

CHAPTER 14: MAP AND TEXT AMENDMENTS

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CHAPTER 14: MAP AND TEXT AMENDMENTS

Section 14.1 Purpose

The purpose of this Chapter is to set forth procedures for amending the text of these regulations and the zoning classification of land as shown on the Zoning Map. Procedures for making amendments to the Unified Development Ordinance text or Zoning Map are also set forth herein.

Section 14.2 Amendment Initiation

- A. Any amendment may be initiated by the Town Board of Commissioners or Planning Board on its own resolution, by any owner of a legal or equitable interest in the property affected by the amendment, or by a local government agency of Angier, or by any other person living or owning property within the zoning jurisdiction of Angier in accordance with the procedures set forth herein.
- B. For Conditional Zoning map amendments (rezonings), only an owner of a legal or equitable interest in the property may initiate the amendment.

Section 14.3 Application Submittal

14.3.1 Applications for All Amendments

- A. An application form and fee shall be submitted by the applicant to the Zoning Administrator. The application shall include a description of the proposed change. The application form and fee shall be waived for any amendment request submitted by an Angier official or agency acting on behalf of the Town of Angier. Completed applications shall be forwarded by the Administrator to the Planning Board and Town Board at their next regularly scheduled meeting.
- B. The Town Board of Commissioners shall set a fee payable to the Town of Angier, North Carolina, to cover the necessary administrative costs and advertising of each application for a change or amendment. The set fee shall be posted in the Town Clerk's Office.

14.3.2 Text Amendments

The application shall contain a reference to the specific section, subsection, paragraph or item proposed to be changed, as well as the wording of the proposed change, and the reasons therefore.

14.3.3 Map Amendments (Rezoning)

- A. For all map amendments (rezonings), applications shall contain a statement regarding the consistency of the request with adopted Town plans and the surrounding area.
- B. For Conditional Zoning map amendments (rezonings), the application shall be accompanied by a description of the use or uses proposed and any conditions being proposed by the applicant. The applicant shall also provide a statement of reasonableness regarding the

request on the application. In addition to the application, the applicant shall submit a site-specific plan.

Section 14.4 Text Amendment Process

14.4.1 Planning Board Action

- A. The Planning Board shall consider and make recommendations to the Board of Commissioners concerning each proposed zoning amendment. The following policy guidelines shall be followed by the Planning Board concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:
1. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
 2. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
 3. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)
 4. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
 5. The proposed change is in accord with adopted plans and sound planning principles.
- B. The Planning Board shall have 30 days from the initial referral of the request by the Zoning Administrator to either recommend approval or denial of an amendment in writing by simple majority vote of those present and voting.
- C. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies.

14.4.2 Town Board of Commissioners Action

- A. Before taking such lawful action as it may deem advisable, the Town Board shall consider the Planning Board's recommendation on each proposed zoning amendment. If no recommendation is received from the Planning Board within 30 days after public hearing by the Town Board, the proposed amendment shall be deemed to have been approved by the Planning Board.
- B. The Town Board of Commissioners shall conduct a legislative public hearing. Notice of public hearing shall be given as required by NCGS 160A-364 once a week for two (2) consecutive 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 public hearing date.

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- C. The Town Board of Commissioners shall include with its decision a written statement regarding the consistency of the request with adopted Town plans and policies.

Section 14.5 Standard Rezoning Process

14.5.1 General Provisions

- A. Any proposed amendment to the Zoning Map shall follow the Town Board Approval process as outlined Chapter 11. However, a neighborhood meeting may be required prior to the Town Board public hearing as determined by the Administrator.
- B. When considering a standard rezoning request, neither the Planning Board nor the Town Board of Commissioners shall evaluate the petition based on any specific proposal for the use or development of the affected property. The petitioner shall refrain from using any graphic materials or descriptions of the proposed use or development, except for those which would apply to any use permitted in the requested district. However, such information may be presented and considered when on an application for a map amendment for a Conditional Zoning District as outlined in Section 14.6 below.
- C. Upon approval of the map amendment, the Zoning Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.

