
Article XVII Amendment Procedure

The Town Council may amend, supplement or change the Zoning Ordinance text and zoning district lines and designations according to the following procedure. It is the intent of this Ordinance that the applicant for rezoning to any district other than a Conditional Use District shall be prohibited from offering any testimony or evidence concerning the specific manner in which he intends to use or develop the property. If the applicant believes that the development of his property in a specific manner will lessen adverse effects upon surrounding properties or otherwise make the rezoning more in accordance with the principles underlying the town's comprehensive zoning plan, he shall apply for rezoning to the appropriate Conditional Use District and simultaneously apply for a Conditional Use Permit specifying the nature of his proposed development. No permit shall be issued for any development within a Conditional Use District except in accordance with an approved Conditional Use Permit.

Section 17.1 Amendment Initiation

Applications to change, supplement or amend this Ordinance may be initiated by:

A. Text Amendment:

1. The Town Council;
2. The Planning Board;
3. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such person.

B. Map Amendment:

1. The Town Council;
2. The Planning Board;
3. Anyone who owns property or resides in the area of jurisdiction of this Ordinance or the agent of such a person. Provided, however, map amendments involving Conditional Use Districts may only be initiated by the owner or authorized agent of the owner.

Section 17.2 Submittal and Fees

All applications for amendments to this Ordinance shall be in writing, signed and filed with the Planning Department. The Planning Department, shall, before scheduling any amendment application for consideration by the Planning Board, ensure that it contains all the required information as specified in this Ordinance and on the application form. Applications which are not complete, or otherwise do not comply with the provisions of this Ordinance shall not be scheduled by the Planning Department, but shall be returned to the applicant with a notation of the deficiencies in the application.



Completed applications shall be received a minimum of fourteen (14) days prior to the Planning Board meeting at which the proposed amendment is to be considered for the setting of a public hearing. All applications for amendment shall contain, as a minimum, a description of the proposed change, and if it would require a change of the zoning maps, the following:

- A. A map drawn to a scale of not less than four hundred (400) feet to the inch and not more than twenty (20) feet to the inch showing the land covered by the proposed amendment.
- B. A metes and bounds description of the area proposed to be changed.
- C. The names and addresses of all the property owners included in the change as shown on the latest tax list.
- D. The names and addresses of all adjoining property owners, including across any street, as shown on the latest tax list.

Any application requesting a change to a Conditional Use District shall be accompanied by a Conditional Use Permit application showing the use or uses proposed and any conditions being proposed by the applicant. Such fees as are established by the Town Council shall be paid to the Town of Stanley at the time any application for amendment is submitted.

Section 17.3 Planning Board Action

The Town Manager or appointed agent shall present any properly completed application for amendment to the Planning Board at its next regularly scheduled meeting occurring at least fourteen (14) days after filing of such application with the Planning Department. At that meeting the Planning Board shall set a public hearing on the application at a future date not more than forty-five (45) days after receipt of the application by the Board. The Planning Board shall hold a public hearing on the proposed amendment in accordance with its rules of procedure. The Town Manager or appointed agent shall cause public notice to be made as is required in accordance with the Board's rules.

The Planning Board shall either recommend in favor of an amendment or in opposition to an amendment by simple majority vote of those present and voting. The Board may also propose conditions to their recommendation. A tie vote on a proposal shall be considered to be in opposition to such amendment. If the Planning Board should fail to act on any proposal within forty-five (45) days after it is first presented to the Board such failure to act shall be considered to be a favorable recommendation for the purposes of this procedure.

Section 17.4 Town Council Action

The Town Manager or appointed agent shall present any proposed amendments and the Board's recommendations to the Town Council at its next regular scheduled meeting at which it considers setting public hearings for zoning amendment proposals. The Planning Director shall

transmit to the Town Council such information from the action of the Planning Board as in his opinion constitutes the Board's record on the proposed amendments.

The Town Council shall take such lawful action on such proposals as it may deem advisable provided that no zoning amendment shall be adopted until after a public hearing shall have been held and public notice given as required by law.

In case, however, of a protest against such change, signed by the owners of twenty percent (20%) or more either of the area of the lots included in a proposed change, or of those immediately adjacent thereto either in the rear thereof or on either side thereof, extending 100 feet there from, or of those directly opposite thereto extending one hundred (100) feet from the street frontage of the opposite lots, an amendment shall not become effective except by favorable vote of three-fourths of all the members of the Town Council. The foregoing provisions concerning protests 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.

