

TC-19-20
REZONING PROCESS AND CITY CODE COVENANTS
ORDINANCE NO. (XXX-2021)

AN ORDINANCE TO AMEND THE PART 10
RALEIGH UNIFIED DEVELOPMENT ORDINANCE REGARDING
REZONING PROCESS AND CITY CODE COVENANTS

WHEREAS, the City of Raleigh strives to maintain the Unified Development Ordinance; and

WHEREAS, certain amendments to State Law require updates to language that relates to process; and

WHEREAS, the City Council has requested amendments that would clarify procedures, improve language and align with State Law.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RALEIGH THAT:

Section 1. Article 1.1.9. of Part 10 Raleigh Unified Development Ordinance, Ownership & Management of Common Elements, is hereby repealed and following new Sec. 1.1.9. City Council Action, be inserted in lieu thereof:

Sec. 1.1.9. City Council Action

Notwithstanding anything contained herein to the contrary, and pursuant to N.C.G.S. §160A-75, the adoption, amendment, or repeal of any ordinance or development regulation requiring a public hearing under §160D-601 shall be approved upon receipt of no less than five (5) affirmative votes by City Council on the date of introduction or thereafter.

Section 2. Section 1.3.2 of the Part 10 Raleigh Unified Development Ordinance, Conditional Use Zoning Districts, is hereby amended by adding the following language shown in the underlined:

Sec. 1.3.2. Conditional Use-Zoning Districts

The following conditional ~~use~~ zoning districts are established and applied to property as set forth on the Official Zoning Map. Each conditional ~~use~~-district (bearing the designated CU on the Official Zoning Map) corresponds to a general use district. All zoning requirements that apply to the general use district are also applicable to the corresponding conditional ~~use~~-district unless adopted conditions are more restrictive.

Residential Districts

R-1-CU Residential-1

R-2-CU Residential-2

R-4-CU Residential-4

R-6-CU Residential-6

R-10-CU Residential-10

Mixed Use Districts

RX-CU Residential Mixed Use
OP-CU Office Park
OX-CU Office Mixed Use
NX-CU Neighborhood Mixed Use
CX-CU Commercial Mixed Use
DX-CU Downtown Mixed Use
IX-CU Industrial Mixed Use

Special Districts

CM-CU Conservation Management
AP-CU Agricultural Productive
IH-CU Heavy Industrial
MH-CU Manufactured Housing
CMP-CU Campus
PD-CU Planned Development

Section 3. Section 4.7.1 of the Part 10 Raleigh Unified Development Ordinance, Establishment of a PD District, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

Sec. 4.7.1. Establishment of a PD District

A PD District is a customized ~~general use zoning district or set of general use zoning districts~~ that must be approved along with a Planned Development Master Plan in accordance with Sec. 10.2.4.

Section 4. Section 10.2.4 of the Part 10 Raleigh Unified Development Ordinance, Rezoning, is hereby amended by insertion of the following underlined provisions and deleting the language shown with a strike-through:

Sec. 10.2.4. Rezoning

A. Applicability

This Section applies to requests to change the City’s Official Zoning Map (“rezonings”) and TCZ’s as defined in Sec. 10.2.3. Rezonings and TCZ’s are legislative decisions.

- ~~1. The City Council may on its own motion initiate changes to the Official Zoning Map and shall consider amendments to the Official Zoning Map.~~
- ~~2. Amendments to the Official Zoning Map shall be made in accordance with the provisions of this section.~~

B. Zoning Change Requirements

- ~~1. Where practicable, zoning changes should correspond with the boundary lines of existing tracts and lots.~~

2. ~~All zoning requirements shall be met within the boundaries of the area being rezoned. If all of the requirements cannot be met on the site being rezoned, the applicant shall revise the request to include all property necessary to meet zoning requirements.~~

~~C.~~ Pre-Application Conference

Before submitting an application for a rezoning or TCZ, an applicant shall schedule a pre-application conference with the Planning Director to discuss the applicable procedures, standards and regulations ~~required for approval~~. This requirement may be waived ~~at the discretion of~~ by the Planning Director.

~~D.~~ Neighborhood Meetings

1. Pre-Submittal Neighborhood Meeting.

- a. A pre-submittal neighborhood meeting is required for all rezoning and TCZ applications ~~for zoning map amendments and text changes to conditional use zoning conditions, except for zoning map amendments~~ where the City is the applicant. The applicant shall provide an opportunity to meet with property owners of the development site and property owners and tenants within the mailing radius described in Sec. 10.2.1.C.1. The location of the neighborhood meeting must be at, or in ~~else~~ reasonable proximity to, the subject property.
- b. The required pre-submittal neighborhood meeting must be conducted prior to submittal of the rezoning or TCZ application ~~for a rezoning or text change to conditional use zoning conditions~~. The meeting may not occur more than 6 months prior to the submittal of the application. Notice of the neighborhood meeting must be provided in accordance with Sec. 10.2.1.C.1.
- c. A written report of the meeting, made by the applicant, shall be included with the application given to City Planning. The report shall include at a minimum, a list of those persons and organizations contacted about the neighborhood meeting, the date, time and location of the meeting, a roster of the persons in attendance at the meeting and a summary of issues discussed at the meeting.