14.5.2 Planning Board Action

- A. The Planning Board shall consider and make recommendations to the Board of Commissioners concerning each proposed zoning amendment. The following policy guidelines shall be followed by the Planning Board concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:
 - 1. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
 - 2. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
 - 3. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change. (When a new district designation is assigned, any use permitted in the district is allowable, so long as it meets district requirements, and not merely uses which applicants state they intend to make of the property involved.)
 - 4. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
 - 5. The proposed change is in accord with The Land Use Plan and sound planning principles.
- B. The Planning Board shall have up to 30 days from the date of referral by the Zoning Administrator to recommend approval, approval with conditions, or denial of the request to the Town Board of Commissioners.

- C. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.

14.5.3 Town Board of Commissioners Action

- A. Before taking such lawful action as it may deem advisable, the Town Board shall consider the Planning Board's recommendation on each proposed zoning amendment. If no recommendation is received from the Planning Board within 30 days after public hearing by the Town Board, the proposed amendment shall be deemed to have been approved by the Planning Board.
- B. The Town Board of Commissioners shall conduct a legislative public hearing. Notice of the public hearing shall be given as follows:
 - 1. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for rezonings (map amendments) noted in Subsection (2) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
 - 2. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners. The first class mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in Subsection (A). However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.
 - 3. For Rezonings (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.
- C. The Town Board of Commissioners shall include with its decision a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.

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Section 14.6 Conditional Zoning Process

14.6.1 General Provisions

- A. Any proposed amendment to the Zoning Map shall follow the Town Board Approval process as outlined in Chapter 11. Upon approval of the map amendment, the Administrator shall oversee the updating of the Zoning Map to reflect the approved changes.
- B. When considering a petition for a rezoning to a CZ District, the Planning Board and the Town Board of Commissioners shall evaluate the petition based on specific proposal for the use or development of the affected property and the petitioner shall provide materials and descriptions of the proposed use and development.
- C. Any use permitted under this process must also, as a minimum, conform to the development regulations for the corresponding underlying general zoning district.
- D. In approving a CZ Rezoning, the Town Board of Commissioners may impose such additional restrictions and requirements upon approval as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done.
- E. Any request to materially change the conditions specified within a CZ District once it has been rezoned shall be subject to the entire Town Board Approval process.

14.6.2 Planning Board Action

- A. The Planning Board shall consider and make recommendations to the Board of Commissioners concerning each proposed zoning amendment. The following policy guidelines shall be followed by the Planning Board concerning zoning amendments and no proposed zoning amendment will receive favorable recommendation unless:
 - 1. The proposal will place all property similarly situated in the area in the same category, or in appropriate complementary categories.
 - 2. There is convincing demonstration that all uses permitted under the proposed district classification would be in the general public interest and not merely in the interest of an individual or small group.
 - 3. There is convincing demonstration that all uses permitted under the proposed district classification would be appropriate in the area included in the proposed change.
 - 4. There is convincing demonstration that the character of the neighborhood will not be materially and adversely affected by any use permitted in the proposed change.
 - 5. The proposed change is in accord with The Land Use Plan and sound planning principles.
- B. The Planning Board shall have up to 30 days from the date of referral by the Administrator to recommend approval, approval with conditions, or denial of the request to the Town Board of Commissioners.
- C. The Planning Board shall include with its recommendation a written statement regarding the consistency of the request with adopted Town plans and policies and the surrounding area.

- D. The Planning Board shall also include with its recommendation a written statement regarding the reasonableness of the request.

14.6.3 Town Board of Commissioners Action

- A. Before taking such lawful action as it may deem advisable, the Town Board shall consider the Planning Board's recommendation on each proposed zoning amendment. If no recommendation is received from the Planning Board within 30 days after public hearing by the Town Board, the proposed amendment shall be deemed to have been approved by the Planning Board.
- B. The Town Board of Commissioners shall conduct a legislative public hearing. Notice of the public hearing shall be given as follows:
 - 1. A notice shall be published in a newspaper having general circulation in the Town once a week for two (2) consecutive weeks provided that the first notice is published not less than 10 days nor more than 25 days prior to the date established for the public hearing. The expanded published notice option for Rezonings (map amendments) noted in Subsection (B) below shall consist of a notice not less than one-half (1/2) of the newspaper page in size.
 - 2. A notice of the public hearing shall also be sent by first class mail by the Zoning Administrator or designee to the affected property and to all contiguous property owners. The first class mail notice shall not be required if a Rezoning (map amendment) directly affects more than 50 properties owned by a total of at least 50 different property owners. Instead the Town may elect to use expanded published notice as noted above in Subsection (A). However, property owners whose addresses are not within the general circulation area of the newspaper shall still receive a notice of public hearing by first class mail.
 - 3. For Rezonings (map amendments), the Town shall conspicuously post a notice of public hearing at the site proposed for rezoning at least 10 days prior to the public hearing. When multiple parcels are included within a proposed map amendment, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. The notice shall be removed only after the public hearing has been held.
- C. The Town Board of Commissioners shall make a statement regarding the consistency of the Conditional Zoning District with the Towns adopted plans and policies. The Town Board shall also provide a statement regarding the reasonableness of the request.

