

## Quick Guide: Zoning Map Amendments and the Comprehensive Plan

A citizen submitting a rezoning petition is asking for an amendment to the City's Zoning Code, specifically the Zoning Map. When the City Council acts to approve a map amendment, it is acting in a legislative (or law-making) capacity. As with any change in the law, it is the duty of the City Council and Administration to consider the impact of the change on the public's health, safety and welfare. Further, North Carolina's zoning enabling statute explicitly links zoning and comprehensive planning. The following Quick Guide is intended to provide guidance to petitioners and interested citizens regarding:

- The legal basis for zoning decisions
- The respective roles of the City Council, Planning Commission, and City staff
- How City staff analyze zoning map amendments
- How the Comprehensive Plan influences zoning policy

### THE ZONING MAP AND STATE LAW

Municipalities are granted the power to zone under Chapter 160A of the General Statutes of North Carolina. Zoning districts can be "general use," permitting all uses listed in the zoning code for the zoning district; or "conditional use," where certain uses can be prohibited and additional conditions incorporated into the zoning district. Only property owners can initiate a conditional use rezoning, and must voluntarily offer any conditions. Conditional use rezonings comprise the overwhelming majority of rezoning petitions in Raleigh, as they allow impacts related to the rezoning to be addressed up front, and therefore are more likely to gain approval.

The enabling statutes states that "zoning regulations shall be made in accordance with a Comprehensive Plan." When recommending an amendment to the zoning map, the Planning Commission must include commentary regarding the consistency of the amendment with the Comprehensive Plan. The City Council must do the same when adopting the amendment, and must also include a statement as to why the amendment is reasonable and in the public interest. The Council has the authority to approve a map amendment that is inconsistent with the Plan. However, inconsistency imposes a higher burden on the petitioner to show that the change is reasonable and in the public interest.

The enabling statute also states that zoning districts should reflect "the character of the district and its peculiar suitability for particular uses." Among the statutory purposes of zoning are providing adequate light and air; preventing the overcrowding and undue concentration of population; lessening congestion in the streets; providing for the efficient and adequate provision of public services and infrastructure; conserving the value of buildings; and encouraging the most appropriate use of land.

### ROLES OF THE CITY COUNCIL, PLANNING COMMISSION, AND CITY STAFF

Amending the zoning map is a change in the law, and requires a vote of the elected officials of the City Council. The Council refers all rezoning petitions to the Planning Commission, an appointed body, for review and recommendation. City Staff analyze the petition and provide a report that sets forth staff's conclusions regarding whether the proposal is consistent or inconsistent with the Comprehensive Plan, what impacts may be generated as a result of the proposal, and how it relates to the purposes of zoning. Staff's role is to provide decision-makers at the Planning Commission and City Council with the information and analysis necessary to make a sound decision to approve or deny the petition.

## STAFF ANALYSIS AND REPORTS ON REZONING PETITIONS

Staff prepares a report for every rezoning petition, which becomes the basis for the Planning Commission's Certified Recommendation to City Council to approve or deny the petition. The staff reports contain four broad groups of information and analysis, each grounded in the purposes of zoning as set forth in the enabling statute:

- Background on the requested change, including anticipated development yields under the prior and proposed zoning, the size and location of the tract, a zoning history, and other relevant information.
- An analysis of the consistency of the proposed rezoning with the Comprehensive Plan, including the Future Land Use Map and applicable Plan policies.
- An analysis of the compatibility of the proposed zoning with the character of the surrounding area, and the benefits and detriments to the public interest.
- The identification of any impacts to public infrastructure, including roads, utilities, parks and schools.

## COMPREHENSIVE PLAN AND ZONING CONSISTENCY

It is the adopted policy of the City that zoning map amendments should be consistent with the Comprehensive Plan. Inconsistent amendments should only be approved for compelling reasons, and may result in a subsequent amendment to the Comprehensive Plan.

Staff's consistency analysis includes two components. The first is to check the proposed map amendment against the Future Land Use Map, which provides generalized guidance regarding appropriate uses and densities for the City's entire jurisdiction. The second is to review the amendment against relevant plan policies. As stated in the Comprehensive Plan, "the future land use categories should not be interpreted to support nor preclude developments without consideration of the policies and intent of the Comprehensive Plan." Any offered zoning conditions are part of the analysis.

The Comprehensive Plan draws a distinction between "guiding" policies, intended to guide City decisions; and "prescriptive" policies, which are intended to influence private sector actions and are typically worded as "should" statements. While both kinds play a part in a consistency analysis, a finding of inconsistency will only be made when a proposed amendment fails to abide by one or more prescriptive policies. Implementing a guiding policy argues positively for consistency, but failure to implement such a policy does not count towards inconsistency.

Occasions may arise when doing more of what one policy asks requires doing less of what another policy recommends. Decision makers must exercise judgment when weighing such tradeoffs. The Comprehensive Plan provides the following guidance for such situations: "When weighing competing objectives, greater weight should be given to achieving overall policy objectives on an area- and city-wide scale rather than a site-specific scale, and decision-makers should consider the cumulative impacts of making a number of similar decisions over time."

A summary list of prescriptive policies has been prepared. A link to the document, entitled "Zoning and Development Plan Policy Guide," is on the Comprehensive Plan web page at [www.raleighnc.gov/cp](http://www.raleighnc.gov/cp).

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