No protest against any change in or amendment to a Zoning Ordinance or Zoning Map shall be valid or effective for the purposes of this Article unless it be in the form of a written petition actually bearing the signatures of the requisite number of property owners and stating that the signers do protest the proposed change or amendment, and unless it shall have been received by the Town Clerk in sufficient time to allow the town at least two (2) normal work days, excluding Saturday, Sundays, and legal holidays, before the date established for a public hearing on the proposed change or amendment to determine the sufficiency and accuracy of the petition. 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.

Section 17.5 Conditional Districts (CD)

A. Application

1. Petitioning for a CD zoning district is a voluntary procedure and can be initiated only by the owner(s) of the property (ies) in question or by his/her authorized agent. Every application for the rezoning of property to a CD district shall be accompanied by a site plan, drawn to scale containing all of the information outlined in Section 17.5 (B) of this Ordinance. The Administrator shall schedule a meeting with the applicant, prior to any public involvement meeting (PIM) being advertised and/or held to review the rezoning application and site plan to make sure that it meets, at a minimum, all minimum requirements of this Ordinance.
2. Furthermore, no application shall be considered complete unless it is accompanied by a fee, in accordance with a fee schedule approved by the governing board for the submittal of an application for rezoning to a CD district. Said fee shall be waived for any

application submitted by any official or agency acting on behalf of the Town of Stanley or the State of North Carolina

3. The Administrator may require the petitioner to submit more than one copy of the rezoning application in order to have enough copies available to circulate to other government agencies for review and comment. When dealing with the conditional zoning district process, it may be desirable to request additional information in order to evaluate a proposed use and its relationship to the surrounding area. Therefore, the Planning Board and/or Town Council may request additional information (in addition to that required above), as they deem necessary.

B. Procedures

A pre-application meeting between the applicant and the Administrator shall be required in order to familiarize the applicant of the procedure for securing approval of a conditional use permit. The Administrator shall accept no conditional use permit application for review without such meeting having first occurred unless the Administrator determines that such meeting would not serve any meaningful purpose and waives the meeting requirement.

Procedures for application submittal are as follows:

1. A complete conditional use permit application that is signed by the applicant and which is accompanied by a submittal fee (in accordance with a fee scheduled approved by Town Council) shall be filed with the Administrator.
2. The application shall be accompanied by a drawing or plan, drawn to scale, that includes or is accompanied by the following:
 - a. Name, address and phone number of the property owner (or his agent) and the property identification number of the property. (Note: The property owner or his authorized agent are the only two parties who may initiate a request for a conditional use permit).
 - b. A boundary survey and vicinity map, showing the property's total acreage, general location in relation to adjoining streets, railroads and/or waterways, date and north arrow. The zoning classification of the property in question and contiguous properties shall also be shown. (In lieu of the boundary and survey maps, one or more up-to-date tax maps depicting the area in question may be submitted. Any required drawing or depiction of the proposed development or use shall not appear on the tax maps but rather shall appear on the drawing or plan.)
 - c. The name and addresses of all owners, tax parcel numbers and existing land use(s) of all contiguous properties.
 - d. Proposed use of all land and structures including the number of residential units proposed, if any, and total square footage of nonresidential development.

- e. Location of all proposed structures, their approximate area and exterior dimensions, height, and proposed number of structures.
- f. A description of all screening and landscaping required by the Zoning Ordinance and/or proposed by the applicant; the delineation of any wooded, landscaped or grassed areas existing prior to development and proposed to remain on the property once the development is completed.
- g. All existing easements, reservations and rights-of-way.
- h. Proposed phasing, if any, and approximate completion time for the project.
- i. Delineation of areas within the regulatory floodplain as shown on the official Federal Emergency Management Agency (FEMA) flood hazard boundary maps for Gaston County.
- j. Traffic, parking and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets.
- k. A list, if any, of all additional development conditions or standards that differ from those that would normally apply to that use. Only conditions that exceed the Zoning and Subdivision Ordinance minimum standards can be considered and listed by the applicant.
- l. The Town Administrator reserves the right to waive the depiction of some or all of the information contained in paragraphs (5) through (10) when, in his opinion, such information is not a requirement of this Ordinance for the particular conditional use being requested. Notwithstanding, if either the Planning Board or Town Council determines that additional information as set forth in paragraphs (5) and (10) of this subsection is needed to render a recommendation or decision on the application, they may require the applicant to submit such additional information.
- m. In lieu of showing all of the information in paragraphs (5) through (11) of this subsection, the applicant may submit a general development plan which shows on the proposed site, by land use type, the areas to be developed for buildings and parking and shall show all points of ingress and egress onto thoroughfares and collector streets.