2. Second Neighborhood Meeting.

- a. A second neighborhood meeting shall be required for applications requiring a pre-submittal neighborhood meeting, which meet any of the following criteria:
 - i. The subject property is five acres or more;
 - ii. The proposed change increases the maximum building height to 5 stories or more, or increases the maximum building height by 5 stories or more;
 - iii. The proposed change increases residential density by an additional 10 dwelling units per acre;
 - iv. The request is to change from a Residential or Conservation Management (CM) zoning district to a mixed use or special zoning district (other than CM); or
 - v. The request seeks to create any type of PD district.

- b. The second required neighborhood meeting must be conducted in a manner consistent with Sec. 10.2.4.C.1.a. and after City Planning has confirmed that the application is complete, but no earlier than thirty days following the application submittal date. Notice of the second required neighborhood meeting must be provided in accordance with Sec. 10.2.1.C.1.; however, the notice radius shall be one thousand feet. In addition, the property shall be posted in accordance with Sec. 10.2.1.C.4.
- c. A report of the second meeting, made by the applicant, shall be delivered to City Planning no less than ten days prior to the first Planning Commission meeting at which the application is considered. The report shall include at a minimum, a list of those persons and organizations contacted about the neighborhood meeting, the date, time and location of the meeting, a roster of the persons in attendance at the meeting and a summary of issues discussed at the meeting. Any other person attending the second neighborhood meeting may submit written comments following the meeting; however, the written comments must be received by City Planning within the same time frame described above in order to be included in the Planning Commission agenda packet.

ED. Application Requirements

1. General Requirements

- a. An application for a any rezoning or TCZ shall be submitted in accordance with the ~~general~~ application requirements of *Sec. 10.2.1.B.*
- b. ~~A Rezoning Application form must be filled out to initiate a rezoning request. Where practicable, rezonings should correspond with the boundary lines of existing tracts and lots.~~
- c. No rezoning that down-zones property shall be initiated without the written consent of all property owners whose property is the subject of the proposed down-zoning, unless the down-zoning amendment is initiated by the City. "Down-zoning" means a zoning amendment that affects an area of land in one of the following ways:
 - i. By decreasing the development density of the land to be less dense than was previously allowed; or
 - ii. By reducing the permitted uses of the land to fewer uses than were previously allowed.
- d. If the change in intensity from the proposed rezoning or TCZ meets or exceeds the thresholds for a traffic impact analysis ("TIA") as described in the Street Design Manual, then submittal and staff review of a TIA shall be required as a part of completing the application.
- e. No application shall be deemed complete until all the applicable documentation described in Sec. 10.2.4.D. has been submitted
- f. An application for any rezoning or a TCZ may be, but is not required to be, submitted concurrently with an application for a Comprehensive Plan amendment, and the two applications may be processed and reviewed concurrently.
- g. Should the property subject to the application not include an entire tax parcel, a survey-based metes and bounds of the subject property shall be required.

h. If an application is placed on hold at the request of the applicant for a period of six (6) consecutive months or more, or the applicant fails to respond to comments or provide additional information requested by the City for a period of six (6) consecutive months or more, the application review shall be discontinued and the application will be considered administratively withdrawn. A new application and fee shall be required to resume the rezoning effort. The development regulations in effect at the time the new application is submitted shall be applied to the application.

2. Additional Requirements for Conditional Use Rezoning and TCZ Applications

- a. ~~An application for a conditional use rezoning~~ Except for conditions meeting the criteria of Sec. 10.2.4.D.2.b. below, conditional use rezoning applications must contain conditions which propose greater restrictions on development and use of the property than would apply in the corresponding general use district, and this UDO. The conditions may specify the use or uses prohibited or the use or uses allowed, including the maximum number of dwelling units and all development regulations which are requested for the property submitted for rezoning; however, the ~~The requested use or uses must be permitted in the corresponding general use district. All those regulations which apply to the corresponding general use zoning district are the minimum requirements in the conditional use-district.~~
- b. ~~Conditions which represent greater restrictions on development and use of the property than would apply in the corresponding general use district or which involve subdivision, stormwater control, flood protection or other limitations on land which may be regulated by City and State law, may be specified in the application.~~
- be. The City Council may accept zoning conditions that alter the maximum block standards in Sec. 8.3.2., the stub streets standards in Sec. 8.3.4.C. and the driveway standard for Residential Uses, Mixed Use and Nonresidential Uses in Sec. 8.3.5.C.2. and 3. Such zoning conditions shall only may be approved by the City Council when the City Council, concurrent with the adoption of the conditional use zoning ordinance, makes a determination that when the offered zoning conditions provide for safe, efficient and convenient vehicular and pedestrian access within developments and between adjacent developments and do not adversely affect traffic congestion. When these These zoning conditions are included, the application shall be accompanied by additional information as required on the official rezoning application addressing how safe, efficient and convenient vehicular and pedestrian access within developments and between adjacent developments is being achieved.
- cd. Zoning conditions associated with a lot line common to the subject property and an adjacent property shall reference the Deed Book/Page Number or recorded Book of Maps/Page Number of the associated adjacent property.
- de. Exclusionary conditions which discriminate based on race or religion, specify ownership status or a minimum value of improvements shall not be submitted as a part of the petition.

