

3.4 CONDITIONAL REZONING

3.4.1 Intent

- A. A conditional zoning district is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or special use, on small and large scale projects.
- B. All uses listed as part of any application must be in the same format and description as listed in the Table of Permitted Uses.
- C. The following zoning district categories are approved to be assigned conditional zoning districts: RA, PD, RP, RM, GB, OI, IT, GI (Reference Article 4 for Zoning District Descriptions).

3.4.2 Application

- D. Except as provided herein, all applications to establish a conditional zoning district must follow the regulations prescribed in this Section in addition to the standard rezoning process as described in Section 3.3 of this Ordinance.
- E. Contents of Application
 - 1) All applications which specify an intended use must include a generalized site development plan drawn to a suitable scale, supporting information and text which specifies the use or uses intended for the property and any development standards to be approved concurrently with the rezoning application.
 - 2) The generalized site development plan shall include the following items:
 - a) A vicinity map drawn to a suitable scale which illustrates adjacent or nearby roadways, railroads, waterways and public facilities
 - b) A (metes and bounds) boundary of the parcel or portion of the parcel to be rezoned and developed
 - c) All existing easements, reservations and rights of way
 - d) Delineation of all Areas of Environmental Concern including but not limited to federal jurisdictional wetlands
 - e) For residential uses, the number of units, heights and a generalized location. For non-residential uses, the height, approximate footprint and location of all structures.
 - f) If a known use is proposed: Traffic impact report, parking and circulation plans illustrating dimensions, intersections and typical cross sections
 - g) All proposed setbacks, buffers, screening and landscaping
 - h) Phasing
 - i) Signage
 - j) Outdoor lighting
 - k) Current zoning district designation and current land use status
 - l) Other information deemed necessary by the Administrator, Planning Board, or Board of Commissioners, including but not limited to a Traffic Impact Analysis or other report from a subject matter expert

3.4.3 Public Input Meeting

- F. Prior to scheduling a public hearing on the rezoning application, the applicant must conduct one public input meeting and file a report of the results with the Administrator.
- G. The report for the public hearing will include a summary of the public input meeting.
- H. The applicant shall mail a notice for the public input meeting to adjoining property owners not less than ten (10) days prior to the scheduled meeting.

- I. The notice shall include the time, date and location of the meeting as well as a description of the proposal.
- J. The applicant's report of the meeting shall include:
 - 1) A copy of the letter announcing the meeting
 - 2) A list of adjoining property owners contacted
 - 3) An attendance roster
 - 4) A summary of the issues discussed
 - 5) The results of the meeting including changes to the project's proposal, if any

3.4.4 Review

- K. When evaluating an application for the creation of a conditional zoning district, the Planning Board and Board of Commissioners shall consider the following:
 - 1) The application's consistency to the general policies and objectives all adopted Land Use Plans and Unified Development Ordinance.
 - 2) The potential impacts and/or benefits on the surrounding area, adjoining properties.
 - 3) The report of results from the public input meeting.

3.4.5 Conditions to Approval of Petition

- L. In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend, and the Board of Commissioners' request that the applicant add reasonable and appropriate conditions to the approval of the petition.
- M. Any such conditions should relate to the relationship of the proposed use to the impact on County services and capital plans adopted, 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 participants in the public input meeting, staff, Planning Board and County Commission find appropriate or the petitioner may propose. Such conditions to approval of the petition may include right-of-way dedication to the state, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.
- N. The petitioner shall consider and respond to any such conditions after the Planning Board meeting and within three (3) days prior to the staff report for the County Commission being published. If the applicant does not agree with the Planning Board or staff's recommendations of additional conditions, the County Commission shall have the authority to accept any or all of the conditions forwarded from the review process.
- O. If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted to rezone the property to its previous zoning classification.

3.4.6 Effect of Approval

- P. 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 classification, the approved general development 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.

- Q. 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 "RP-CD").
- R. The general development plan does not substitute for an approved master plan as required in the applicable zoning district.
- S. No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and site plan for the district.
- T. Any violation of the approved site plan or any rules, regulations and conditions for the district shall be treated the same as any other violation of this Chapter and shall be subject to the same remedies and penalties as any such violation.

3.4.7 Alterations to Approval

- U. Except as provided in subsection 2 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 Article.
 - 1) The Administrator shall have the delegated authority to approve an administrative amendment to an approved site plan. The Administrator shall have no authority to amend the conditions of approval of a petition. The standard for approving or denying such a requested change shall be that the change does not significantly alter the approved site plan 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.
 - 2) The Administrator has the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standard or because a rezoning petition for a public hearing and County Commission consideration is deemed appropriate under the circumstances. If the Administrator declines to exercise this authority, then the applicant can amend the conditions of the original application by filing a new rezoning petition for a public hearing with Planning Board review and County Commission decision.
 - 3) Any request for an administrative amendment shall be pursuant to a written letter, signed by the property owner, detailing the requested change. Upon request, the applicant must provide any additional information that is requested. 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 Administrator.

3.4.8 Review of Approval of a Conditional Zoning District

- V. 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 (3) years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval.
- W. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the County Commission a report which may recommend that the property be rezoned to its previous zoning classification or to another district.