

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 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 analyzes 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 North Carolina General Statutes. Zoning districts can be "general use," permitting all uses listed in the zoning code for the district; or "conditional use," where certain uses can be prohibited and additional restrictions can be incorporated. Only property owners can initiate a conditional use rezoning, and must voluntarily offer conditions. Conditional use rezonings comprise the 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 state 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 statutes also state that zoning districts should reflect "the character of the district and its peculiar suitability for particular uses," with "a view to conserving the value of buildings and encouraging the most appropriate use of land." Among the statutory purposes of zoning are providing adequate light and air; preventing the overcrowding of land and undue concentration of population; lessening congestion in the streets; securing safety from fire and other dangers; and providing for the efficient and adequate provision of public services and infrastructure.

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 Planning Commission makes a recommendation to City Council whether to approve or deny the request. City staff's role is to assist decision-makers at the City Council and Planning Commission by providing them with information and analysis necessary to make sound decisions and recommendations. Staff provides a report that sets forth its professional 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 ANALYSIS AND REPORTS ON REZONING PETITIONS

A staff report is prepared for every rezoning petition, and becomes the basis for the Planning Commission's Certified Recommendation to City Council to approve or deny the petition. (The rezoning process is outlined in detail in Section 10.2.4.F. of the City's [Unified Development Ordinance](#).) 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, size and location of the tract, a brief 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 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 that are in the public interest, 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 for the City's entire jurisdiction, and the [Urban Form Map](#), which identifies City areas anticipated for greater intensity of development and roadway corridor designations. The second component 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 play a part in a consistency analysis, a finding of inconsistency will only be made when a proposal fails to abide by one or more prescriptive policies. Implementing a guiding policy argues positively for consistency and aids a finding that the rezoning is in the public interest, 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 [Zoning and Development Plan Policy Guide](#) has been prepared that presents a summary list of prescriptive policies to be considered by applicants, staff and decision-makers in evaluating Comprehensive Plan consistency.

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