~~ef.~~ No condition shall be submitted that proposes to regulate right-of-way reimbursement values, or prohibit submittal of a traffic impact analysis. ~~Nor shall any site plans, renderings or other images be submitted as part of the conditional use rezoning application unless all elements of the site plan, rendering or image graphically illustrate the written text of the conditions in which case the written zoning conditions shall remain as the controlling instrument.~~ Any condition that prohibits street access or public street connections or extensions shall comply with *subsection c* above.

~~fg.~~ No condition may be made part of the petition which duplicates an existing City code requirement. Site plans, renderings or other images may be submitted as part of the conditional rezoning application provided all elements of the site plan, rendering or image graphically illustrate the written text of the conditions in which case the written zoning conditions shall remain as the controlling instrument.

~~h.~~ For any condition specified on the petition that may affect potential compliance with the requirements of this UDO or any other City ordinance on the property requested for rezoning, proper submittal of information and review shall be requested by City Planning, prior to a City Council decision on the rezoning.

~~ig.~~ No condition may be made part of the petition which specifies the establishment and protection of tree conservation areas or tree protection areas unless the condition ensures that 100% of the critical root zones of trees proposed for protection and located on the subject rezoned property shall also be undisturbed areas.

~~jh.~~ No condition may be made part of the petition which specifies the authorization or consideration of an Administrative Alternate.

~~ki.~~ No variance shall be allowed to a zoning condition that is approved in conjunction with a conditional use rezoning or TCZ.

~~l.~~ Modification of Previously Approved Zoning Conditions:

~~When a property has been rezoned into a conditional use district, the property owner can request subsequent modifications to the zoning conditions. If no change is requested to the zoning map, modifications to the language of zoning conditions may be requested by application for a text change, following the process contained in *Sec. 10.2.3* of this UDO.~~

~~In addition to those procedures, the following shall also apply:~~

~~i.~~ Prior to submittal of an application, the applicant shall request authorization for a text change from the City Council to modify the existing zoning conditions. The City Council may allow the petition; reject the petition; or direct further consideration of the request.

~~ii.~~ Upon authorization to proceed, the applicant must conduct a neighborhood meeting consistent with the requirements of *Sec. 10.2.4.D.*

~~iii. The text change application must be signed by all property owners of the parcels to which the proposed change in conditions apply.~~

~~Changes to the conditions through the approval process must be consistent with *Sec. 10.2.4.E.2.*~~

~~iv. The public notice requirements for rezoning map amendments contained in *Sec. 10.2.1.C* shall be required.~~

3. Additional Requirements for CMP and PD District Applications

In addition to a Rezoning Application, a Master Plan Application ~~Package~~ must be submitted in complete form to initiate a Campus (~~*Article Sec. 4.6.3. Campus (CMP)*~~) or Planned Development (~~*Article Sec. 4.7.4. Planned Development (PD)*~~) rezoning.

4. Additional Requirements for -HOD-G and -HOD-S Applications

a. Any application for rezoning property to an -HOD-G and or -HOD-S districts, not filed by the City, must be signed by all of the property owners within the area proposed to be rezoned to an historic overlay district.

b. An investigation and report describing the significance of the buildings, structures, features, sites or surroundings included in any proposed -HOD-G and -HOD-S and a description of the boundaries of the district, changes in boundaries or de-designation due to loss of significance, shall be prepared and/or reviewed by the Historic Development Commission. The City Council shall refer the report to the North Carolina Department of Cultural Resources.

~~b~~c. The Department of Cultural Resources, acting through an agent or employee designated by its Secretary, may analyze and make recommendations concerning such report and description of proposed boundaries. Failure by the Department of Cultural Resources to submit its written analysis and recommendations to the City within 30 calendar days after a written request for such analysis has been received by the Department of Cultural Resources shall relieve the City of any responsibility for awaiting such analysis (N.C. Gen. Stat. §~~160A-400.4(b)2~~160D-944(b)(2)).

~~e~~d. The City Council ~~may~~ shall refer the report and proposed boundaries to the Planning Commission, in accordance with *Sec. 10.2.4.F.4.* ~~and~~

e. The City Council may refer the report to any other interested body for its recommendations prior to taking action to amend the Official Zoning Map.

