

**ZONING ORDINANCE
TEXT AMENDMENT APPLICATION**

MECKLENBURG COUNTY

Petition #:	<u>2000-17c</u>
Date Filed:	<u>6-27-00</u>
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<i>Office Use Only</i>	

Section #: Various sections of CHAPTER 6: AMENDMENTS, PART 2: SPECIAL PROVISIONS FOR CONDITIONAL REZONINGS; CHAPTER 11: CONDITIONAL DISTRICTS; and any miscellaneous sections referencing conditional zoning.
(Title)

Purpose of Change:

To adopt a text amendment to implement the County's authority to establish conditional zoning districts under a legislative rezoning approval process by the Board of County Commissioners.

Charlotte-Mecklenburg Planning Commission
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Mecklenburg County Board of County Commissioners
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Petition No. 2000-17(c)
Petitioner: Mecklenburg Board of
County Commissioners

**ZONING REGULATIONS
TEXT AMENDMENT NO. _____**

**A RESOLUTION AMENDING
THE MECKLENBURG COUNTY
ZONING REGULATIONS**

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF MECKLENBURG
COUNTY, NORTH CAROLINA:**

Section 1. The Mecklenburg County Zoning Regulations as embodied in the Zoning Ordinance are hereby amended as follows:

1. Amend Chapter 1, "Purpose and Applicability":
 - (i) Section 1.105, "Exceptions to applicability," subsection (3) by deleting subsection (3) in its entirety and in lieu thereof substituting a new subsection (3) to read as follows:
 - (3) These regulations shall not be applicable or enforced without the consent of the owner with regard to uses previously approved as a conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) or approved pursuant to a special use permit, except as provided in subsection (4) below. Development of those uses, cited above, will be governed by the previously approved site plans and the regulation in effect at time that such uses were approved. Any amendments to these approved uses, which cannot be approved administratively, will be subject to the requirements of these regulations. An exception is that an

adult establishment shall not be a permitted use as a vested right unless the site specific development plan explicitly provides that the adult establishment is permitted use or the site meets the standards of Section 12.518.

(ii) Section 1.105, "Exceptions to applicability", subsection (4) by deleting subsection (4) in its entirety and in lieu thereof substituting a new subsection (4) to read as follows:

(4) Those uses previously approved as a conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) or special use permit that are located within a Watershed Overlay District and that have not met the requirements of subsections (1) or (2) above, may be developed if they comply with the minimum state watershed regulations (G.S. §143-214.5) adopted by the North Carolina Environmental Management Commission. Amendments to the previously approved site plan in order to comply with the adopted minimum State watershed regulations may be approved administratively by the Planning Director in accordance with Section 6.207 of these regulations.

(iii) Section 1.110, "Procedures for establishing a vested right," shall be amended by deleting the first paragraph beginning with "Pursuant" and ending with "(d) vested right certification" and in lieu thereof substituting the following:

Pursuant to G.S. § 153A-344.1, "Vested Rights", a vested right to undertake and complete the development and use of the property

under the terms and conditions as approved shall be established with respect to any property zoned as follows:

- (a) conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and
- (b) special use permit.

2. Amend Chapter 2, "Definitions and Rules of Construction", "Part 2: Definitions":
 - (i) by deleting in Section 2.201, "Definitions," "Conditional use. (See Parallel conditional use district.)" and
 - (ii) by deleting in Section 2.201, "Definitions," "Parallel conditional use district" in its entirety.
3. Amend Chapter 3, "Decision-Making and Administrative Bodies," Part 5, "Professional Staff," Section 3.501, "Planning Commission Staff; powers and duties," subsection (4) by deleting the words "parallel conditional use districts and conditional use districts" and in lieu thereof substituting the words "conditional zoning districts."
4. Amend Chapter 4, "Development Approval": Section 4.101, "General," subsection (7) by deleting the words "conditional district or a parallel conditional use district" and in lieu thereof substituting the words "conditional zoning district."
5. Amend Chapter 5, "Appeals and Variances," Section 5.101, "Authority of Mecklenburg County Board of Adjustment," subsection (4) by deleting the words "conditional districts", wherever those words appear in subsection (4),

and in lieu thereof substituting at each place the words "conditional zoning districts" and by deleting the words "conditional district", wherever those words appear in subsection (4), and in lieu thereof substituting at each place the words "conditional zoning district."

6. Amend Chapter 6, "Amendments," Section 6.103, "Initiation":

- (i) Subsection (1) by deleting the words "conditional use district or parallel conditional use district" and in lieu thereof substituting the words "conditional zoning district."
- (ii) Subsection (2) by deleting the words "conditional use district and parallel conditional use district" and in lieu thereof substituting the words "conditional zoning district."
- (iii) Subsection (3) by deleting the words "parallel conditional use district" and in lieu thereof substituting the words "conditional zoning district."

