

§152.034 CONDITIONAL ZONING DEFINITIONS.

(A) *Purpose.* For each general use zoning district, this ordinance authorizes the creation of parallel conditional zoning districts that have the same requirements as the general use district, as modified by one or more site-specific conditions. The conditional zoning district classification allows the Town Council to consider proposed uses and tailor the zoning to accommodate those uses while addressing anticipated problems that may arise from the establishment of the proposed uses. This section sets forth the types of conditional zoning districts and explains their relationship to the general use districts.

(1) *District.* Each general use district shall have a corresponding conditional zoning district and shall be indicated on the Official Zoning Map by the initials "CZ" behind the associated base zoning district designation.

District		Classification
R-1 (CZ)	Conditional Zoning Residential District	Residential
R-2 (CZ)	Conditional Zoning Residential District	Residential
NMU (CZ)	Conditional Zoning Neighborhood Mix Use District	Mixed Use
MICR (CZ)	Conditional Zoning Medical Institutional Cultural Residential District	Mixed Use
UV (CZ)	Conditional Zoning Urban Village	Mixed Use
C-1 (CZ)	Conditional Zoning Central Commercial	Commercial
C-2 (CZ)	Conditional Zoning Secondary Commercial District	Commercial
C-3 (CZ)	Conditional Zoning Highway Commercial District	Commercial
I-1 (CZ)	Conditional Zoning Industrial District	Industrial

(2) Applicability. Due to their size and level of activity, major developments are expected to have a significant impact on public services and infrastructure and need to be managed for the benefit of the neighborhood or town as a whole. Approval of any major development within the Town's planning jurisdiction requires rezoning to one of the conditional districts below. For purposes of this section, "major development" is defined as a residential development or common plan of development containing 20 or more dwelling units, or a commercial or industrial development, or common plan of development, containing more than 30,000 square feet of interior floor space. The conditional zoning review process established by this section shall be required prior to permitting any major development within the town's planning jurisdiction, regardless of present zoning district.

(B) Fee. A fee shall be paid to the Town of Franklin for a Conditional rezoning to cover the costs of advertising and other administrative expenses. The fee shall be set by a resolution of the Town Council.

(C) Pre-application conference. It is recommended that any person desiring to use or develop land pursuant to a Conditional rezoning schedule a pre-application conference with the Land Use Administrator to become familiar with the Conditional rezoning process and to identify and correct, if possible, potential problem areas with a development concept. Submittals for a pre-application meeting include a location map and a sketch plan of the project, including property boundaries, building footprints, parking, driveways, entrance locations, and such other information which may be requested by the Land Use Administrator.

(D) Application. Applications for a Conditional rezoning shall be made to the Land Use Administrator on forms prescribed by the Land Use Administrator. The application must be signed by all owners of the property to be included.

(1) Contents. Applications shall include the name and address of the applicant, the name and address of the owner of each zoning lot involved, and the relationship of the applicant and property owner(s) in connection with the application. If the applicant is other than the record

owner of the property, the consent of the record owner to the application shall be noted on the application or in some other fashion acceptable to the Land Use Administrator. The application shall also designate an agent for the project to whom notice may be given by the town. The Land Use Administrator shall prescribe any other material that may reasonably be required to determine compliance with this subchapter, with sufficient copies for necessary referrals and records.

(2) Conceptual plan. To facilitate the discussion during the neighborhood compatibility meeting required by division (E), the applicant shall submit to the Land Use Administrator, as a part of the application for a Conditional rezoning, a conceptual plan showing how development is proposed for the site. The conceptual plan shall show the location and boundaries of the property and how individual buildings are to be situated on the site, including distances from these buildings to property lines, as well as proposed drives and parking. The locations of signs and outdoor lighting shall also be shown where appropriate. Proposed restrictive covenants, if available, shall also be presented. The conceptual plan need not be exactly to scale; although, all distances and dimensions shall be shown.

(E) Neighborhood compatibility meeting. This subchapter provides a process whereby affected property owners, residents and developers have an opportunity to participate in a dialog as to how development is to be integrated into their neighborhoods. This is accomplished by a neighborhood compatibility meeting to be facilitated by the Land Use Administrator or his or her designee within 21 days of receipt of a complete application, including the required fee and conceptual plan.