14.6.4 Effect of Approval and Expiration

- A. If a petition for a CZ Rezoning is approved as provided for herein, the district that is established and all conditions which may have been attached to the approval are binding on the property as an amendment to the Zoning Map. Subsequent development shall be in accordance with the standards for the approved CZ district and any conditions attached to the approval. Except as herein provided for "minor changes", changes to the approved petition

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or to the conditions attached to the approval shall be treated the same as an amendment to the Zoning Map and shall be processed in accordance with the Town Board of Commissioners approval process. Minor changes in the detail of the approved application may be made with the approval of the Zoning Administrator. The following criteria qualify as a “minor change”:

1. The proposed change(s) will not alter the basic relationship of the proposed development to adjacent property; and
 2. The proposed change(s) will not alter the uses permitted; and
 3. The proposed change(s) will not increase the height of any structure to the extent that additional usable floor space will be added; and
 4. The proposed change(s) will not increase the gross floor area of any non-residential use by the smaller of 10 percent or 10,000 square feet. Such limitations shall be cumulative and shall be based on the gross floor area specified in the CZ district as originally approved; and
 5. The proposed change(s) will not result in an increase in the number of dwelling units constructed for any residential use; and
 6. The proposed change(s) will not decrease the off-street parking below the minimum number of parking spaces required by this Ordinance.
- B. It is intended that property be rezoned to a CZ District only in light of firm plans to develop the property. Therefore, after the date of approval of the CZ District, if a building permit has not been secured or final plat recorded at the end of two (2) years following the date of the approval of the CZ District, the Administrator shall notify the applicant of such a finding. The Zoning Administrator shall then have the Planning Board to make a recommendation to the Town Board of Commissioners regarding the rescission of the Conditional Use District and the zoning of the property revert to the zoning district in effect prior to the initial approval.

Section 14.7 Protest Petition

- A. A protest petition shall not be valid unless it is in the form of a written petition bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless received by the Town Clerk at least two (2) working days, prior to the public hearing on the proposed change or amendment. All protest petitions shall be on a form prescribed and furnished by the Town, and such form may prescribe any reasonable information deemed necessary to permit the Town to determine the sufficiency and accuracy of the petition. The protest petition must be valid at the time that the vote is taken and shall meet the requirements of NCGS 160A-385 & 386.
- B. If a valid protest petition is filed, then a map amendment shall not become effective except by favorable vote of three-fourths (3/4) of all the members of the Town Board of Commissioners.

- C. Protest petitions shall not be applicable to any amendment which initially zones property added to the territorial coverage of the Ordinance as a result of annexation or otherwise.

Section 14.8 Resubmission of Request

- A. If the Town Board of Commissioners has denied an application for the rezoning of a piece of property or has approved a rezoning to a general zoning district which is more restrictive than that which was originally requested, the Planning Board shall not review any applications for the same changes affecting the same property or any portion thereof until the expiration of one (1) year from the date of such previous denial except as provided below.
- B. The Administrator may allow re-submission of such petition within said one (1) year period if he determines that, since the date of action on the prior petition:
 - 1. There has been a significant change in the zoning district classification of an adjacent piece of property; or
 - 2. The Town Board of Commissioners has adopted a plan that changes public policy regarding how the property affected by the amendment should be developed;
 - 3. Construction or expansion of a street, water line, sewer line, or other such facilities has occurred to serve the property and can comfortably accommodate the intensity of development allowed under the proposed classification; or
 - 4. There has been some other extraordinary change in conditions or circumstances, outside the control of the petitioner, which justifies waiver of the one-year restriction on a new petition; this, however, shall not include a change in the ownership of the subject property.