

# Zoning Amendment Process Guide



## **WHAT IS A ZONING AMENDMENT?**

A zoning amendment or '*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. Original signatures are required by all parties.

A *conditional rezoning* is a type of rezoning where the owner proffers certain conditions related to the development or use of the property. It is the purpose of conditional rezoning to provide a flexible and adaptable zoning method to cope with situations whereby a zoning classification may be allowed subject to certain conditions proffered by the applicant for the protection of the community that are not generally applicable to land similarly zoned.

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 rezoning, they remain in effect until they are amended or removed.

A *planned unit development* is a zoning designation established to promote innovative development patterns; especially for lots that have a number of constraints to conventional development. Planned Unit Developments require the adoption of a 'development plan' which guides all future development of the parcel. Development plans can be amended, but must first go back through the zoning amendment process.

A *comprehensive sign overlay district* allows the applicant to create an innovative signage plan for sites that contain a number of constraints to conventional sign placement and allocation regulations. The adopted signage plan guides all future sign design and placement on the subject parcels. Signage plans can be amended but must first go back through the zoning amendment process.

## **HOW IS THE DECISION MADE?**

A zoning amendment decision involves two public hearings – one by the Planning Commission and one by City Council. The Planning Commission holds the first public hearing and votes on a recommendation to City Council. The City Council then holds a public hearing and makes the final decision.

## **HOW LONG DOES IT TAKE?**

The zoning amendment process in the City of Roanoke is a process that can proceed quickly for prepared applicants. The process takes a minimum of two months if a complete application thoroughly addressing all aspects of a project is filed. Any incomplete applications will be rejected and applicants must resubmit a complete application for the next filing deadline for consideration. See page 3 for minimum application submission requirements.

## **HOW MUCH WILL IT COST?**

A fee of \$1,000.00 is charged for zoning amendments. In addition, State Code requires that the City advertise the request twice before each hearing in the local newspaper. A \$550.00 fee is charged to cover the cost of the required legal advertisement. If an application is withdrawn or a continuance is requested and the legal advertisement has already run or it is too late to pull, the applicant remains responsible for the cost. The applicant shall be charged the fee each time the legal advertisement is required.

## WHAT IS THE PROCESS?

All zoning amendments follow the same general process as follows:

### 1) PRE-FILING CONFERENCE

Applicants should schedule a pre-filing conference with the staff to determine the necessity, grounds, and completeness of the zoning amendment request. To schedule a pre-filing conference, please call (540) 853-1730.

Applicants are strongly advised to discuss the proposed rezoning with area neighborhood organizations and/or civic leagues and adjoining property owners prior to filing an application.

Applications are due by the last Monday of the month, and will be placed on the agenda for the second month following the filing, e.g., an application filed in October will be on the Planning Commission agenda in December. Late applications will be held until the following filing deadline. Hearing dates will change if the application is postponed, continued, or remanded by action of the applicant, Planning Commission, or City Council.

### 2) APPLICATION SUBMITTAL

A zoning amendment application, consisting of the following components, should be filed in Room 170 of the Noel C. Taylor Municipal Building, 215 Church Avenue, Roanoke, Virginia 24011. If there are delinquent real estate taxes owed on the subject property, the application will not be processed until such time as the taxes are paid in full.

**Filing Fee:** A check for \$1,000.00 made payable to *Treasurer, City of Roanoke*.

**Legal Advertisement Fee:** A check for \$550.00 made payable to *Treasurer, City of Roanoke*.

- (a) **Application Form and Checklist:** The application must be signed by all the owners of the property. If a legal representative signs for a property owner, a copy of the executed power of attorney is required.
- (b) **Applicant's Written Narrative:** An informative yet concise written narrative addressing the following items:
  - a. Description of proposed use and development of the property;
  - b. Justification for the change;
  - c. Effect of the proposed amendment on the surrounding neighborhood (e.g. traffic generation);
  - d. Availability of other similarly zoned properties in the general area and in the City; and
  - e. Relationship of the proposed amendment to the City's Comprehensive Plan and the applicable Neighborhood Plan.
- (c) **Concept Plan/Development Plan\*:** A concept plan/development plan outlining features of the proposed use of the property including buildings, parking, access and similar features must accompany the application form. The level of detail may vary, but the following items are considered minimum:
  - a. Title, preparer, and date of plan
  - b. Scale of drawing and north arrow
  - c. Address and tax map number of property
  - d. Property lines and dimensions
  - e. Property size in acres or square feet
  - f. Easements affecting the property
  - g. Physical features such as flood plains
  - h. Setbacks, dimensions, floor area and height of all existing and proposed buildings
  - i. Dimensions and locations of driveways, entrances/exits, parking spaces and loading spaces
  - j. Location, width and name of all existing or platted streets or other public rights-of-way within or adjacent to the property