7. Amend Chapter 6, Section 6.111, "Action by Board of Commissioners", subsection (3) by deleting in the first sentence "conditional use or parallel conditional use district", wherever those words appear, and in lieu thereof substituting "conditional zoning district".

8. Amend Section 6.112, "Effect of denial of petition," subsection (2)(d) by deleting the words "conditional use or parallel conditional use district" and in lieu thereof substituting "conditional zoning district."

9. Delete "Part 2: Special Provisions for Conditional and Parallel Rezonings" in its entirety in Chapter 6 and in lieu thereof substitute a new Part 2 to read as follows:

PART 2: CONDITIONAL ZONING DISTRICTS

Section 6.201. Purpose.

Conditional zoning districts are zoning districts in which the development and use of the property is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. The following zoning district categories are conditional zoning districts:

- (1) Parallel conditional zoning districts (A parallel conditional zoning district is a conditional zoning district in which the potential permitted use or uses are, except as limited by the conditions imposed on the district, of the same character or type as the use or uses permitted in a general district having a parallel designation or name.)
- (2) Conditional zoning districts identified in Chapter 11: Mixed Use Districts, Manufactured Housing, Commercial Center District, Neighborhood Services District, and Hazardous Waste District.

A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community which cannot be predetermined and controlled by general district standards. There are also circumstances in which a general district designation allowing such a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted "Generalized Land Plan", and adopted district and area plans. The review process established in this Part provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties. A

conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available in a reasonable time period.

Section 6.202. Plans and Other Information to Accompany Petition.

- (1) Property may be rezoned to a conditional zoning district only in response to and consistent with a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. The following information must be provided, if applicable:
 - (a) A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow;
 - (b) All existing easements, reservations, and rights-of-way;
 - (c) Areas in which structures will be located;
 - (d) Proposed use of all land and structures, including the number of residential units and the total square footage of any nonresidential development;
 - (e) All yards, buffers, screening, and landscaping required by these regulations or proposed by the petitioner;

- (f) All existing and proposed points of access to public streets;
 - (g) Surface Water Improvement and Management ("SWIM") buffers and delineation of areas within the regulatory floodplain as shown on the Official Flood Hazard Boundary Maps for Mecklenburg County;
 - (h) Proposed phasing, if any;
 - (i) The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development;
 - (j) Generalized traffic, parking, and circulation plans; and
- (2) The Planning Director has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical.
- (3) In the course of evaluating the proposed use, the Planning Director, Planning Commission, or Board of Commissioners may request additional information from the petitioner. This information may include the following:
- (a) Proposed number and general location of all structures;
 - (b) Proposed screening, buffers and landscaping over and above that required by these regulations, as well as proposed treatment of any existing natural features;
 - (c) Existing and general proposed topography, if available, at four-foot contour intervals or less;
 - (d) The location of significant trees on the subject property;

- (e) Scale of buildings relative to abutting property;
 - (f) Height of structures;
 - (g) Exterior features of proposed development;
 - (h) Any other information needed to demonstrate compliance with these regulations; and
 - (i) Proposed number and location of signs.
- (4) The site plan and any supporting text shall constitute part of the petition for all purposes under this Chapter.
- (5) The Planning Director or his or her designee may require the petitioner to submit more than one copy of the petition and site plan in order to have enough copies available to circulate to other government agencies for review and comment.

Section 6.203. Required Community Meeting Before Public Hearing.

Before a public hearing may be held on a petition for a conditional zoning district, the petitioner must file in the Office of the County Clerk a written report of at least one community meeting held by the petitioner. Notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by County policy. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a

description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Board of Commissioners but shall not be subject to judicial review.

Section 6.204. Approval of Conditional Zoning District.

Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. In considering any petition for a conditional zoning district, the Board of Commissioners shall act in accordance with Section 6.111, "Action by Board of Commissioners". Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents.

The Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a county general election and concluding on the date immediately following the date on which the Board of Commissioners holds its organizational meeting following a county general election unless no person spoke against the rezoning at the public hearing.

Section 6.205. Conditions to Approval of Petition.

In approving a petition for the reclassification of property to a conditional zoning district, the Planning Commission may recommend, and the Board of Commissioners request, that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the County or State, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners.

Section 6.206. Effect of Approval.

- (1) If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Maps.
- (2) If a petition is approved, the petitioner shall comply with all requirements established in Chapter 4 for obtaining a building permit and certificate of occupancy. Only those uses and structures

indicated in the approved petition and site plan shall be allowed on the subject property.

