

**MOTION: PRINCIPI**

**October 17, 2017**

**SECOND: NOHE**

**Regular Meeting**

**Ord. No. 17-83**

**RE: ZONING TEXT AMENDMENT #DPA2014-00170 – MINOR  
MODIFICATIONS TO PROFFERS AND SUP CONDITIONS –  
COUNTYWIDE**

**ACTION: APPROVED**

**WHEREAS**, in accordance with Sections 15.2-2286 of the Code of Virginia, Ann., the Board of County Supervisors may amend the Zoning Ordinance whenever it determines that public necessity, convenience, general welfare, and good zoning practice require such change; and

**WHEREAS**, there are no provisions within the Zoning Ordinance for minor administrative modifications of proffers and Special Use Permit conditions to be changed administratively; and

**WHEREAS**, all minor modifications must currently be approved through the public hearing process; and

**WHEREAS**, the amendment would allow minor modifications to be administratively approved, while maintaining the original intent of the proffers and conditions, without a public hearing; and

**WHEREAS**, on November 19, 2013, the Board of County Supervisors initiated a Zoning Text Amendment to allow for minor modifications to proffer and Special Use Permit conditions through Resolution No. 13-668; and

**WHEREAS**, the Planning Commission held a public hearing on the Zoning Text Amendment on September 20, 2017, after which it adopted Planning Commission Resolution No. 17-061, recommending approval by a vote of 7-1; and

**WHEREAS**, County staff recommends approval of these amendments; and

**WHEREAS**, the Board of County Supervisors duly ordered, advertised, and held a public hearing on October 17, 2017, at which time public testimony was received and carefully considered and the merits of the Zoning Text Amendments were considered; and

**WHEREAS**, the Board of County Supervisors finds that public necessity, convenience, health, safety, general welfare, and good zoning practice are served by the adoption of this Zoning Text Amendment;

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**NOW, THEREFORE, BE IT RESOLVED**, that the Prince William Board of County Supervisors does hereby adopt Zoning Text Amendment #DPA2014-00170, Minor Modification to Proffers.

ATTACHMENT: Text Amendment

**Votes:**

**Ayes:** Anderson, Caddigan, Candland, Jenkins, Lawson, Nohe, Principi, Stewart

**Nays:** None

**Absent from Vote:** None


**Absent from Meeting:** None

**For Information:**

Planning Director

County Attorney

ATTEST: \_\_\_\_\_

  
Clerk to the Board

**ARTICLE VII. – AMENDMENTS TO THE ZONING ORDINANCE AND MAP;  
SPECIAL USE PERMITS**

**Sec. 32-700.30. – Conditional zoning.**

1. Any applicant for a zoning map amendment (rezoning) may, as a part of his application, proffer reasonable conditions concerning the use and development of his property, including also off-site improvements that may serve or benefit his property and the public welfare. Proffers shall be signed and acknowledged by the owner of the property or any agent authorized by a power of attorney meeting the requirements of subsection 32-700.03.1(c).
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5. The zoning map, and other appropriate files maintained by the Zoning Administrator, shall reference the existence of adopted proffered conditions attached to various properties. Any site plan, subdivision plan, development plat or permit application thereafter submitted for development of property to which proffered conditions have attached shall conform with all such conditions, and shall not be approved by any County official in the absence of such conformity. For the purpose of this section, conformity shall mean such conformity which leaves a reasonable margin of adjustment due to final engineering data, but conforms with the general nature and intent of the development, the specific uses, and the general layout depicted by the plans, profiles, elevations, and other demonstrative materials presented by the applicant.
6. Minor Modifications. In addition to those determinations the Zoning Administrator may make pursuant to Sec. 32-200.11 and 32-700.57, the Director of Planning may make minor modifications as follows:
  - (a) At the request of an applicant, minor modifications of adopted proffers shall be approved by the Planning Director or designee without requiring a subsequent amendment to the zoning of the property or the adopted proffered conditions. The Planning Director shall only approve a minor modification when the modification meets the definition of conformity specified in Paragraph 5 of this section.
  - (b) Minor modifications shall not be approved when the modification would exceed minimum or maximum standards prescribed by this chapter. Subsequent minor modifications of adopted proffers which have already been modified shall be permitted in accordance with the provisions of this paragraph, provided that the cumulative degree of modification does not exceed minimum or maximum standards prescribed by this chapter.
  - (c) For the purpose of this section, minor modifications shall be determined to conform with the adopted proffers when the modification meets one or more of the following criteria:
    - (i) An increase in the maximum number of children approved for a child-care facility, so long as the approved number does not exceed (1) 5% of the maximum number of children listed in the adopted proffered conditions; or (2) additional children, whichever is greater. The approval of a minor modification shall not increase the maximum number of children permitted

for a child-care facility beyond a maximum prescribed by the Code of Virginia or any other applicable law or regulation.