\*If a plan is to be proffered as a condition or is a planned unit development plan, it should be labeled 'Development Plan'. If the plan is not to be proffered, it should be labeled 'Concept Plan'. Please provide a plan no larger than 11"x17" for inclusion in the packet, in addition to a full size plan.

- (d) **Written Proffers, if applicable:** Written proffers should be drafted in accordance with the City's *Guide to Proffered Conditions* 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 City;
  - 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. The conditions shall not include a requirement that the applicant create a property owners' association under Chapter 26 (Sec. 55-508 et seq.) of Title 55, Code of Virginia (1950), as amended;
  - f. The conditions shall not include payment for or construction of off-site improvements except those provided for in Sec. 15.2-2241, Code of Virginia (1950), as amended;
  - g. No conditions shall be proffered that are not related to the physical development or physical operation of the property; and
  - h. All such conditions shall be in conformity with the City's comprehensive plan.

Planned unit developments and sign overlays should not have written proffers. Development standards imposed by the applicant should be included on the development or signage plan.

- (e) **Copy of Previously Adopted Ordinance, if applicable:** A copy of the previously adopted Ordinance must be included in the packet when amending proffered conditions, a planned unit development, or a comprehensive sign overlay.
- (f) **Metes and Bounds Description, if applicable:** If only a portion of a property is being rezoned, a metes and bounds description for that portion is required.
- (g) **Traffic Impact Analysis/Study, if applicable:** The Virginia Department of Transportation (VDOT) or the City's Traffic Engineer may require a Traffic Impact Analysis/Study be conducted for a proposal. To determine if a Traffic Impact Analysis is required for VDOT, please refer to the City's *Guide to the Virginia Department of Transportation's Chapter 527*. A Traffic Impact Study is required by the City, in accordance with Appendix B-2(e) of the City's Zoning Ordinance, if a proposal will generate an increase in traffic of more than one hundred (100) vehicle trips per peak hour or more than one thousand (1,000) vehicle trips per day.

### (3) POST-FILING PROCESS:

- (a) **Staff Review:** Once an application has been filed, it is distributed to City departments, affected neighborhood organizations, and adjoining localities (if applicable) for comment. Comments are then sent to the applicant who is responsible for amending and re-filing the application (minus the filing fee). Staff then prepares a report and recommendations for the Planning Commission's consideration which are mailed to the applicant on the Thursday before the Commission's public hearing.
- (b) **Public Notice:** Notice of public hearing is published as a legal advertisement in the Roanoke Times, twice for Planning Commission's public hearing and City Council's public hearing, and a sign is posted on the subject property. Adjoining property owners are notified by mail of the rezoning request.

- (c) **Planning Commission:** The Planning Commission's public hearing is held the second Monday of each month at 1:30 p.m. on the 4<sup>th</sup> floor of the Noel C. Taylor Municipal Building in Council Chambers. At the Commission's public hearing, the applicant presents the request; staff presents its report and recommendation; the Commission takes public comment; and the Commission discusses the request and makes a recommendation to City Council.
- (d) **City Council:** City Council's public hearing is held the third Monday of each month at 7:00 p.m. on the 4<sup>th</sup> floor of the Noel C. Taylor Municipal Building in Council Chambers. The Commission's staff prepares a report, including their recommendation, and forwards the report to City Council for their consideration. At Council's public hearing, the applicant presents the request, the Commission's recommendation is presented; and City Council approves, denies, continues, or remands the matter back to the Commission. If approved by City Council, the rezoning takes effect immediately. If denied by City Council, a substantially similar application can not be filed for one year.