5. Additional Requirements for -NCOD Applications

a. Except for applications filed by the City or otherwise authorized by the Council, City Planning is instructed not to accept -NCOD applications unless the application meets all the following:

- i. Is requesting that either at least a minimum of 15 contiguous acres be zoned -NCOD or that an existing -NCOD be extended. If allowed in the underlying zoning district, all uses in the civic use category shall be excluded when determining the minimum 15-acre requirement; however, such civic uses may be used in determining contiguity of the area.
 - ii. Is signed by ~~a majority~~ all of the property owners within the area proposed to be rezoned -NCOD.
 - iii. Is applied to an area where at least 75% of the lots are developed.
 - iv. ~~It is~~ Is located in an area in which the City Council has adopted into *Sec. 5.4.3.F.* specific neighborhood built environmental characteristics and regulations.
- b. Within four years following the City Council adoption of specific neighborhood built environmental characteristics and regulations, City Planning may accept an application rezone property to a -NCOD.
 - c. ~~Following the City's official acceptance of an application to rezone property to a -NCOD in accordance with Sec. 5.4.3., no construction permit shall be issued or subdivision or recombination be approved by the City during the pendency of the application to amend the Official Zoning Map unless the proposed construction or the proposed subdivision or recombination meets all of the provisions of the existing zoning district and also the adopted neighborhood built environmental characteristics and regulations contained in Sec. 5.4.3.F. for the proposed -NCOD.~~
 - d. If the City Council accepts a rezoning petition to apply a -NCOD, staff shall provide direct mailed notice to all property owners in the proposed overlay district. Additional mailed notice shall be provided in accordance with *Sec. 10.2.1.C.1.*

6. Additional Requirements for DX- District Applications

New applications requesting a DX- District must be for property located contiguous to or directly across the street from an existing DX- District.

FE. Approval Process

1. Planning Director Action

- a. The Planning Director shall review the application for a proposed rezoning or TCZ in light of the considerations for Planning Director Review in *Sec. 10.2.4.EH.* ~~and provide a report to the Planning Commission. The Planning Commission recommendation shall be sent to the City Council in advance of the public hearing.~~
- b. In reviewing any required CMP or PD master plan, the Planning Director shall consult with the heads of the departments of Public Utilities, Transportation, Engineering Services, Parks and Cultural Resources, Development Services and Fire to check the proposed master plan against the requirements of the UDO and other applicable technical requirements of the City.

b. Following review, the Planning Director shall prepare a report and forward the application to the Planning Commission.

2. **Planning Commission Action**

a. ~~Within 45 days following submission of a completed application and City approval of all required technical documents, the~~ The Planning Commission, or one of its committees shall hold a public meeting legislative hearing on the proposed amendment which application. The legislative hearing shall be noticed in accordance with the provisions of *Sec. 10.2.1.C*.

b. ~~The Planning Commission may refer the application to a work session of the Planning Commission or to 1 of the Planning Commission's committees for additional consideration or the Planning Commission may act upon the application.~~

e. ~~There is no limit on the sets of changes to the conditions following the first deliberation of the application by the Planning Commission. However, no set of changes to the conditions shall be considered and deliberated on by the Planning Commission unless an unsigned draft copy of the new set of conditions has been submitted at least 10 calendar days prior to the date of the scheduled Planning Commission meeting.~~

d. During the review and deliberations of the Planning Commission, ~~specified~~ conditions may be removed or added, zoning districts changed, zoning boundaries altered and ~~specified~~ conditions may be made more or less restrictive, no more than one (1) time.

c. No changes to the conditions shall be considered and deliberated on by the Planning Commission unless a signed copy of the conditions has been submitted at least 10 calendar days prior to the date of Planning Commission meeting at which the final vote is taken.

ed. Within ~~90~~ 60 days after its receipt of the proposed rezoning, the Planning Commission shall make its recommendation to the City Council. Within this time period, the Planning Commission may request extensions of time which may be granted by the City Council. If no recommendation is made within this time period and if no extension is granted, the City Council may take action on the application without further involvement of the Planning Commission.

fe. ~~A recommendation by~~ When conducting a review of proposed rezoning or TCZ pursuant to this section, the Planning Commission shall include the adoption of a statement describing advise and comment on whether the Planning Commission considers the proposed action taken to be is consistent with the Comprehensive Plan and any other officially adopted plan that is applicable and briefly explaining why the action taken is reasonable and in the public interest.

gf. The Planning Commission shall make its recommendation to the City Council in writing. The Planning Commission shall recommend that the request be approved,

approved as revised or denied. A written recommendation shall address plan consistency and other matters as deemed appropriate by the Planning Commission.

hg. In no case shall changes to the conditions be accepted following an action by the Planning Commission and prior to the Planning Commission's ~~Certified R~~ written recommendation being received by the City Council, other than non-substantive, technical revisions to the text of the conditions, in which case such revised conditions must be signed by all of the property owners of the land proposed to be rezoned to a conditional use district and must be submitted to City Planning at least 2 business days before the date the City Council schedules the matter for public hearing.

i. ~~For conditional use zoning cases, all conditions in the application must be signed by all of the property owners of the land being rezoned to a conditional use district and must be submitted to City Planning at least 2 business days before the date the City Council authorizes the matter for public hearing.~~

3. Public Legislative Hearing by City Council

a. Following the recommendation of the Planning Commission or expiration of the applicable Planning Commission review period without a recommendation, the City Council shall conduct a public legislative hearing. Notice City Council shall act to schedule of the public hearing shall occur within 60 days of receiving the request from the Planning Commission, and notice shall-

~~b. Notice of the public hearing shall be given in accordance with Sec. 10.1.8.~~

b. Changes to the conditions may be made following City Council's receipt of the Planning Commission recommendation and before City Council acts to schedule the matter for public hearing, provided such revised conditions are signed by all of the property owners of the land proposed to be rezoned to a conditional use district and are submitted to City Planning at least 2 business days before the date the City Council acts to schedule the matter for public hearing.