- (ii) An increase in the permitted number of adults for an adult day-care facility, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted proffers; or (2) one additional adult, whichever is greater, and so long as the minimum off-street parking requirement can be attained.
  - (iii) An increase in the maximum number of students approved for a private school, so long as the approved number does not exceed 5% of the maximum number of students listed in the adopted proffered conditions.
  - (iv) A modification to the approved building materials, architectural style, or color of building design features, so long as the overall intent as depicted in the approved proffers is maintained.
  - (v) An increase in the permitted number of employees, so long as the approved number does not exceed (1) 5% of the maximum employees listed in the adopted proffered conditions; or, (2) one additional employee, whichever is greater and so long as the minimum off-street parking requirement can be attained.
  - (vi) An increase in the number of rooms or units at an assisted living facility, so long as the approved increase does not exceed (1) 5% of the maximum number, listed in the adopted proffered conditions; or (2) additional rooms, whichever is greater.
  - (vii) Changes in a building's minimum floor area ratio (FAR) specified in an adopted proffered condition, so long as the building's gross floor area is increased or reduced by no more than 0.1 FAR and so long as the maximum gross floor area is not increased beyond the maximum gross floor area prescribed in the zoning district standards.
  - (viii) Changes in a building's minimum or maximum height specified in an adopted proffered condition, so long as the building's height is increased or reduced by no more than 10 feet and so long as the height is not increased beyond the maximum height prescribed in the zoning district standards.
  - (ix) Changes to a stormwater management facility as depicted on an approved master zoning plan or approved generalized development plan, so long as no additional land disturbance would be required beyond that shown in the plan's limits of clearing and grading to the satisfaction of the Public Works Director, or designee.
  - (x) Minor changes to the site layout or configuration, provided impacts to adjacent properties are mitigated.
- (d) Minor modifications to mobile and land-based telecommunications facilities shall be subject to the standards specified in Part 240.

**Sec. 32-700.55. – Conditions attached to the approval of a Special Use Permit.**

1. In approving a Special Use Permit, the Board of County Supervisors may attach reasonable conditions, including an expiration date, to such approval with or without the applicant's consent. Once a Special Use Permit is approved with conditions attached, such conditions shall be considered as a part of the text of this chapter, and may be administered and enforced by the Zoning Administrator. A violation of an

attached condition shall be considered a violation of this chapter.

2. A condition attached to the approval of a Special Use Permit may only be modified by a subsequent application for a Special Use Permit or by the approval of a minor modification in accordance with Sec. 32-700.57.

**Sec. 32-700.56. – Special Use Permit general provisions.**

1. After approval of a Special Use Permit by the Board of County Supervisors, the applicant shall have one year to submit site or subdivision plans for the approved use and shall occupy the site and commence the use within five years of approval of the site plan, provided that the Board of County Supervisors may allow, at the time and as part of approval, a longer period. If the use has not begun as provided above, the Special Use Permit shall be void, and the use may not thereafter be begun except upon approval of another Special Use Permit.
2. After approval of a Special Use Permit by the Board of County Supervisors, the use approved may intensify and/or expand, provided that any conditions attached to the approval shall not be violated. If intensification and/or expansion will violate any attached conditions, the intensification and/or expansion may be reviewed and approved as a minor modification or minor deviation pursuant to Sec. 32-700.57. Intensifications and/or expansions which cannot be authorized as described herein and which are ineligible for review as a minor modification or minor deviation shall not be approved unless a new subsequent Special Use Permit application is approved that reflects the shall be obtained before such intensification and/or expansion may be approved.
3. Except for family day-care permitted in accordance with subsection 32-300.02.15 and not conditioned upon site plan approval, all uses permitted by a Special Use Permit shall require site plan approval in accordance with the provisions of part 800 of this chapter.
4. If an approved special use ceases operation for a period of one year, for any reason, the Special Use Permit shall become void, and thereafter the use may only be conducted after another Special Use Permit has been approved.
5. A Special Use Permit shall be transferable with the land, provided that the use for which it was obtained does not change.
6. Unless otherwise provided in the permit, a Special Use Permit shall have an indeterminate duration provided that the use for which it was obtained is commenced as required in subsection 2. and continues without abandonment as provided in subsection 4. in accordance with its terms.