(1) Notification of participants. At least ten calendar days prior to the meeting, notice of the meeting shall be given in the following fashion:

(a) The developer shall be informed of the meeting by mail. Failure of the developer, or his or her authorized agent, to attend this meeting shall lead to an automatic annulment of the application.

(b) Property owners within 400 feet of any property line of the proposed sites shall be informed of the meeting by mail.

(c) All other persons shall be informed of the meeting by a conspicuously placed standardized on-site sign.

(2) The developer's presentation. During the neighborhood compatibility meeting the developer shall explain to the affected property owners the proposed use for the site. The presentation shall include the developer's position on the compatibility of the project. It is always the developer's responsibility to propose a compatible project.

(3) Relevant topics to be discussed. Following the developer's presentation, affected property owners and residents shall be permitted time to question the developer about points which remain unclear. Questioning shall center on the proposal's compatibility as presented, not the question of whether the site should be developed or its use changed.

(4) Result of neighborhood compatibility meeting. Following the exchange of views between the developer and affected property owners/residents, the Land Use Administrator shall review orally the points voiced during the informal compatibility meeting. Included in the review shall be proposals or counter-proposals to which both parties have agreed in an effort to make the project compatible, as well as those points where disagreement still exists. Upon conclusion of the review, the Land Use Administrator shall ask those assembled if the positions presented represent an accurate consensus of the opinions expressed by the developer and affected property owners/residents. When they do, the meeting shall be concluded and the Land Use Administrator shall record the opinions in the Land Use Administrator's report. The Land Use Administrator's report shall become a part of the application file.

(F) Preliminary development plan and completeness review.

(1) Upon completion of the neighborhood compatibility meeting, it shall be the responsibility of the applicant to submit a preliminary development plan meeting the requirements of division (H)(3), below. The Land Use Administrator shall cause the application to be reviewed for completeness and shall notify the developer in writing if the application is incomplete, specifying what additional information is needed in order for the application to be deemed complete.

(2) It shall then be incumbent upon the applicant either to provide the additional information requested by the Land Use Administrator or, if he or she believes providing the requested information is unreasonably burdensome, to notify the Land Use Administrator in writing that he declines to provide the information requested. Upon receipt of all requested information or, in the alternative, written notice from the applicant that no further information will be provided, the Land Use Administrator shall refer copies of the proposal to such other representatives of the town and to such other agencies or officials as may be appropriate to determine if it conforms to the provisions of this zoning ordinance and to such other regulations applicable in the case. Alternatively, the Land Use Administrator may determine that the incompleteness of the application renders it out of compliance with the requirements of this chapter and that therefore it will not receive further consideration by the town. The Land Use Administrator shall notify the applicant of this decision in writing. The Land Use Administrator's determination that an application is incomplete may be appealed to the Board of Adjustment pursuant to § 152.075.

(3) Contents of preliminary development plan.

(a) The preliminary development plan for projects undergoing special use review shall show the following:

1. The date of the development plan or submittal, including any revisions thereto.
2. The proposed title of the project and the name of the engineer, architect, landscape architect, planner and/or licensed surveyor; developer; and owner of record.

3. The north arrow point, scale at not greater than one inch equals 40 feet and such information as the names of adjacent roads, streams, railroads, subdivisions or other landmarks sufficient to clearly identify the location of the property.

4. Location of site by an insert vicinity map at a scale no less than one inch equals 2,000 feet.

5. Existing project zoning and zoning of adjacent property, to include properties abutting either side of a public right-of-way.

6. Town limits line, and/or extraterritorial jurisdiction boundary, or a note indicating that the project site and any adjoining parcels are totally within or without the town limits.

7. Names of adjacent property owners.

8. Boundary survey of site and the location of all existing easements, buildings, rights-of-way or other encroachments.

9. Location of 100-year floodplain and floodway, if applicable. Other significant natural features affecting the site including but not limited to wetlands, major rock outcrops and lakes or streams.

10. The proposed transportation network for the project including, but not limited to, the following:

a. All proposed streets, clearly identified as public or private, with proposed names, pavement widths and rights-of-way;

b. Sight distances for all entrances and exits and their relationship to street and driveway intersections within a 200-foot radius of the intersection of such entrance and exit with any public right-of-way;

c. All alleys, driveways, and curb cuts for public streets (provided further that, whenever any alley, driveway or curb cut will intersect with a public sidewalk and/or street maintained by the town, the development plan submitted shall include a form approved by the town's Public Works Director, demonstrating compliance with applicable regulations, including without limitation the North Carolina Department of Transportation Driveway Manual);

d. All handicap ramps;

e. Off-street loading and unloading areas;

f. Provisions for off-street parking spaces including calculations indicating the number of parking spaces required and the number provided;

g. Typical cross-sections of public or private streets; and

h. Pedestrian and bicycle facilities.

11. Preliminary utility layout, including design plans for location of the following:

a. Water mains, sanitary sewers, and functional fire protection systems to be installed prior to final plan approval, in accordance with adopted town policies and the town's Standard Specifications and Details Manual.

b. All utility or other pipes, wiring, conduits, cables, and fixtures, including but not limited to electrical, gas, telephone and telecommunications lines, fiberoptic cables and the like. All such lines shall be installed underground, except for transmission lines with a voltage of 115kV or greater or in situations where such placement is prohibited by law, or where such requirement is relieved by a variance.

c. Easements to be provided to the town for utility activities which shall include but not be limited to improving, upgrading, removing, inspecting, replacing, repairing, maintaining, using, and operating such pipelines, laterals, interceptors, mains, manholes, conduits, facilities, and related appurtenances as may be necessary or convenient for the receipt, conveyance, transmission, and distribution of water, reclaimed water, and/or wastewater and for access thereto. Where necessary, easements shall be centered along or adjacent to lot lines to the greatest extent practicable. Easements shall be sized in accordance with the town's Standard Specifications and Details Manual No structures or other improvements shall be placed within any town utility easement. Ground covers or grasses may be planted within an easement. No trees or shrubbery of any size shall be placed within any town utility easement because of the need for access by utility maintenance personnel and line damage that tree and shrub roots can cause. Any improvements installed within the easement area are subject to disturbance or damage, and may be removed by the town. All permitted and special uses shall be connected to and served by public water and sanitary sewer services.

d. Where connection to public water and sanitary sewer systems is required, such systems shall be constructed to town standards, sizes, and specifications and dedicated to the town for operation and maintenance, thus allowing for the orderly expansion of the town, its water and sanitary sewer systems, and fire protection services, which protect the health of the town's citizens and environment.

e. Nothing in this section shall be interpreted as requiring the town to maintain individual service lines for water and sanitary sewer beyond their point of connection to the town's systems, which shall be and remain the responsibility of the property owner pursuant to town policy.

f. The requirements of this division may be relaxed, provided that the application is for one or more land use activities for which relaxed submittal requirements may be permitted by the Land Use Administrator pursuant to § 152.052(A).

12. Location and size of all existing and proposed entrances and exits to the site.

13. Proposed reservations or dedications for parks, playgrounds, school sites and open spaces and a note indicating ownership and maintenance provisions.

14. A survey showing tree line before site preparation with typical species and average diameter of trees indicated.

15. Preliminary landscape plan indicating screening, buffering, street trees, and typical ornamental plantings.

16. Any garbage disposal facilities must be located on the side or rear and screened.

17. General location and intended use of all buildings with their dimensions, the number of floors, total floor area and maximum height above lowest ground point of each building. If several models of units are being offered for sale and the type of unit at each building location is not known, then a general outline of the unit to be constructed may be shown at the building location.

18. Notations to include the total project area, proposed lot areas (or individual areas to be owned by a homeowners association), the amount and percentage of the site to be covered by buildings, open space, streets and parking and other facilities.

19. General location, size, height, orientation and appearance of proposed signs.

20. General location of proposed project phasing lines and notation including special conditions pertinent to establishing sales or model units, if applicable.

21. A traffic impact analysis, if one is required by the terms of this chapter demonstrating the project will comply with the requirements of § 152.105, below.

22. Elevations of all facades, including existing structures to remain, drawn to a reasonable scale which shall be not less than 1/8-inch equals one foot. Plans shall designate proposed materials and colors of architectural features.

(b) The Land Use Administrator has the authority to waive any application requirement where the type of use or the scale of the project makes providing that information unnecessary or impractical. The Land Use Administrator or Town Council may request additional information from the applicant where such is necessary to enable a fully-informed decision on the matter.

(4) Completeness review. Upon receipt of a preliminary development plan, the Land Use Administrator shall cause the application to be reviewed for completeness and shall notify the applicant in writing if the application is incomplete, specifying what additional information is needed in order for the application to be deemed complete. It shall then be incumbent upon the applicant either to provide the additional information requested by the Land Use Administrator or, if he or she believes providing the requested information is unreasonably burdensome, to notify the Land Use Administrator in writing that he or she declines to provide the information requested. Upon receipt of all requested information or, in the alternative, written notice from the applicant that no further information will be provided, the Land Use Administrator shall refer copies of the proposal to such other representatives as may be appropriate to determine if it conforms to the provisions of this chapter and to such other regulations applicable in the matter. Alternatively, the Land Use Administrator may determine that the incompleteness of the application renders it out of compliance with the requirements of this chapter and that therefore it will not receive further consideration by the town. The Land Use Administrator shall notify the applicant of this decision in writing. The Land Use

Administrator's determination that an application is incomplete may be appealed to the Board of Adjustment pursuant to § 152.075.

(G) Processing of application. On the completion date the application will then be scheduled for the next Planning Board meeting that is at least 24 days in the future. Substantial modification of the application subsequent to the complete date may result in the application being deferred to a subsequent meeting of the Planning Board. Any material modification of the application within seven days prior to the Planning Board meeting shall result in deferral of the application to the next available meeting. For purposes of this section, the application shall include the preliminary or conceptual development plan, as the case may be.

(H) Review and approval. Conditional zoning applications are intended for development proposals that are ready to proceed from plan approval to construction in a timely manner. As a result, each project must include a site plan that meets the requirements listed in this section, as modified by any site-specific conditions, as well as any other plans, drawings, renderings, elevations, maps, and documents specifically included as development documents for approval.

(1) Formal staff review. Town staff shall review the development plan to identify issues with the proposed development and determine compliance with the requirements of this chapter. Town staff will provide detailed comments to the applicable reviewing board regarding issues identified and recommend any needed changes to the development plan to bring it into compliance with the requirements of this chapter and/or other legal requirements.

(2) Public hearing. The conditional zoning district rezoning approval decision is a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district rezoning decisions. The conditional zoning application shall be considered and treated as a zoning map amendment. In considering any petition for a conditional zoning district rezoning, the town shall follow all of the procedures set forth in zoning map amendment. The Town Council shall conduct a public hearing on the application. Notice of the date, time and place of the public hearing shall be published in a newspaper of general circulation once a week for two successive weeks with the first notice to be published not less than ten nor more than 25 days prior to the date of the hearing. Similar notice shall also be mailed to the owner of the property which is the subject of the application and the owners of all parcels of land situated within 400 feet of any of the boundaries of the subject parcel. Ownership shall be determined by reference to the Macon County tax listing.

(I) Final action. Upon completion of the hearing required in division (K), the Town Council shall act on the application based on the findings of fact contained herein. Action on the application shall be one of the following: (1) approval; (2) approval subject to conditions; or (3) denial. The Land Use Administrator shall notify the applicant of the Council's decision in writing. If the application is approved with agreed upon conditions, the Land Use Administrator shall issue the necessary Conditional rezoning in accordance with the action of Council. The Conditional rezoning, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors.

(J) Follow the process of 152.163.

(K) Effect of approval.

(1) If a petition is approved under this section, the conditional district that is established, the approved petition, and all conditions which may have been attached to the approval, are binding on the property as an amendment to this chapter and to the Zoning Map. All subsequent development and use of the property shall be in accordance with the standards for the approved Conditional rezoning, including the conceptual or preliminary development plan, and all conditions attached to the approval, unless such approval shall lapse or the property is rezoned.

(2) If a petition is approved, the petitioner shall comply with all requirements established for obtaining a land development permit, a building permit and certificate of occupancy. Only those uses and structures indicated in the approved petition and development plan shall be allowed on the subject property. Any development in the district shall comply with all provisions of and conditions to the approved petition and development plan.

(L) Final development plans. Final development plans shall be reviewed by the Land Use Administrator to ensure conformance with the requirements set forth in § 152.052(E). Final development plans shall include any modifications agreed to as conditions of issuance of the Conditional rezoning as well as a list of any conditions and a list of any uses as stipulated in the Conditional rezoning.

(M) Issuance of land development permit. A Conditional rezoning does not authorize development; rather, it approves a development concept for a particular property. In order to develop the property in accordance with the Conditional rezoning, a land development permit is required. A land development permit shall be issued upon certification by the Land Use Administrator that he has received a final development plan demonstrating compliance with the preliminary or conceptual development plan, as well as all terms and conditions of the Conditional rezoning.