

AUG 10 1981

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 20, ZONING, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY ADDING A NEW ARTICLE, ARTICLE V, CONDITIONAL ZONING.

**BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA**

BE IT ORDAINED by the Board of Supervisors of James City County, Virginia that the Code of the County of James City be and the same is, hereby, amended to add a new article, Article I, Conditional Zoning of Chapter 20, Zoning.

Article Conditional Zoning

Section 20-14.2, Purpose of Article.

It is the general policy of the County, in accordance with the laws of the Commonwealth of Virginia, to provide for the orderly development of land, for all purposes, through zoning and other land development legislation. Frequently where competing and incompatible uses conflict, traditional zoning methods and procedures are inadequate. In these cases, more flexible and adaptable zoning methods are needed to permit land uses and at the same time to recognize effects of change. It is the purpose of this article to provide a more flexible and adaptable zoning method to cope with situations found in such zoning through conditional zoning, whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community that is not applicable to land similarly zoned. The provisions of this article shall not be used for the purpose of discrimination in housing.

Section 20-14.3, Proffer of Conditions.

The owner or owners of property making application for a change in zoning or amendment to a zoning map, as part of their application, may voluntarily proffer in writing reasonable conditions which shall be in addition to the regulations provided for in the zoning district or zone sought in the rezoning petition. The conditions shall be proffered as a part of the requested rezoning or amendment to the County's zoning map. It is expressly provided, however, that the conditions so proffered are subject to the following limitations:

1. The rezoning itself must give rise to the need for the conditions;
2. Such conditions shall have a reasonable relation to the rezoning;
3. Such conditions shall not include a cash contribution to the County;
4. Such conditions shall not include mandatory dedication of real or personal property for open space, parks, schools, fire departments or other public facilities except for dedication of any street, curb, gutter, sidewalk, bicycle trail, drainage, water or sewer system;
5. Such conditions shall not include payment for or construction of off-site improvements except a pro rata share of sewerage and drainage facilities;
6. No condition shall be proffered that is not related to the physical development or physical operation of the property; and
7. All such conditions shall be in conformity with the comprehensive plan of the County.

Section 20-14.4, Enforcement and guarantees as to conditions.

The Zoning Administrator shall be vested with all necessary authority on behalf of the County to administer and enforce conditions attached to a rezoning or amendment to a zoning map, including:

1. The ordering in writing of the remedy of any noncompliance with such conditions;
2. The bringing of legal action to ensure compliance with such conditions, including injunction, abatement or other appropriate action or proceeding; and
3. Requiring a guarantee, in an amount sufficient for or conditioned upon the construction of any physical improvements required by the conditions, or a contract for the construction of such improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee may be reduced or released by the Zoning Administrator upon the submission of satisfactory evidence that construction of such improvements has been completed in whole or in part. Provided, further, that failure to meet all conditions shall constitute cause to deny the issuance of any required use, occupancy or building permits as may be appropriate.

Section 20-14.5, Records.

The zoning map of the County shall show by an appropriate symbol on the map the existence of conditions attaching to the zoning on the map. The Zoning Administrator shall keep in his office and make available for public inspection a conditional zoning index. The index shall provide ready access to the ordinance creating conditions in addition to the regulations provided for in a particular zone.

Section 20-14.6, Petition for review of decision.

Any zoning applicant who is aggrieved by the decision of the Zoning Administrator, pursuant to the provisions of Section 20-14.4, may petition the Board of Supervisors for the review of such decision. Said appeal shall be taken within thirty (30) days from the date of the action complained of and shall be instituted by filing with the Zoning Administrator and with the County Administrator a notice of appeal, specifying the grounds thereof.

The Zoning Administrator shall forthwith transmit to the Board of Supervisors all of the papers constituting the record upon which the action appealed from was taken, and the Board of Supervisors shall proceed to hear the appeal at its next regular scheduled meeting.

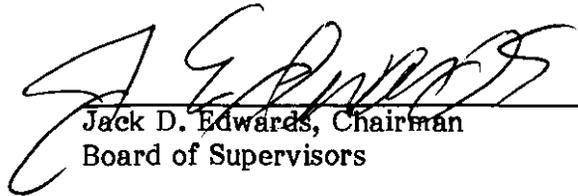
An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Supervisors after the notice of appeal has been filed with him that, by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, the proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Supervisors or by a court of record on application or notice to the Zoning Administrator and on due cause shown.

Section 20-14.7, Amendments and variations of conditions.

There shall be no amendment or variation of conditions created pursuant to the provisions of this article until after a public hearing before the Board of Supervisors which shall be advertised pursuant to Section 20-14 of this chapter.

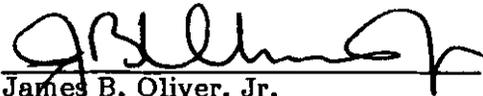
Section 20-14.8, Relation of section to other laws.

The provisions contained in this section shall be considered separate from, supplemental to and additional to the provisions contained elsewhere in this Code or other County ordinances. Nothing contained in this section shall be construed as excusing compliance with all other applicable provisions of this Code or other County ordinances.



Jack D. Edwards, Chairman
Board of Supervisors

ATTEST:



James B. Oliver, Jr.
Clerk to the Board

Adopted by the Board of Supervisors, of James City County, Virginia, this
10th day of August, 1981.