

REZONING & CONDITIONAL ZONING PROCESSES

Purpose

A Conditional Zoning District Classification allows particular land uses to be established only in accordance with specific standards and conditions adopted as part of establishment of the district. In cases where the standards of a general use (base) zoning district are inadequate to ensure the compatibility of a proposed development with immediately surrounding lands in accordance with the principles of the Comprehensive Land Use Plan and this Ordinance, the landowner or applicant may apply for an amendment to the Official Zoning District Map to a Conditional Zoning District Classification. Conditional zoning districts are subject to additional conditions or restrictions above and beyond the standards of the parallel general use (base) zoning district of this Ordinance as a means of ensuring compatibility of the proposed development with the use and enjoyment of neighboring lands.

Procedure

Approval of a Conditional Zoning Official Zone District Map (using the procedures established in Section 2.3.1, Official Zoning District Map or Text Amendment), submission of applicant-sponsored conditions limiting the scope of the development proposal, and a Concept Plan (reviewed in accordance with Section 2.3.8, Concept Plan. Nothing in this section shall prevent simultaneous review of both of these application types.

Preliminary Procedures

The preliminary procedures and requirements for submission and review of an application are established in Section 2.2, Common Review Procedures.

Concept Plan Review by the Planning Director

Applications for a Conditional Zoning District Classification shall be subject to review of a Concept Plan (see Section 2.3.8, Concept Plan) by the Planning Director prior to preparation of a Staff Report.

Expiration

A Conditional Zoning District Classification (and the associated Concept Plan approval) shall expire, and the Board of Commissioners may hold a public hearing in accordance with the map amendment procedure in Section 2.3.1 to abolish the Conditional Zoning District Classification unless an application for a Building Permit for any part or section of the associated Concept Plan is submitted within two years of approval. Such time period shall not be extended with transfer of ownership.

Review and Recommendation by the Planning Board

After review of a Concept Plan and preparation of a Staff Report, the application shall be referred to the Planning Board for review and recommendation. During the meeting, the Planning Board shall consider the application, the relevant support materials, the Concept Plan, the Staff Report, and the public comments given during the meeting. Within 30 days of the first meeting on an application, the Planning Board shall make a written recommendation to the Town Board of Commissioners (unless a longer review period is established by mutual agreement of the applicant and Planning Board).

Effect of Approval

Lands subject to a Conditional Zoning District Classification shall also be subject to the approved Concept Plan and approved conditions. The approved Concept Plan and conditions shall constitute the standards for the approved conditional zoning district, and are binding on the land as an amendment to this Ordinance and the Official Zoning District Map.

Designation

A Conditional Zoning District Classification shall bear the same designation as the parallel general use (base) zoning district but shall also include the suffix "C" along with the ordinance number establishing the Conditional Zoning District Classification.

Minor Deviation

A minor deviation to a Concept Plan or approved conditions shall not be considered as an amendment, and shall be approved by the Planning Department. A minor deviation shall be limited to technical considerations which could not reasonably be anticipated during the approval process or any other change which has no material effect on the character of the approved development or any of its approved conditions. The following shall constitute minor deviations:

- (A) Driveway relocations;
- (B) Structure floor plan revisions; and
- (C) Facility design modifications for amenities and the like.

Changes that materially affect the basic configuration or intent of the Concept Plan or approved conditions are not considered minor deviations, and shall be amendments that may only be considered in accordance with the procedure used to establish the conditional zoning district.

No changes in the Concept Plan or proposed conditions that are less restrictive than those in the application (e.g., smaller setbacks, more dwelling units, greater height, more access points, new uses, fewer improvements, etc.) shall be proposed by the applicant following public notification. Nothing in this subsection shall limit the application of new or more restrictive conditions after public notification, provided such conditions are received by the Planning Department in writing and signed by all owners of the property at least ten business days before the final decision on the application by the Town Board of Commissioners.

In addition to any conditions proposed by the applicant, the Town Board of Commissioners may attach any additional conditions in accordance with Section 2.2.15, Conditions of Approval, (e.g., limitations on location, hours of operation, extent of the proposed use, etc.), but the Town Board of Commissioners shall not attach a condition that requires a landowner to waive a vested right.

Rezoning and Conditional Zoning District Application



Action by Board of Commissioners

After public notification, scheduling of a public hearing, and receipt of a recommendation from the Planning Board, the Town Board of Commissioners shall conduct a public hearing on the application. At the public hearing, the Town Board of Commissioners shall consider the application, the relevant support materials, the Concept Plan, the Staff Report, the recommendation of the Planning Board, and comments given at the public hearing. After the close of the public hearing, the Town Board of Commissioners shall, by majority of a quorum present and voting, approve, approve with conditions, or deny the application based on the standards in Section 2.3.1(8), Map Amendment Standards. In the event of a valid protest petition, a recommendation for approval shall require a three-fourths (3/4) majority.

Conditions

No use shall be authorized within a conditional zoning district except those uses proposed by the applicant, and approved by the Town Board of Commissioners. In no event shall any use prohibited within a parallel general use (base) zoning district be authorized in a corresponding conditional zoning district.

No condition shall be less restrictive than the parallel general use (base) zoning district or any applicable overlay zoning district standards.

No condition shall be included that specifies the ownership status, race, religion, or character of the occupants of dwelling units, the minimum value of improvements, or any other exclusionary device.

Extension

Upon written application submitted at least 30 days prior to the expiration of the Conditional Zoning District Classification, and upon a showing of good cause, the Town Board of Commissioners may grant one extension not to exceed six months for an applicant to obtain a Building Permit. Failure to obtain a Building Permit within the time established in the extension shall result in expiration of the Conditional Zoning District Classification as described in Section 2.3.2(7), Expiration.

Town of Mooresville
Planning & Zoning Dept.
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Mooresville, NC 28115



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Maps, Zoning Ordinances, Planning Department Forms, Applications, services, and information regarding our department.

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