

# CHAPTER 11.TEXT AMENDMENTS & CONVENTIONAL REZONING

## SECTION 11.1. APPLICABILITY

Text amendment and zoning map amendments are intended to accommodate substantive changes to the Official Zoning Map or the text of this Ordinance that are consistent with the Moore County Land Use Plan and otherwise advance the public's health, safety, and general welfare.

## SECTION 11.2. APPLICATION SUBMITTAL

- A.** The Board of County Commissioners may, on its own motion, upon recommendation of the Planning Board, or upon petition by an interested person or parties, amend this Ordinance and zoning map.
- B.** Rezoning applications shall be submitted by the owner or an agent with permission granted by the owner. In no instance shall the County accept third-party rezoning applications submitted by persons who are not owners of the land subject to the application and who do not have the owner's consent.
- C.** A text amendment application may be submitted by anyone.

## SECTION 11.3. APPLICATION PROCESS

### A. SUBMITTAL

1. Following completion of a required pre-application conference with the Administrator and a Project Review Team meeting with all departments, as determined necessary by the Administrator, the completed application shall be submitted at least 45 days prior to the Planning Board meeting at which it is to be heard.
2. The Planning Department shall have 7 days from the date of submittal to notify the applicant that the application is complete in accordance with Section 10.5.F, Determination of Application Completeness.
3. Complete applications shall undergo technical review, and the Administrator shall prepare and forward the staff report any related application materials to the Planning Board in accordance with Section 10.7, Staff Review and Action.
4. The Administrator shall also provide public notice as appropriate for the type of application in accordance with Section 10.8, Public Notification.

### B. PLANNING BOARD REVIEW

1. The Planning Board shall hold a public meeting and shall review the application and make a recommendation of approval or denial to the Board of Commissioners.
2. When conducting a review of a proposed text or conventional zoning map amendment, the Planning Board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The Planning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Planning Board, but a comment by the Planning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners

### C. BOARD OF COMMISSIONERS DECISION

1. After the conclusion of a legislative public hearing, the Board of Commissioners shall decide the text amendment or conventional rezoning application in accordance with the standards in Section 11.3.D, Review Criteria.
2. The decision shall be one of the following:
  - i. Approval of the application;
  - ii. Denial of the application;
  - iii. Approval of a revised application; or

- iv. Remand of the application to County staff for further consideration.
- 3. The decision shall be based on the legislative discretion of the Board of Commissioners, taking into consideration the recommendation of the Planning Board and the standards in Section 11.3.D, Review Criteria.
- 4. When adopting or rejecting any text or conventional zoning map amendment, the Board of Commissioners shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan.

#### **D. REVIEW CRITERIA**

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The advisability of approval of a text amendment or conventional rezoning application is a matter committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to adopt or deny an application, the Board of Commissioners may weigh the relevance of and consider the following:

- 1. Whether the proposed application advances the public health, safety, or welfare;
- 2. Whether and the extent to which the proposed application is appropriate for its proposed location, and is consistent with the purposes, goals, objectives, and policies of the County's Adopted Comprehensive Land Use Plan;
- 3. Whether the application is necessitated by changed conditions;
- 4. If approval of the application addresses a demonstrated community need;
- 5. If the application addresses an unforeseen matter not present when the Ordinance was adopted;
- 6. Whether an approval of the application is reasonable and in the public interest; and
- 7. Other factors as the Board of Commissioners may determine to be relevant.

#### **E. DESIGNATION ON FUTURE LAND USE MAP**

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In cases where the Board of Commissioners approves a rezoning application, they deem to be inconsistent with Adopted Comprehensive Land Use Plan, the future land use map shall be automatically amended with a note referencing the rezoning application approval and no additional request or application for a comprehensive plan amendment shall be required.

#### **F. NOTIFICATION OF DECISION**

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The Administrator shall mail the formal written copy of the decision to the applicant and/or the property owners of the petitioned property in accordance with Section 10.11, Written Notice of Decision.

#### **G. CHALLENGE TO DECISION**

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A legislative decision of the Board of Commissioners with regard to a text amendment or a conventional rezoning application may be challenged by the filing of a declaratory judgement action in the Superior Court of Moore County in accordance with Section 14.3, Challenge to Legislative Decision.