

PUBLIC HEARING



To: Town Council

From: Travis Morgan

Date: 3/10/2026

Re: **Text Amendment 2026-01 to amend the Pineville Zoning Ordinance regarding Conditional Rezoning process** (*Public Hearing/Action Item*)

REQUEST:

A text amendment to update the Pineville Zoning Ordinance regarding the process for Conditional Rezoning developments in accordance with State Statute 160D-604 to include Planning Board input for zoning map changes (rezonings).

PLANNING BOARD:

Planning Board had comment to add additional details regarding the community meeting specifics with a noted preference for the meeting to be held in person and revised or removed 2.6.5 second paragraph 4th sentence. (since revised)

STAFF COMMENT:

Planning Board recommendations have been included. It has come to our attention that a Zoning Ordinance text amendment is needed for Conditional Rezoning procedures. Process for regular conditional site plans remains the same but Planning Board input is recommended in light of NC General Statutes required process for anything regarding rezoning map changes. Recommended changes are to incorporate Planning Board review and recommendations into the Conditional Rezoning process. Other municipalities vary on the timing of the public hearing. Some hold the public hearings first then send to the Planning Board and Town council meetings. Since the general public expectation here seems to be having a final vote directly after the public hearing, we kept the timing the same for consistency. See below existing and proposed ordinance as well as the excerpt from NCGS:

EXISTING ORDINANCE:

2.6 Conditional zoning and Conditional rezoning

2.6.5 General Procedure

Conditional zoning proposals must be approval by the Town Council prior to the issuance of any zoning land development permit approval by the Planning Director. Procedures for securing a conditional approval shall be observed in accordance with this Ordinance. The general steps shall be as follows:

- A) Pre-Submittal meeting (Town sponsored requests are excluded)
- B) A completed application and fee submitted by the applicant (Town sponsored requests are excluded)
- C) Council workshop meeting(s) are held
- D) A public hearing is held
- E) A vote from Town Council

Conditional zoning shall follow legislative process. Pineville Town Council alone shall vote on all conditional zoning or conditional rezoning proposals. In approving a conditional zoning proposal, Town Council and the applicant shall mutually agree on the proposal details and conditions for the agreement to be binding. Any such conditions should relate to the relationship of the proposed use to both within the property and to surrounding property, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, design standards, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Town Council may find appropriate. Excluding zoning use classifications, Town Council may approve development details and conditions that are more or less restrictive than requirements found in any Town Ordinance.

If a petition for conditional zoning is approved, the development and use of the property shall be governed by this zoning ordinance, requirements of applicable required building code, fire code, stormwater and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved conditional plan and are binding on the property as an amendment to these regulations and to the zoning maps.

2.6.6 Procedure Detail

- A) Pre-submittal meeting per §2.3.5
- B) A complete application must be submitted to the Planning Director at least 30 days prior to any public hearing.
- C) A quorum of voting members must be present for any meeting
- D) Informational workshop meeting is held and may be continued to additional meetings.
- E) Revised proposals following any meeting must be deemed complete with any additional or clarified information submitted to the Planning Director with enough time for required advertising and planning staff to prepare a summary report to Town Council ahead of the next scheduled meeting date. If these requirements are not met, the petitioner's case will be deferred.
- F) Public Hearing to be held with the Town Council. Notification of the public hearing shall be made in the following manner:

Hearing with Published Notice. - Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Mailed Notice. - This ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of this Chapter. The owners of

affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax records. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

Optional Notice for Large-Scale Zoning Map Amendments. - The first-class mail notice required under this ordinance shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the local government elects to use the expanded published notice provided for in this subsection. In this instance, a local government may elect to make the mailed notice provided for in this section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of this ordinance.

Posted Notice. - When a zoning map amendment is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

Actual Notice. - Except for a government-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the local government that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the local government that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

Optional Communication Requirements. - When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents.

G) Additional Meeting.

The Town Council shall have the authority to call for additional or extend public hearings on any proposal brought before them.

H) Council Vote.