4. Conduct of ~~Public~~ the Legislative Hearing

a. ~~At the public hearing, the Planning Director will explain or identify, by maps or otherwise, the location and area involved in the rezoning and explain the uses permitted in the proposed zoning district. If applicable, the conditions specified in the petition shall be discussed. The Planning Director shall provide a report describing the application, including analysis of the considerations listed in Sec. 10.2.4.F. as deemed appropriate.~~

b. The presiding officer shall open the legislative hearing. Those in favor of the rezoning will be allowed a total of 8 minutes to explain their support and those against the rezoning will be allowed a total of 8 minutes to explain their opposition. Additional time may be allowed by the City Council, but must be the same amount of time for

~~those in support and against if requested in advance of the public hearing. City Planning staff are not subject to the time limitation.~~

5. City Council Action

- a. ~~Following the public hearing, revisions~~ Revisions may be made to proposed conditions in conditional use rezoning and TCZ cases during the legislative hearing or within 30 days following the public hearing date on which the hearing is closed, provided that any change to any zoning condition is submitted to City Planning at least 10 calendar days before the date of the next meeting at which the City Council discussion of the application is scheduled. City Council meeting. Unless a new legislative hearing is noticed and held pursuant to Sec. 10.2.4.E.5.c., the application may only be revised to be more restrictive during this time period.
- b. ~~Following the public hearing, no changes to conditional zoning conditions permitted by the City Council may be made which are less restrictive, including but not limited to less setback, more dwelling units, greater height, more access points, new uses and fewer improvements. However, more restrictive conditions as well as a reduction in size of the zoning request and a change to a more restrictive zoning district may be made provided the revised conditional zoning conditions are signed by all owners of property covered by the public hearing zoning petition.~~
- e. ~~Signed conditions may be submitted by facsimile or electronic mail electronically so long as the original signed petition is received by the Planning Director at least 24 hours before the date of the meeting where final City Council action is taken; provided that the electronic signature is (1) unique to the person using it; (2) capable of certification; (3) under the sole control of the person using it; and (4) linked to the same page as the petition.~~
- d. ~~Before taking final action, the City Council may consider the recommendations of the Planning Commission and Planning Director and comments made at the public hearing.~~
- e. ~~The City Council, by a three fourths majority vote, may approve a proposed rezoning on first reading.~~
- f. ~~If a motion to approve receives a simple majority vote, a second reading of the ordinance is required at a subsequent meeting. With a simple majority vote, the request may be denied, referred to a City Council subcommittee, or referred back to the Planning Commission for additional consideration.~~
- c. Should the applicant wish to revise the zoning conditions to be less restrictive or revise the request to a less restrictive zoning district, the City council shall schedule a new legislative hearing and provide notice in accordance with the provisions of Sec. 10.2.1.C. The applicant shall be responsible for the cost of legal advertisement of the new legislative hearing. The City Council may, in its sole discretion, refer such an application to the Planning Commission before scheduling the new legislative

hearing. If the City Council refers an application that will be subject to a new legislative hearing back to the Planning Commission for review, the applicant shall conduct a neighborhood meeting in accordance with Sec. 10.2.4.C 2.

- d. When approving or denying any rezoning or TCZ, the City Council shall approve a brief
- ~~g. Approval by the City Council shall include the adoption of a statement describing whether the City Council considers the its action taken to be is consistent or inconsistent with the Comprehensive Plan and any other officially adopted plan that is applicable and briefly explaining why the action taken is reasonable and in the public interest.~~
- ~~h. For general use rezonings, the City Council shall consider all the potential uses and standards which would be allowed under the proposed rezoning. The City Council is not allowed to consider specific site plans or conditions as a basis for such a decision. Following the public hearing, general use rezonings may at the discretion of the City Council be reduced in acreage and height and the City Council may substitute, in whole or in part, a more restrictive zoning district.~~
- ~~i. All enactments, amendments and changes must be in the form of an ordinance. Copies of adopted city ordinances shall be kept on file at the office of the City Clerk.~~
- e. If a rezoning or TCZ is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending the future land-use map, and no additional request or application for a plan amendment shall be required.
- f. A statement analyzing the reasonableness of the proposed rezoning or TCZ shall also be approved by the City Council. This statement of reasonableness may consider, among other factors:
 - (i) the size, physical conditions, and other attributes of the area proposed to be rezoned;
 - (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community;
 - (iii) the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
 - (iv) why the action taken is in the public interest; and
 - (v) any changed conditions warranting the amendment.

