development rezoning by the city council the district
3 shall be deemed established. The approved master development plan shall be
4 recorded in the public records of the city and the zoning map amended. All
5 documents submitted by an applicant in support of an application requesting a
6 rezoning to a planned development district, including the approved or an amendment
7 to a master development plan, shall be considered an integral part of the approved
8 proposal.
- 9 2. The approved planned development and associated master development plan shall run
10 with the land and shall be binding on the original applicant as well as all successors,
11 assigns and heirs. If the owner of property that is the subject of a master development
12 plan wishes to develop that property in a manner that conflicts with or is inconsistent
13 with the master development plan, then an amendment of the master development
14 plan by the city council will be required. To the extent the owner of property that is
15 the subject of a master development plan may seek to make minor modifications to
16 the development shown on the master development plan, the zoning administrator
17 may approve minor modifications to the master development plan if those minor
18 modifications do not materially alter and are in substantial conformance with the
19 character of the master development plan and are consistent with the purposes and
20 intent of this chapter.

21 B. Site plan review/subdivision

- 22 1. Approval of a planned development rezoning and master development plan does not
23 constitute ~~site plan approval or~~ subdivision approval (if the property is to be further
24 subdivided), except where the master development plan complies with the
25 requirements for and is approved by the city council as a ~~site plan and/or~~ preliminary
26 plat.
- 27 2. Property to be further subdivided shall obtain approval in accordance with the
28 subdivision regulations of Chapter 86. Where a preliminary plat has been approved,
29 the applicant may move forward to provide construction plans and a final plat.
- 30 3. Property not to be further subdivided shall obtain site plan approval as set forth in
31 §6.8.

32
33 §6.6.10. Time lapse between similar applications

34 The city council will not accept, hear or consider substantially the same application for a
35 proposed planned development within a period of 12 months from the date a similar
36 application was denied, ~~except on its own initiative.~~ However, for good cause shown, the city
37 council may waive the foregoing 12 month requirement upon the applicant's request with
38 respect to applications requesting a rezoning to a planned development district or an
39 amendment to a master development plan.

40
41 §6.6.11. Appeals to court

42 Final decisions of the city council on planned development may be appealed within 30 days
43 of the decision in accordance with §6.23.

1

2 This ordinance shall become effective upon adoption.

3

4 PLANNING COMMISSION PUBLIC HEARING: March 12, 2018

5 CITY COUNCIL PUBLIC HEARING: _____

6 ENACTED: _____

7

8

Mayor

9

10

Date: _____

11

12

13 ATTEST:

14

15 _____

16 City Clerk

17

18 Vote

19 Councilmember DeMarco _____

20 Councilman Greenfield _____

21 Councilmember Miller _____

22 Councilmember Passey _____

23 Councilmember Stehle _____

24 Councilmember Schmidt _____

SAMPLE MOTION

“I MOVE TO APPROVE AN ORDINANCE AMENDING CHAPTER 110 (ZONING) TO AMEND PORTIONS OF ARTICLES AND SECTIONS CONTAINED THEREIN PERTAINING TO THE PLANNED DEVELOPMENT DISTRICTS AND THE REVIEW AND APPROVAL PROCEDURES ASSOCIATED THEREWITH.”