**Sec. 32-700.57. – Special Use Permit general provisions.**

Minor deviations from an approved Special Use Permit plan are allowed without filing of a new Special Use Permit application provided all deviations are shown on a site or subdivision plan. The Zoning Administrator shall determine, prior to the approval of site or subdivision plans, that the deviation(s) do not substantially alter conditions of the approved Special Use Permit or the approved Special Use Permit master plan. If the Zoning Administrator can not authorize a minor deviation as described herein, the deviation may be reviewed and approved as a minor modification pursuant to Paragraph 1 below. Minor deviations which cannot be authorized as described herein and which are ineligible for review as a minor modification may only be modified by a subsequent application for a Special Use Permit.

1. Minor Modifications. In addition to those determinations the Zoning Administrator may make pursuant to Sec. 32-200.11 and 32-700.57, the Director of Planning may make minor modifications as follows:
  - (a) At the request of an applicant, minor modifications of adopted Special Use Permit conditions shall be approved by the Planning Director or designee without requiring a subsequent amendment to the Special Use Permit or the adopted conditions. The Planning Director shall only approve a minor modification when the modification meets the definition of conformity specified in Paragraph 5 of Sec. 32-700.30.
  - (b) Minor modifications shall not be approved when the modification would exceed minimum or maximum standards prescribed by this chapter. Subsequent minor modifications of adopted Special Use Permit conditions which have already been modified shall be permitted in accordance with the provisions of this paragraph, provided that the cumulative degree of modification does not exceed minimum or maximum standards prescribed by this chapter.
  - (c) For the purpose of this section, minor modifications shall be determined to conform with the adopted Special Use Permit conditions when the modification meets one or more of the following criteria:
    - (i) An increase in the maximum number of children approved for a child-care facility, so long as the approved number does not exceed 5% of the maximum, or a minimum of one, whichever is greater, number of children listed in the adopted Special Use Permit conditions. The approval of a minor modification shall not increase the maximum number of children permitted for a child-care facility beyond a maximum prescribed by the Code of Virginia or any other applicable law or regulation.
    - (ii) An increase in the permitted number of adults for an adult day-care facility, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted Special Use Permit conditions; or (2), one additional adult, whichever is greater and so long as the minimum off-street parking requirement can be attained.
    - (iii) An increase in the maximum number of students approved for a private school, so long as the approved number does not exceed (1) 5% of the maximum number of adults listed in the adopted Special Use Permit conditions; or (2), one additional student, whichever is greater.
    - (iv) A modification to the approved building materials, architectural style, or color of building design features, so long as the overall intent as depicted in the approved Special Use Permit conditions shall be maintained.
    - (v) An increase in the permitted number of employees, so long as the approved number does not exceed (1) 5% of the maximum employees listed in the adopted Special Use Permit conditions; or, (2) one additional employee, whichever is greater and so long as the minimum off-street parking requirement can be attained.
    - (vi) An increase in the number of rooms or units at an assisted living facility, so long as the approved increase does not exceed (1) 5% of the maximum number listed in the adopted Special Use Permit conditions; or (2) one additional room, whichever is greater.
    - (vii) Changes in a building's minimum floor area ratio (FAR) specified in an adopted Special Use Permit condition, so long as the building's gross floor area is



increased or reduced by no more than 0.1 FAR and so long as the maximum gross floor area is not increased beyond the maximum gross floor area prescribed in the zoning district standards.

- (viii) Changes in a building's minimum or maximum height specified in an adopted Special Use Permit condition, so long as the building's height is increased or reduced by no more than 10 feet and so long as the height is not increased beyond the maximum height prescribed in the zoning district standards.
- (ix) Changes to a stormwater management facility as depicted on an approved Special Use Permit plan, so long as no additional land disturbance would be required beyond that shown in the plan's limits of clearing and grading, to the satisfaction of the Public Works Director or designee.
- (x) Minor changes to the site layout or configuration, provided impacts to adjacent properties are mitigated.
- (d) Minor modifications to mobile and land-based telecommunications facilities shall be subject to the standards specified in Part 240.