

ORDINANCE NO. 4866

AN ORDINANCE to amend and reordain Section 11-416 (Modifications) of Section 11-400 (Site Plans) of Division B (Development Approvals) of Article XI (Development Approvals and Procedures) of the City of Alexandria Zoning Ordinance, in accordance with the text amendment heretofore approved by city council as Text Amendment No. 14-0001.

WHEREAS, the City Council finds and determines that:

1. In Text Amendment No. 2014-0001, the Planning Commission, having found that the public necessity, convenience, general welfare and good zoning practice so require, recommended approval to the City Council on March 4, 2014 of a text amendment to the Zoning Ordinance to revise section 11-416 of the zoning ordinance to clarify that modifications can be requested with applications for special use permits and to revise the standard for approval of modifications of minimum landscape regulations, which recommendation was approved by the City Council at public hearing on March 15, 2014;

2. The City Council in adopting this ordinance expressly adopts, ratifies, affirms and concurs in the finding and action of the Planning Commission above stated;

3. All requirements of law precedent to the adoption of this ordinance have been complied with; now, therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Section 11-416 of the Zoning Ordinance be, and the same hereby is, amended by deleting the language shown in strikethrough and inserting new language shown in underline, as follows:

11-416 *Modifications.*

(A) *Modification of zoning regulations.*

(1) In approving a site plan under the provisions of this section 11-400, the planning commission may modify the minimum frontage, yard, open and usable space, zone transition setback or other minimum requirements imposed by this ordinance for the zone or zones applicable to the land depicted in the site plan, or the requirements of Section 11-410(CC), if the planning commission determines that such modification is necessary or desirable to good site development, that specific and identified features of the site design make up for those impacts otherwise protected by the regulations for which modification is sought and that such modification will not be detrimental to neighboring property or to the public health, safety and welfare. For modifications of the requirements of Section 11-410(CC) the planning commission must also determine that the modification will not violate the intention of section 11-410(CC) to require a reasonable amount of landscaping.

(2) Nothing in this section 11-416 shall be deemed to authorize the planning commission to approve a site plan under the provisions of this section 11-400 when the building or structure would exceed the maximum floor area ratio, maximum density or maximum height regulations of the zone or zones in which such development is located, or the maximum floor area ratio, density or height regulations otherwise provided in this ordinance. Rather, it is the intent of this section 11-416 to allow regulations expressed as minimums such as yard dimensions to be relaxed in the proper case but not to allow regulations expressed as maximums such as density to be increased. Where the distinction between minimum and maximum is unclear, such as in the case of density expressed in terms of both minimum lot area and maximum floor area ratio or units per acre, then no modification shall be allowed.

~~(B) *Modification of minimum landscaping provisions.* Upon application filed simultaneously with a site plan, modifications from the requirements of section 11-410 (CC) may be granted by the planning commission if it finds that strict application of the requirements will effectively prohibit or unreasonably restrict the use of the property, that a modification of those requirements will not be of substantial detriment to adjacent property, and that the modification will not violate the intention of section 11-410 (CC) to require a reasonable amount of landscaping~~

~~(CB) *Exclusive remedy.* Relief from the zoning ordinance available from the planning commission under this section 11-416 may not be the subject of an application for a variance from the board of zoning appeals with regard to development or construction that is, or is required to be, the subject of an approved site plan or that is a condition of a site plan approval.~~

~~(DC) *Applicability to SUP applications.* In addition to the above provisions, a modification under this section 11-416 may be approved in the case of a special use permit application under section 11-500, whether or not a site plan is required or included in the application. In such case, all restrictions and requirements for site plan modifications in sections 11-406(C)(16) and 11-416 (A) (1) and (2) apply, but final action will be by the city council and not the planning commission.~~

Section 2. That the director of planning and zoning be, and hereby is, directed to record the foregoing text amendment.

Section 3. That Section 11-416, as amended pursuant to Section 1 of this ordinance, be, and the same hereby is, reordained as part of the City of Alexandria Zoning Ordinance.

Section 4. That this ordinance shall become effective on the date and at the time of its final passage, and shall apply to all applications for land use, land development or subdivision approval provided for under the City of Alexandria Zoning Ordinance which may be filed after such date, and shall apply to all other facts and circumstances subject to the provisions of the City of Alexandria Zoning Ordinance, except as may be provided in Article XII of the Zoning Ordinance.

WILLIAM D. EUILLE
Mayor

Final Passage: April 12, 2014