PROPOSED ORDINANCE:

2.6 Conditional zoning and Conditional rezoning

2.6.5 General Procedure

Conditional zoning proposals must be approved by the Town Council prior to the issuance of any zoning land development permit approval by the Planning Director. Conditional rezonings shall also include the Planning Board. Procedures for securing a conditional approval shall be observed in accordance with this Ordinance. The general steps shall be as follows:

- A) Pre-Submittal meeting (Town sponsored requests are excluded)
- B) A completed application and fee submitted by the applicant (Town sponsored requests are excluded)
- C) **Community Meeting (conditional rezonings only)**
- D) **Planning Board meeting is held (for conditional rezonings only)**
- E) Council workshop meeting(s) is held
- F) A public hearing is held at the Town Council meeting
- G) A vote from Town Council occurs at the Town Council meeting

Conditional zoning shall follow the legislative process. **Pineville Town Council shall hear conditional zoning proposals. Pineville Town Council and Planning Board shall hear conditional rezonings. Planning Board shall provide input to Town Council in writing within 30 days of referral to the Planning Board for that input to be considered. Town Council may proceed in considering a proposal if the Planning Board does not provide a recommendation within the allotted time.** In approving a conditional zoning or conditional rezoning proposal, Town Council and the applicant shall mutually agree on the proposal details and conditions for the agreement to be binding. Any such conditions should relate to the relationship of the proposed development to both within the property and the properties relationship to adjacent properties. Proposed development elements should include, but not limited to: parking areas, driveways, pedestrian and vehicular circulation systems, sidewalks, lighting, screening and buffer areas, design standards, density, height, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the Town Council may find appropriate. Excluding zoning use classifications, Town Council may approve development details and conditions that are more or less restrictive than requirements found in any Town Ordinance.

If a petition for conditional zoning or conditional rezoning is approved, these conditions and requirements shall be required along with all other standard Town ordinances unless specifically documented and agreed upon as part of the conditional process. Conditional approvals relate to Town zoning only. All Town conditional approvals do not modify, alter, or cancel other applicable

development requirements such as building code, fire code, engineering, state requirements, permits, or similar.

2.6.6 Procedure Detail

- A) Pre-submittal meeting per §2.3.5
- B) A complete application must be submitted to the Planning Director at least 30 days prior to any public hearing. The determination of whether an application is complete shall be made by the Planning Director.
- C) A quorum of voting members must be present for any meeting
- D) The developer or their representative shall hold a community meeting prior to the Planning Board meeting for citizen input.
- E) Planning Board shall hold a meeting within 30 days of a referral from staff. Planning Board to forward any recommendations to Town Council during this time. (Conditional Rezonings only)
- F) Informational workshop meeting is held with Town Council and may be continued to additional meetings.
- G) Revised proposals following any meeting must be deemed complete with any additional or clarified information submitted to the Planning Director with enough time for required advertising and planning staff to prepare a summary report to Town Council ahead of the next scheduled meeting date. If these requirements are not met, the petitioner's case will be deferred to the next Town Council meeting.
- H) Public Hearing to be held with the Town Council. Notification of the public hearing shall be made in the following manner:

Hearing with Published Notice. - Before adopting, amending, or repealing any ordinance or development regulation authorized by this Chapter, the governing board shall hold a legislative hearing. A notice of the hearing shall be given once a week for two successive calendar weeks in a newspaper having general circulation in the area. The notice shall be published the first time not less than 10 days nor more than 25 days before the date scheduled for the hearing. In computing such period, the day of publication is not to be included but the day of the hearing shall be included.

Mailed Notice. - This ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of this Chapter. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel of land shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax records. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-202, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance, the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

Optional Notice for Large-Scale Zoning Map Amendments. - The first-class mail notice

required under this ordinance shall not be required if the zoning map amendment proposes to change the zoning designation of more than 50 properties, owned by at least 50 different property owners, and the local government elects to use the expanded published notice provided for in this subsection. In this instance, a local government may elect to make the mailed notice provided for in this section or, as an alternative, elect to publish notice of the hearing as required by G.S. 160D-601, provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that publishes the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified according to the provisions of this ordinance.

Posted Notice. - When a zoning map amendment is proposed, the local government shall prominently post a notice of the hearing on the site proposed for the amendment or on an adjacent public street or highway right-of-way. The notice shall be posted within the same time period specified for mailed notices of the hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required but the local government shall post sufficient notices to provide reasonable notice to interested persons.

Actual Notice. - Except for a government-initiated zoning map amendment, when an application is filed to request a zoning map amendment and that application is not made by the landowner or authorized agent, the applicant shall certify to the local government that the owner of the parcel of land as shown on the county tax listing has received actual notice of the proposed amendment and a copy of the notice of the hearing. Actual notice shall be provided in any manner permitted under G.S. 1A-1, Rule 4(j). If notice cannot with due diligence be achieved by personal delivery, certified mail, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2), notice may be given by publication consistent with G.S. 1A-1, Rule 4(j1). The person or persons required to provide notice shall certify to the local government that actual notice has been provided, and such certificate shall be deemed conclusive in the absence of fraud.

Communication Requirements. - When a zoning map amendment is proposed, a zoning regulation may require communication by the person proposing the map amendment to neighboring property owners and residents and may require the person proposing the zoning map amendment to report on any communication with neighboring property owners and residents.