C. Public Involvement Meeting

1. Once the requisite number of complete applications has been submitted to the Administrator and the requisite fees have been paid, and prior to the public hearing on the rezoning request, a Public Involvement Meeting (PIM) shall be scheduled and held. Such meetings shall occur prior to any recommendation by the Planning Board and approval by the Town Council. The PIM is designed to provide a framework for creating a shared vision with community involvement directed by the applicant in accordance with the

following requirements:

- a. The applicant shall provide an agenda, schedule, location, and list of participants such as landscape architects, engineers, etc. to answer questions from citizens and service providers for the PIM in cooperation with the Administrator.
- b. It is recommended that the PIM last 2-4 hours, depending on the nature of the proposed development and its location. A minimum of one (1) hour should be scheduled during normal business hours to allow service providers and other public agencies (such as public works officials, NCDOT, NCDENR, QNRC, etc) to participate as needed and to allow for citizens to drop in at a convenient time throughout the period. It is recommended (but not mandated) that this portion of the PIM take place at the proposed development site. In addition, a second one (1) hour (minimum) meeting should be scheduled at a conveniently located meeting site agreed upon by the applicant and the Administrator.

Notwithstanding the above, a PIM may last for different amounts of time, depending on the nature of the development, its location, and the number of parties involved and/or attending the meeting.

- c. Notice of the PIM shall at a minimum, be given as follows:
 - i. A public notice shall be sent by the Town of Stanley to a newspaper having general circulation in the Town of Stanley not less than 10 days or more than twenty-five (25) days prior to the date of the PIM.
 - ii. A notice shall be sent by first class mail by the Town of Stanley to the applicant and to the owners of all properties that lie in Gaston County within two hundred fifty (250) feet as measured from the exterior boundaries of the proposed development and which are located within an annexation agreement boundary that such City/Town has with any other municipality. The applicant shall furnish the Town of Stanley with mailing labels that depict the names and addresses of the owners of all properties within said two hundred fifty (250) foot area. Such notice shall be sent not less than ten (10) days prior to the date of the PIM. The notification shall contain information regarding the PIM time and location(s) as well as a general description of the proposal.
 - iii. With respect to Subsection (c) above, the applicant shall reimburse the Town of Stanley for all postage and advertising expenses incurred for such notifications.
 - iv. A PIM notification sign shall be posted by the Town of Stanley in a conspicuous place at the property not less than 10 days prior to the PIM. The sign shall

indicate date, time, and location(s) of the PIM. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the PIM.

- d. The Administrator will keep notes of comments received during the PIM. A summary of the comments made shall be included in any staff report prepared by the Administrator relative to the rezoning request.
2. Following the PIM, the applicant shall have the opportunity to make changes to the application to take into account information and comments received. One or more revised copies of the application shall be submitted to the Administrator for review. No additional fee shall be required to be paid for making such changes provided the Administrator receives the revised application within thirty (30) days following the PIM. If a revised application is not received during said thirty (30) day period, the Administrator shall review the original application submitted.

D. Administrator Approval

The Administrator shall have up to thirty (30) days following any revision of the application to make comments. If the Administrator forwards no comments to the applicant by the end of any such thirty-day period, the application shall be submitted to the Planning Board for their review without any further comment.