- g. The statement of reasonableness and the plan consistency statement may be approved as a single statement.

GF. Considerations for Planning Director Review

The following is a non-exclusive list lists of considerations for the Planning Director's review and recommendations regarding Director may take into account when reviewing a rezoning or TCZ application are not all-inclusive. Review of zoning map amendments by the Planning Director may consider whether:

1. The proposed rezoning application corrects an error or meets the challenge of some changing condition, trend or fact;
2. The proposed rezoning application is generally consistent with the Comprehensive Plan;
3. The proposed rezoning application conflicts with any specific policy or action item of the Comprehensive Plan;
4. The proposed rezoning application is generally consistent with the Future Land Use Map;
5. The proposed rezoning application is generally consistent with the stated purpose and intent of this UDO;
64. The proposed rezoning application will reinforce the existing or planned character development pattern of the area;
75. The site is appropriate for the development allowed in the proposed district;
8. There are substantial reasons why the property cannot be used according to the existing zoning;
96. The application is reasonable and in the public interest;
7. The subject property is suitable for the proposed zoning;
10. There is a need for the proposed use at the proposed location;
11. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development; and
128. The proposed rezoning application will not have a significant adverse impact on property in the vicinity of the subject property.

H. Withdrawal or Modification of a Pending Application

No application for a proposed rezoning or TCZ can be withdrawn after the City Council authorizes it for a legislative public hearing. Following authorization for a public legislative

hearing for a proposed rezoning, no modification to the application may be made except as specifically allowed in ~~Sec. 10.2.4.F.5~~10.2.3.E.5.

IG. Time Lapse between Applications

1. Limitations Between Applications

- a. ~~Without special~~ In the absence of a special waiver approved by the City Council, the Planning Director is not authorized to accept an application for rezoning whenever an application for rezoning on the same property would be heard more than once at a public hearing within a 24-month period. But when the City Council decides not to authorize a public hearing, for the zoning petition, the 24-month waiting period shall be calculated from the date the zoning petition was first filed with City Planning. The increase or decrease of an area or other change in the request for rezoning does not negate this rule a rezoning or a TCZ on the same property that was the subject of an application advertised for a City Council legislative hearing unless the prior application was approved or 24 months has passed since the date of the withdrawal or denial of the prior application.
- b. ~~In cases, however, where a proposed rezoning has been applied for by the City or other non-owner of the subject property, heard and acted on, applications by individual property owners (for the return of their property to its former zoning classification) will be accepted within the 24-month period without prior City Council approval.~~
- c. ~~This 24-month period shall also not apply to a change in the underlying district when an application for an overlay district has been heard on the same property within a 24-month period or to a change in the overlay district when an application of the underlying district has been heard on the same property within a 24-month period.~~
- bd. The 24-month waiting period ~~shall~~ does not apply to any City Council-initiated rezoning, when such modifications involve:
 - i. ~~Re-adoption of the entire Official Zoning Map;~~
 - ii. ~~Application of zoning to implement an adopted small area plan;~~
 - iii. ~~Application of zoning to new extraterritorial jurisdiction areas; or~~
 - iv. ~~Application of zoning to annexed areas which were not previously subject to this UDO.~~
- e. ~~This 24-month period shall not apply to simultaneously submitted applications for rezoning. Zoning applications are simultaneous submitted when all of the following are met:~~
 - i. ~~Two or more zoning applications by different persons are filed for portions of the same property on the same work day and within one ½ hour of the first zoning filing on the property;~~

- ~~ii. No other earlier zoning application for portions of the same property have been filed with City Planning during the filing period under *Sec. 10.2.1.B.4.*; and~~
- ~~iii. Each simultaneous zoning application is complete without any errors or omissions. No additions or corrections to a zoning application shall be allowed to relate back in time to its initial submission with City Planning.~~
- ~~f. For simultaneous submitted applications for rezoning, City Planning is instructed to set the applications for the same public hearing date.~~

2. Special Waiver

~~Following a recommendation from the Planning Commission, the City Council may grant a special waiver of the 24-month waiting period for one or more of the following grounds:~~

- ~~a. Materially changed conditions circumstances;~~
- ~~b. Clerical correction as the basis for the previous rezoning;~~
- ~~c. Newly discovered evidence of adverse impact of the current zoning which by due diligence could not have been discovered in time for the earlier public hearing;~~
- ~~d. Substantially changed zoning request; or~~
- ~~e. The petition changes from a general use district request to a conditional use district request and specific conditions are submitted by all owners of the property, which represents a substantial change from the previous general use district request For any other circumstance determined by the City Council to be reasonable and in the public interest.~~

I. Modification of Previously-Approved Conditions or PD Master Plan

When a property has been rezoned into a conditional use district, including PD and CMP, the property owner can request subsequent modifications to the zoning conditions or Master Plan. Modifications can be minor or major; however, only PD and CMP districts are eligible for minor modifications.