- (3) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the Zoning Maps by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example "0-1(CD)").
- (4) Any conditional zoning district approved on or after October 1, 1991, shall have vested rights pursuant to N.C.G.S. Section 153A-344.1 for the period of time established pursuant to Section 1.110 and 1.111 of this Zoning Ordinance, except as such vested rights may be altered as allowed by N.C.G.S. Section 153A-344.1(e). Vested rights shall remain effective beyond the end of the period of time established pursuant to Section 1.110 and 1.111 of this Ordinance for any buildings or uses for which a valid building permit had been issued during the vested rights period, so long as such building permit is valid. Notwithstanding, the foregoing, property governed by this subsection shall not include as a permitted use an adult establishment, unless the approved site plan explicitly provides that an adult establishment is a permitted use or the site meets the standards of Section 12.518.

Section 6.207. Alterations to Approval.

- (1) Except as provided in subsection two below, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Zoning Maps and shall be processed in accordance with the procedures in this Chapter.

- (2) The Planning Director or designee shall have the delegated authority to approve an administrative amendment change to an approved site plan. The standard for approving or denying such a requested change shall be that the change does not significantly alter the site plan or its conditions and that the change does not have a significant impact upon abutting properties. Any decision must be in writing stating the grounds for approval or denial.

Any changes that increase the intensity of the development are limited for nonresidential development to 10% of the approved requirement or 1,000 square feet, whichever is less. For residential development, increases in density are limited to 10% of the development or no more than 5 dwelling units, whichever is less.

The Planning Director or designee, however, shall always have the discretion to decline to exercise the delegated authority either because the designee is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and Board of Commissioners consideration is deemed appropriate under the circumstances. If the Planning Director or designee declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Board decision.

Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, to the Planning staff detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Accompanying the letter shall be the applicable fee for administrative review. Upon an approval of an administrative amendment, the applicant must file a

sufficient number of copies of a revised site plan as deemed necessary by the Planning Director.

If the Planning Director or designee denies approval of the requested amendment, then the applicant can appeal that decision to the appropriate committee of the Planning Commission for its review and decision, pursuant to the standard above. If appealed, this requires notification to adjacent property owners within fifteen days of the filed appeal. If the Planning Commission's Committee denies approval of the requested change, then the applicant must file a rezoning petition for an amendment to the site plan to receive further consideration. An adjacent property owner shall be entitled to appeal the approval of an administrative amendment change to the Planning Commission's Committee within fifteen days of knowledge of the approval. Even if an adjacent property does not have knowledge of the approval, the approval shall be final after thirty days.

Section 6.208. Review of Approval of a Conditional Zoning District.

It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Planning Commission may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Commission determines that progress has not been made in accordance with the approved petition and conditions, the Planning Commission shall forward to the Board of Commissioners a report which may recommend that the property be classified to another district.

10. Amend Chapter 9, "General Districts":

- (i) Section 9.101, "Table of uses," by deleting the words "Conditional Districts" and in lieu thereof substituting "Conditional Zoning Districts."
- (ii) Section 9.102, "Hierarchy of districts," by deleting the sentence beginning with the words "For any district" and ending with the words "under the table" and in lieu thereof substituting a new sentence to read as follows:

For any district where a conditional zoning district is permitted the conditional zoning district shall have the same order as the general district for the purposes of determining its hierarchy under the table.

11. Amend Chapter 11 by deleting the title "CONDITIONAL DISTRICTS" and in lieu thereof substituting a new title "CONDITIONAL ZONING DISTRICTS".

12. Amend Chapter 11, Section 11.101, "Purpose", by deleting in the first sentence the words "Conditional Districts" and in lieu thereof substituting "Conditional Zoning Districts" and by deleting in the last sentence the words "Conditional District" in lieu thereof substituting "Conditional Zoning District."

13. Amend "Appendix 2: Zoning Maps Conversion Process" by deleting the second sentence, beginning with "However" and ending with "properties.", in the second paragraph, and in lieu thereof substituting a new second sentence in the second paragraph to read as follows:

However, all existing conditional zoning districts (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and special use permits with approved site plans will continue to exist with their adopted site plans controlling development on those properties.

14. Amend Appendix 2: "Zoning Maps Conversion" by deleting beneath the "Zoning Maps Conversion" chart, in the asterisk paragraph, in the second sentence, beginning with the words "The new ordinance" and ending with the words "B-1SCD", the words "parallel conditional district" and in lieu of "parallel conditional district" substituting the words "conditional zoning district (including those districts which previously were described variously as conditional district, conditional use district, parallel conditional district, and parallel conditional use district) and special use permits with approved site plans will continue to exist with their adopted site plans controlling development on those properties.

Section 2. That this resolution shall become effective upon adoption.

Approved as to form:

County Attorney

Read, approved and adopted by the Board of County Commissioners of Mecklenburg County, North Carolina, in meeting on the ___ day of _____, 2000.

Clerk, Board of County Commissioners