E. Plans and Other Information to Accompany Petition

1. Every application for the rezoning of property to a CD district shall be accompanied by a site plan, drawn to scale containing all of the information outlined in Section 17.5 (B) of this Ordinance.
2. Furthermore, no application shall be considered complete unless it is accompanied by a fee, in accordance with a fee schedule approved by the governing board for the submittal of an application for rezoning to a CD district. Said fee shall be waived for any application submitted by any official or agency acting on behalf of the Town of Stanley or the State of North Carolina

F. Public Hearing Notification Requirements

1. Before any property is rezoned to a CD district, the Planning Board and Town Council must hold a public hearing after the public information meeting has been concluded. Any complete application shall be submitted to the Administrator at least thirty (30) days prior to the first public hearing before the Planning Board. This shall be sufficient time period for the staff to review the application and produce a staff report and to ensure that all applicable notification requirements can be met. The second public hearing shall take place before Town Council after the Planning Board has been given an opportunity to

review and make a recommendation on the application. Notification of the public hearing shall be as follows:

- a. A notice shall be published in a newspaper having general circulation in the Town of Stanley once a week, for two successive weeks; the first notice to be published not less than ten (10) days or more than twenty-five (25) days prior to the date established for the first public hearing.
 - b. The Administrator shall post at least one notice on the site proposed for rezoning or an adjacent public street or highway right-of-way at least ten (10) days prior to the governing board public hearing. Where multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the Town of Stanley shall post sufficient notices to provide reasonable notice to interested persons. Such notice shall state the nature of the public hearing and its date, time, and location at which it is to be held. The notice shall be removed only after final action has been taken on the matter. In lieu of any or all of this information to be contained on this posted notice, the notice may give a phone number where interested parties may call during normal business hours to get further information on the conditional use permit requested.
 - c. A notice of the public hearing shall be sent by first class mail by the Administrator to the applicant and to all adjacent property owners at least ten (10) days prior to the first public hearing.
2. Any public hearing notice published or mailed shall state the nature of the public hearing, the date, time, and place at which the hearing is to occur, and who to call and/or see for more information.

G. Planning Board Review

The Planning Board shall have at least forty-five (45) days to make a recommendation on the proposed change, said forty-five (45) days being measured from the date of the date of initial referral of the amendment by staff to the Planning Board. If a recommendation is not made during said time period, the application shall be forwarded to Town Council without a recommendation. Any such Planning Board recommendation shall be accompanied by statements that address (1) whether the proposed amendment is consistent with any comprehensive plan that has been adopted by the governing board and any other officially adopted plan that is applicable, and (2) other matters that the Planning Board deems appropriate and (3) why it considers the action taken to be reasonable and in the public interest.

H. Action by Town

Conditional zoning district decisions are a legislative process subject to judicial review using the same procedures and standard of review as apply to general use district zoning decisions. Once the public hearing has been held, Town Council shall take action on the petition. The public hearing, once opened, can be continued to a later date and action take at that time. Town Council shall have the authority to:

1. Approve the application as submitted.
2. Deny approval of the application
3. Approve the application with modifications that are mutually agreed to by the applicant and the governing board. Such conditions shall be in compliance with Subsection F herein.
4. Submit the application to the Planning Board for further study. The Planning Board shall have up to thirty (30) days from the date of such submission to make a report to the governing board. If no report is issued, the governing board can take final action on the petition. Town Council reserves the right to schedule and advertise a new public hearing based on the Planning Board's report.

I. Conditions to Approval of Petition

In approving a petition for the reclassification of a piece of property to a CD district, the Planning Board may recommend, and Town Council may require that reasonable and appropriate conditions be attached to approval of the petition. Such conditions shall be limited to those that address the conformance of the development and use of the site to Town of Stanley ordinances and an officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site. The petitioner will have a reasonable opportunity to consider and respond to any additional requirements prior to approval or denial by the governing board. In no instance shall any of these conditions be less restrictive than any that would otherwise pertain to that particular development if it were located in a general or parallel conditional use zoning district. Such conditions may exceed any performance criteria or minimum requirements listed elsewhere in this Ordinance that pertain to that development. Statements that (1) analyze whether the rezoning is consistent with an adopted comprehensive plan and any other officially adopted plan, and (2) other matters that the Town Council deems appropriate and (3) why it considers the action taken to be reasonable and in the public interest shall be prepared and accompany each final decision relative to the CD rezoning request.

J. Effect of Approval; Zoning Map Designation

If a petition for a CD district is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's zoning classification, the approved site plan for the district, and any additional approved rules,

regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Zoning Map. Following the approval of the petition for a CD district, the subject property shall be identified on the Zoning Map by the appropriate district designation followed by the letters CD (i.e., CD-RSF.) Notwithstanding, the Administrator may make minor changes to the approved site plan administratively without necessitating a need to rezone the property to a different conditional district classification.

Final Draft