- I) **Additional Meeting.**
The Town Council shall have the authority to call for additional or extend public hearings on any proposal brought before them.
- J) **Council Vote.**

2.6.7 Community Meeting (subsequent ordinance numbers will be adjusted)

A. *Purpose.* The purpose of the community meeting is to inform landowners and occupants of nearby property about a development proposal that is going to be reviewed under this Ordinance, and to provide the applicant an opportunity to hear comments and concerns and to address or revise the proposal prior to the public hearing process. The community meeting is proposed to help identify and resolve potential conflicts in a more informal context prior to a public hearing.

B. *Applicability.*

1. Community meetings shall be required for developments where specified in this ordinance.
2. A neighborhood information meeting is optional for any other proposed development application.

C. *Procedure.* In cases when a neighborhood meeting is conducted, it shall comply with the following procedure:

1. *Timing.*

- a. The meeting should be held at a time of day when the maximum number of neighbors may attend.
- b. The Planning Director must be notified not less than five working days prior to the community meeting day. Planning Director must confirm receipt of notification.
- c. The meeting must be completed with all information and written summary provided by the applicant before the next zoning procedural step.

2. *Form.*

- a. The applicant shall arrange, coordinate, lead, and provide summary of the meeting.
- b. Multiple meetings may take place following the same process.

3. *Location.*

- a. The neighborhood meeting shall take place live in person at a public or community space as close as possible to the site where development is proposed.
- b. In the event no public or community space is suitable, the meeting may take place at another Town-owned site, subject to a prior reservation made by the applicant.

4. *Notification.*

- a. The applicant shall provide notification of the community meeting via first class mail to all adjacent landowners and occupants of the outer perimeter of the site where development is proposed including across railroad, highways, and similar. Where an HOA exists the adjacent HOA should be notified as well.
- b. Mailed notice shall be provided no less than ten days prior to the date of the neighborhood meeting.

5. *Information Provided.* The applicant shall provide the following information in the neighborhood meeting invitation:

- a. The purpose of the neighborhood meeting;
- b. A description of the proposed development;
- c. The time, date, and location of the meeting;
- d. Telephone and email contact information for the applicant or applicant's representative; and
- e. Any additional information that would promote understanding of the development proposal.

- f. A note that this is an initial developer meeting for input and is not a town hosted public hearing and what the procedural next steps will be.
 - e. Any standardized Town form to assist with information or requirements
6. *Conduct of Meeting.* At the meeting, the applicant shall explain the development proposal and the proposed application, respond to questions and concerns neighbors raise about the application, and propose ways to resolve conflicts and concerns.
7. *Staff Attendance.* Town staff shall not attend a neighborhood meeting in a professional capacity. Nothing shall limit Town staff from attending and documenting meeting notes or as an interested citizen
8. *Written Summary.* The applicant shall submit a written summary of the neighborhood meeting with the application materials. At a minimum, the written summary shall include all of the following:
- a. An affidavit of mailing listing all parties (including mailing address) who were mailed a meeting invitation;
 - b. A copy of the meeting invitation;
 - c. A list of names and addresses invited to the meeting
 - d. A sign-in sheet of meeting attendees; and
 - e. A meeting summary and items discussed, including any questions posed by attendees and the answers provided.

NORTH CAROLINA GENERAL STATUTES

§ 160D-604. *Planning board review and comment.*

(b) Zoning Amendments. - Subsequent to initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

(c) Review of Other Ordinances and Actions. - Any development regulation other than a zoning regulation that is proposed to be adopted pursuant to this Chapter may be referred to the planning board for review and comment. Any development regulation other than a zoning regulation may provide that future proposed amendments of that ordinance be submitted to the planning board for review and comment. Any other action proposed to be taken pursuant to this Chapter may be referred to the planning board for review and comment.

(d) Plan Consistency. - When conducting a review of proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive or land-use plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent with the comprehensive or land-use plan shall not preclude consideration or approval of the proposed amendment by the governing board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the recommendation made.

(e) Separate Board Required. - Notwithstanding the authority to assign duties of the planning board to the governing board as provided by this Chapter, the review and comment required by this section shall not be assigned to the governing board and shall be performed by a separate board. (2019-111, s. 2.4; 2020-3, s. 4.33(a); 2020-25, s. 51(a), (b), (d); 2021-88, s. 1(c).)

ACTION:

This is the public hearing to consider the attached proposed text amendment public and your feedback, clarification, or any proposed modifications. This follows normal legislative process. After the close of the public hearing, you may vote on the proposal. Staff finds the proposal consistent with adopted plans and policies in keeping our ordinances accurate and updated.