

# CHAPTER 11

## CONDITIONAL REZONING

### 11.1 Applicability

Pursuant to NCGS 153A-342, conditional zoning districts requires the approval of a rezoning by the Moore County Board of Commissioners and approval of a site specific development plan allowing for the development of specific land uses. Parallel conditional zoning districts are restricted to those uses (meaning either one or multiple uses) listed in the corresponding general use zoning district. Only those uses listed (or determined to be equivalent uses) as illustrated on the site plan as permitted uses and/or conditional uses, in the corresponding zoning district shall be permitted. Following the approval of the petition, the subject property shall be identified on the Zoning Map by the district designation by adding "CZ" to the corresponding district, such as "RA-CZ."

### 11.2 Application Process

- A. Submittal. Conditional rezoning applications shall be submitted by the owner or an agent with permission granted by the owner. Following 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 and shall include the below list. The Planning Department shall have 7 days from the date of submittal to notify the applicant that the application is complete. If the Planning Department determines the information is not sufficient for review, the Department shall notify the applicant of the specific information that is required for review. The applicant shall correct the identified deficiencies, and resubmit to the Planning Department within 7 days. Upon completion of the technical review, the Administrator shall prepare and forward the staff report any related application materials to the Planning Board.
1. A site plan prepared in accordance with Section 4.2(C).
  2. A specification of the actual use(s) and any rules, regulations, or conditions for the proposed district that address the impacts expected to be generated by the development or use of the site.
  3. Proposed phasing, if any, and approximate completion time for the project.
  4. A statement analyzing the reasonableness of the proposed rezoning. The statement shall include, but not be limited to, the following:
    - a. The conditional rezoning compatibility with the County Land Use Plan and other adopted plans of the County.

- b. The conditional rezoning compatibility with the existing land uses on abutting and neighboring tracts.
  - c. The benefits and detriments of the conditional rezoning for the subject property, neighboring properties and the surrounding community.
- B. Community Meeting. Community meetings are opportunities for informal communication between applicants and the owners and occupants of nearby lands, and other residents who may be affected by the application and to provide the applicant an opportunity to hear comments and concerns about the application as a means of resolving conflicts, where possible. At least 10 days prior to the Planning Board meeting, the applicant shall hold at least one community meeting. The Administrator shall assist by:
- 1. Notifying by certified return receipt mail to owners of each property petitioned for rezoning, owner of each abutting property and the Home Owners Association (if applicable) at least 10 days prior to the community meeting.
  - 2. Attend the community meeting(s) and draft a report including among other things, a listing of those persons and organizations contacted about the meeting, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a copy of any materials presented at the meeting, a summary of issues discussed at the meeting, including changes suggested by the participants and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting and submit to the Planning Board and Board of Commissioners for review.
- C. Planning Board. The Planning Board shall hold a legislative public hearing and shall review and make a recommendation of approval or denial to the Board of Commissioners that addresses Land Use Plan consistency and other matters as deemed appropriate by the Planning Board.
- D. Board of Commissioners. Refer to Section 10.2.C (Board of Commissioners).
- E. UDO Compliance. The request shall be in compliance with all relevant portions of the UDO, except that variations from these standards may be approved by the Board of Commissioners if the site plan is submitted and determined to be suitable for the request, is consistent with the intent of the standards, and ensures compatibility with land uses on surrounding properties.
- F. Additional Conditions: Specific additional conditions applicable to the rezoning request may be proposed by the applicant, the Planning Board, or Board of Commissioners. Only those conditions approved by the county and consented to by the applicant in writing may be incorporated into the permit requirements. Unless the applicant consents in writing to the conditions, the conditions are not effective and the zoning may not include any conditions or requirements not otherwise authorized by law. If a proposed condition is unacceptable to the applicant, the petition can be withdrawn and the proposed rezoning cannot go forward. Likewise, if a condition is unacceptable to the

Board of Commissioners, the petition can be denied and there is no rezoning. Per NCGS 153A-342(b), conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to County ordinances and an officially adopted comprehensive or other plans and those that address the impacts reasonably expected to be generated by the development or use of the site. Additionally, the applicant must consent in writing to the conditions in order for those conditions to be effective.

- G. Notification of Decision. The Administrator shall mail a copy of the decision to the applicant and property owners of the petitioned property within 5 days after a decision is made. There may be no subsequent application for the same or similar use submitted by any party for any part of the subject property until 12 months have elapsed from the date of denial.
- H. Minor Changes. Should the Administrator, Building Inspector, Department of Environmental Health, Public Safety, or Public Works, or NCDOT identify minor changes the Administrator shall be authorized to accept such minor modifications to site plan, as necessary. Such minor changes may include, but not be limited to, small site alterations such as realignment of streets and relocation of utility lines due to engineering necessity.
- I. Expiration. An approved Conditional Zoning District and all conditions attached are binding on the property. If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted by the County to rezone the property to its previous zoning classification or to another zoning district.
- J. Violation of the Terms and Conditions of a CZ District. A violation of the site plan or conditions of a rezoning to a conditional zoning district is considered a violation of this Ordinance and subject to the same enforcement and penalties.
- K. Appeals to Court. Zoning map amendment decisions shall be appealed to Superior Court pursuant to Section 2.1(C).

### **11.3 Notice of Public Hearings**

- A. Mailed Notice. The Administrator shall notify by certified mail return receipt of the public hearings to the applicant(s), the owner(s) of the parcel(s) owned per the most recent deed recorded in the Register of Deeds Office, and all property owners of abutting properties (as the last addresses listed in the County tax records) at least 10 but not more than 25 days prior to the date of each public hearing.
- B. Published Notice. Notice of the public hearings shall be published in the newspaper of general circulation once a week for 2 consecutive weeks prior to each public hearing pursuant to NCGS 153A-323.

- C. Posted Notice. A sign shall be posted on the property to be rezoned, abutting to the road(s) or easement(s), not less than 10 days prior to each public hearing. When multiple parcels are included, a posting on each parcel is not required, but the County shall post sufficient notices to provide reasonable notice.
- D. Fort Bragg Notification. Rezoning requests located within 5 miles or less from the perimeter boundary of a military base shall be forwarded to the Regional Land Use Advisory Commission for review (NCGS 153A-323B) not less than 10 days or more than 25 days before the date fixed for the Board of Commissioners public hearing. Staff shall forward RLUAC's analysis regarding the compatibility of the proposed changes with military operations at the base to the Board of Commissioners.