



# Conditional Zoning

March 9<sup>th</sup>, 2021  
Miles Murphy – Senior Planner

# Background

- State Statute changes from 153/160A to 160D for Zoning
- Conditional Use Permits are no longer permitted – changing to Special Use Permits or Conditional Zoning
- Transitioning all CUP Uses to Conditional Zoning (CZ)
- Reviewing Table of Permissible Uses at a future date, based on TC direction, to reassess which uses require additional scrutiny and which uses should be permitted by right

# Legislative (Conditional Zoning) vs QJ (CUP/SUP)

	<b>Legislative</b>	<b>Quasi Judicial</b>
<b>Notice of Hearings</b>	Both newspaper notice and mailed notice to owners and neighbors are required. Additional Public Scoping Meeting	Only notice to parties to the matter is required unless ordinance mandates otherwise.
<b>Speakers at Hearings</b>	No limit based on standing, reasonable time limits and limit related to repetition	Witnesses presenting testimony can be limited to relevant evidence that is not repetitious.
<b>Evidence</b>	<b>None is required</b>	Substantial, competent, material evidence must be put in the record; witnesses are under oath, subject to cross-examination
<b>Findings</b>	<b>None are required</b>	Written findings of fact are required.
<b>Records</b>	Regular minutes are satisfactory	Detailed record of testimony is required; clerk should retain all exhibits during period of potential appeal.

# Public Meeting (optional but recommended by staff)

- Opportunity for project to be announced to community prior to officially applying to the Town and staff going through standard notification processes for P&Z and TC
- Chance for discussion without requirements of public hearing regulations or Town staff
  - Dialogue between citizens and applicant about the specific project
  - May be attended by board members if they choose (no QJ limitations)
- Details of meeting are a required part of the submission to staff
  - Meeting Announcement
  - Adjacent Owners Contacted
  - Attendance Log
  - Basic minutes
  - Changes to project from meeting discussions noted
- Allows for dialogue, transparency, and compromise
- Wilmington, Pender, Greensboro, and many other communities require the meeting between Applicant and Public

# Staff Recommendation

Staff recommends approval of the Text Amendment

Planning and Zoning voted 7-0 in favor of the Text Amendment – including the public meeting

# Amend Chapter 40, Article III, Sec. 40-71, 72 and Article XVII, Sec. 40-527

- (1) It is recommended that Town Council open the public hearing for comments.
- (2) Close the public hearing
- (3) Consider approval or denial of the proposal and make a motion according to the appropriate statement.

## New Statutory Requirements

The General Assembly amended G.S. 153A-341 and 160A-383 to add more specificity to the law regarding the mandated plan consistency statements. The amended statute still requires approval of a statement and the statement still must describe plan consistency and explain why the proposed action is **reasonable and in the public interest**. However, the form of the required statement has changed. The statement must take one of three forms:

- A Statement of Approval – The Council, whereas in accordance with the provisions of the NCGS 160A-383, does hereby find and determine that the adoption of a Text Amendment: To amend Chapter 40 Zoning, Article III, Sec. 40-71, 72 and Article XVII, Sec. 40-527 to adopt conditional zoning, in the Town of Carolina Beach, it is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans. (If applicable - List any recommended restrictions or requirements)
- A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.
- A Statement of Denial – Town Council deny the adoption of the following ordinance amendment based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long range planning documents.

# Action

Approval - whereas in accordance with the provisions of the NCGS, the Commission does hereby find and determine that the adoption of the following ordinance amendment to Chapter 40, Article III, Sec. 40-71, 72 and Article XVII, Sec. 40-527 is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans or

- A statement approving the proposed amendment and declaring that this also amends the plan, along with an explanation of the change in conditions to meet the development needs of the community that were taken into account in the zoning amendment.

Denial - based on inconsistencies with the goals and objectives of the adopted Land Use Plan and/or other long-range planning documents.