1. Minor modifications to PD that can be administratively approved are described in *Sec. 4.7.6.A.*
2. Minor modifications to CMP that can be administratively approved are described in *Sec. 4.6.4.A.*
3. If multiple parcels or land are subject to a conditional zoning, the owners of individual parcels may apply for modification of the conditions so long as the modification would not result in other properties failing to meet the terms of the conditions. Any modifications approved shall only be applicable to those properties whose owners petition for the modification.

4. Modification that do not qualify as minor are major and shall require a new zoning or TCZ application.

Section 5. Article 12.2 of the Part 10 Raleigh Unified Development Ordinance, Defined Terms – Planning Director, is hereby amended by adding the following language shown in the underlined and removing the language shown in strikethrough:

Planning Director

The chief administrator as designated by the City Manager to implement and administer the Department of City Planning and the UDO. This term shall be deemed to include the Planning Director or designee.

Section 6. In the sections of Part 10 of the Raleigh Unified Development Ordinance listed in the table below, reference to the term “conditional use” shall be edited as described in the table below:

ORDINANCE SECTION	PAGE NUMBER	EXISTING TEXT	PROPOSED TEXT AMENDMENT
1.1.8.B	1-3	If for any reason any specific condition or regulation of a conditional use zoning district ordinance is found to be invalid, it is the intention of this section that such invalidity shall not affect other provisions or applications of the conditional use zoning district ordinance. However, when any property owner or their tenant or agents challenge any specific condition or regulation of a conditional use zoning district ordinance, then the entire zoning district ordinance shall return to its prior zoning classification upon a finding of invalidity of any specific condition or regulation.	If for any reason any specific condition or regulation of a conditional use zoning district ordinance is found to be invalid, it is the intention of this section that such invalidity shall not affect other provisions or applications of the conditional use zoning district ordinance. However, when any property owner or their tenant or agents challenge any specific condition or regulation of a conditional use zoning district ordinance, then the entire zoning district ordinance shall return to its prior zoning classification upon a finding of invalidity of any specific condition or regulation.
1.2.3.B.	1-5	The UDO height, setback, parking, landscaping and	The UDO height, setback, parking, landscaping and

		screening regulations when more stringent than in the conditional use zoning district ordinance are controlling. The calculation of height, setback and parking shall be in accordance with the UDO.	screening regulations when more stringent than in the conditional use zoning district ordinance are controlling. The calculation of height, setback and parking shall be in accordance with the UDO.
1.2.3.D	1-5	If the conditional use zoning ordinance limits uses to a former legacy zoning district, those use limitations shall continue except if the former allowed use is not allowed in the new UDO general use zoning district. Limited uses and special uses will be determined by the UDO general use district.	If the conditional use zoning ordinance limits uses to a former legacy zoning district, those use limitations shall continue except if the former allowed use is not allowed in the new UDO general use zoning district. Limited uses and special uses will be determined by the UDO general use district.
1.3.4.	1-7	The following districts are referred to as legacy districts. These districts exist in the Part 10 Zoning Code, and will eventually be replaced with a UDO zoning district. No new legacy district may be added to the Official Zoning Map, nor may any boundary of an existing legacy district be modified. These legacy districts may exist as a general use district or as a conditional use district.	The following districts are referred to as legacy districts. These districts exist in the Part 10 Zoning Code, and will eventually be replaced with a UDO zoning district. No new legacy district may be added to the Official Zoning Map, nor may any boundary of an existing legacy district be modified. These legacy districts may exist as a general use district or as a conditional use -district.
6.1.5.B.	6-7	Any use prohibited by an applicable conditional use zoning district;	Any use prohibited by an applicable conditional use zoning district;
8.2.2.F.4.	8-6	The site is mapped with a conditional use district	The site is mapped with a conditional use -district

		approved within the prior 20 years that includes a trip budget as a zoning condition; or	approved within the prior 20 years that includes a trip budget as a zoning condition; or
8.3.1.D	8-8	A conditional use zoning applicant may in accordance with Sec 10.2.4 E.2 offer zoning conditions and supporting documents sufficient to demonstrate to the City Council that development plans submitted to the City will provide for safe, efficient and convenient vehicular, bicycle and pedestrian circulation.	A conditional use -zoning applicant may in accordance with Sec 10.2.4 E.2 offer zoning conditions and supporting documents sufficient to demonstrate to the City Council that development plans submitted to the City will provide for safe, efficient and convenient vehicular, bicycle and pedestrian circulation.
8.3.2.A.1.	8-8	The block perimeter standards apply to preliminary subdivision plans, final plats and site plans submitted in accordance with Sec. 10.2.5. and Sec. 10.2.8 unless modified by a zoning condition contained in an adopted conditional use zoning ordinance.	The block perimeter standards apply to preliminary subdivision plans, final plats and site plans submitted in accordance with Sec. 10.2.5. and Sec. 10.2.8 unless modified by a zoning condition contained in an adopted conditional use zoning ordinance.
8.3.4.C.	8-10	Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance the regulations in subsection C shall apply.	Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance the regulations in subsection C shall apply.
8.3.5.C.2.	8-12	Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance the regulations in subsection C.2 shall apply.	Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance the regulations in subsection C.2 shall apply.

