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Proffer offer

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Future developments in Orange County could give county planners more bang for their buck, if officials adopt a proposed conditional zoning ordinance. If the Orange County Board of Supervisors adopt state code 15.2-2303, which defines a locality as high-growth, cash proffers collected from rezoning applicants could be designated for a wider range of projects.

“We have the ability to accept cash proffers. In 2007 the Virginia General Assembly modified the section of the code,” Orange County Director of Strategic Planning Debbie Kendall said. The result of that code modification was that localities which qualify as high growth, like Orange, could now consider using conditional zoning.

“We have been considered a high-growth locality since 1990, according to the state code definition which calls for a growth rate of 15 percent or higher, according to the census,” Kendall explained. According to the county’s current code, cash proffers put on the table in a rezoning can be collected only for services and infrastructure impacted by that particular development. Further, the projects paid for by those proffers must already be included in the county’s capital improvements plan.

“A proffer has to have a direct relationship to the impact of zoning,” Kendall said.

But if the conditional zoning ordinance becomes part of Orange County’s code, Kendall continued, “The proffers that are made do not have to directly relate to the impact of the rezoning. There is nothing in the (new) code that says we can’t accept proffers for something that’s not already in the capital improvements plan.”

Kendall said conditional zoning will benefit the county by allowing planners far greater flexibility than before.

“(Conditional zoning) lets us look outside the impact of a particular zoning, and ask for the things that aren’t directly related to the project,” she said.

It’s possible, however, that not everyone will be in favor of adding the ordinance to the county’s code. “People from the development community may speak against it, but people in favor of preserving the county will be in favor of it,” Kendall speculated.

“The development community has been concerned about the proffer policy,” she said. Opponents to proffers have pointed out localities in which proffers are seemingly exorbitant, she added.

Simultaneously, there are planning experts who defend proffer fees. “The growth some communities are experiencing has had such a dramatic effect on their services and what they’ve had to provide as a

result,” Kendall said. In some cases, she explained, providing school, safety and infrastructure services for areas with prolific growth will cost the developer an additional \$30,000 to \$40,000 per house. Earlier this year, the state senate looked like it might put an end the practice by passing Senate Bill 768, a bill that replaced proffers with a capped impact fee.

Currently, that bill is awaiting consideration by a committee before it goes to the House of Delegates. Harvey Gold, on behalf of the Fredericksburg Area Home Builders Association, addressed county officials at a March 11, 2008 Orange County Board of Supervisors meeting and urged supervisors not to oppose Senate Bill 768.

Gold said an unregulated proffer system caused builders to place prohibitively high price tags on new construction.

“The cash proffer system was going out of control and affecting the price of homes,” he said. “Proffers are constantly increasing because there’s no control of how high they can rise.”

According to Gold, a capped impact fee system is a far more equitable means by which developers can realize financial profit and still contribute to communities’ infrastructure.

The Orange County Board of Supervisors will hold a public hearing July 22 at 7 p.m. to hear comments on the proposed ordinance to enact conditional zoning.