8.3.5.C.3.	8-12	Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance the regulations in subsection C.3 shall apply.	Unless modified by a zoning condition contained in an adopted conditional use zoning ordinance the regulations in subsection C.3 shall apply.
9.4.6.C.	9-39	No permit authorized by this UDO shall be issued until the boundaries encompassing a work site adjacent to any -FWPOD, -SWPOD, watercourse natural resource buffer, trout water buffer, watercourse natural resource buffers in a -MPOD or in a CM District, a high-quality water zone, any tree protection limits of any -MPOD, CM and -SHOD- or any area where vegetation is required to be maintained by a conditional use district or an approved site plan are clearly and accurately demarked by a protective fence in the field. The location and extent of all authorized land-disturbing activities shall be similarly demarcated for so long as any land-disturbing activity continues.	No permit authorized by this UDO shall be issued until the boundaries encompassing a work site adjacent to any -FWPOD, -SWPOD, watercourse natural resource buffer, trout water buffer, watercourse natural resource buffers in a -MPOD or in a CM District, a high-quality water zone, any tree protection limits of any -MPOD, CM and -SHOD- or any area where vegetation is required to be maintained by a conditional use -district or an approved site plan are clearly and accurately demarked by a protective fence in the field. The location and extent of all authorized land-disturbing activities shall be similarly demarcated for so long as any land-disturbing activity continues.
12.2	12-14	Mixed Use District The following general use or conditional use zoning districts: Residential Mixed Use (RX)-, Office Park (OP-), Office Mixed Use (OX-), Neighborhood	Mixed Use District The following general use or conditional use -zoning districts: Residential Mixed Use (RX)-, Office Park (OP-), Office Mixed Use (OX-), Neighborhood Mixed Use

		Mixed Use (NX-), Commercial Mixed (CX-), Downtown Mixed Use (DX-) and Industrial Mixed Use (IX-).	(NX-), Commercial Mixed (CX-), Downtown Mixed Use (DX-) and Industrial Mixed Use (IX-).
12.2	12-15	Open Space Area Primarily vegetated areas where development is restricted and no additional impervious surface may be placed without first obtaining a permit from the City. The following are open space areas: active or passive open space areas, greenways, public parks, natural protective yards set forth in conditional use zoning districts and permanently protected undisturbed open space areas.	Open Space Area Primarily vegetated areas where development is restricted and no additional impervious surface may be placed without first obtaining a permit from the City. The following are open space areas: active or passive open space areas, greenways, public parks, natural protective yards set forth in conditional use zoning districts and permanently protected undisturbed open space areas.
12.2	12-17	Residential District The following general use and conditional use zoning districts: Residential-1 (R-1), Residential-2 (R-2) Residential-4 (R-4), Residential-6 (R-6) and Residential-10 (R-10). Includes Manufactured Housing (MH).	Residential District The following general use and conditional use zoning districts: Residential-1 (R-1), Residential-2 (R-2) Residential-4 (R-4), Residential-6 (R-6) and Residential-10 (R-10). Includes Manufactured Housing (MH).
12.2	12-17	Resource Management District The following general use, conditional use zoning and overlay zoning districts: Conservation Management (CM), Metro-Park Protection	Resource Management District The following general use, conditional use zoning and overlay zoning districts: Conservation Management (CM), Metro-Park Protection Overlay District (-MPOD), Special Highway

		Overlay District (-MPOD), Special Highway Overlay District-1 (-SHOD-1) and Special Highway Overlay District-2 (-SHOD-2).	Overlay District-1 (-SHOD-1) and Special Highway Overlay District-2 (-SHOD-2).
12.2	12-18	Special District The following general use and conditional use zoning districts: Conservation Management (CM), Agricultural Productive (AP), Heavy Industrial (IH), Manufactured Home Park (R-MP) and Campus (CMP).	Special District The following general use and conditional use zoning districts: Conservation Management (CM), Agricultural Productive (AP), Heavy Industrial (IH), Manufactured Home Park (R-MP) and Campus (CMP).
12.2	12-21	Undisturbed Area An area free of any tree disturbing activity except the planting of required landscaping and plantings required by conditional use zoning requirements.	Undisturbed Area An area free of any tree disturbing activity except the planting of required landscaping and plantings required by conditional use zoning requirements.

Section 7. This text change has been reviewed by the Raleigh Planning Commission.

Section 8. This ordinance has been adopted following a duly advertised legislative hearing of the Raleigh City Council.

Section 9. This ordinance has been provided to the North Carolina Capital Planning Commission as required by law.

Section 10. This ordinance shall be enforced as provided in N.C.G.S. 160A-175 or as provided in the Raleigh City Code. All criminal sanctions shall be the maximum allowed by law notwithstanding the fifty-dollar limit in N.C.G.S. 14-4(a) or similar limitations.

Section 11. This ordinance is effective thirty (30) days after adoption.

ADOPTED:

EFFECTIVE:

DISTRIBUTION: