

## Jackson County UDO Draft Conditional Zoning Language

### Purpose-

This ordinance authorizes the creation of conditional zoning districts proposed by the property owner and customized to the context of a particular development project or land use on a particular site. Each conditional zoning district includes one or more conditions of approval designed to help the project conform to Jackson County's adopted ordinances and plans and mitigate the impacts reasonably expected to be generated by the development or use of the site.

Conditional Zoning Districts are zoning districts in which the development and use of the property is subject to base zoning district standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to each individual development project.

For each General Use Zoning District, there is a corresponding Conditional Zoning District (CZ) which corresponds to each of the districts authorized by in Article IX.

### Review Process-

The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Zoning District is a means by which such special conditions can be imposed in order to achieve the purpose of this Section and the recommendations of the County's Comprehensive Land Use Plan and Small Area Plans.

The Conditional Zoning District classification will be considered for rezoning only with the consent of the property owner.

If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of the Ordinance that the authorization of such Conditional Zoning District shall be null and void and of no effect and that the property will revert back to its original zoning or, where necessary, proceedings shall be instituted to rezone the property to its previous zoning classification.

- A) Plans and other information to accompany petition. Property may be rezoned to a Conditional Zoning District only in response to, and consistent with, a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning, along with documentation required in Section 3.7.12, Approval Process.
- B) Approval of conditional zoning district. Conditional Zoning District decisions are a legislative process subject to judicial review using the same procedures and standard of review as applicable to general use district zoning decisions. Conditional Zoning District decisions shall be made in consideration of identified relevant adopted land use plans for the area,

including, but not limited to, the Jackson County Comprehensive Land Use Plan and Small Area plans.

- C) Conditions to approval of petition. In approving a petition for the reclassification of property to a Conditional Zoning District, the Community Planning Councils and Planning Board may recommend, and the Board of Commissioners may request that reasonable and appropriate conditions be attached to the approval of the petition.

Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to County Ordinances and the Comprehensive Plan, Small Area Plans or other land use policy, that address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the impact of the proposed use on surrounding property, support facilities (such as parking areas and driveways), pedestrian and vehicular circulation systems, screening and buffering areas, timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, provision of open space, and other matters that the Commissioners may find appropriate or the applicant may propose. Such conditions to approval of the petition may include dedication to the County, State, or public entity, as appropriate, of any rights-of-way or easement for roads, pedestrian facilities, water, sewer, or other public utilities necessary to serve the proposed development. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Commissioners. Only those conditions mutually approved by the Commissioners and the applicant may be incorporated into the petition.

- D) Effect of approval. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the existing Ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Official Zoning Map for Jackson County. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to Section E below. Changes to the site plan layout shall not increase the number of structures. Following the approval of the petition for a Conditional Zoning District, the subject property shall be identified on the Official Zoning Map by the appropriate district designation. A conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example, "VC-CZ").
- E) Alterations to approval. Except as provided herein, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Official Zoning Map and shall be processed in accordance with the procedures of the Ordinance.

The Jackson County Planning Director or his/her designee shall recommend an amendment to an approved site plan that shall be reviewed by the appropriate Planning Council and Planning Board. The Board of Commissioners shall have the authority to approve the recommended amendment to an approved site plan.

The standard for recommending, and approving or denying such an amendment, shall be that the change does not materially alter the site plan or its conditions and that the change does not have a material impact upon abutting properties. Any recommendation and approval must be in writing stating the grounds for approval or denial. For nonresidential development, materiality shall constitute an increase in the intensity of the development is limited to ten percent of the approved structure size or 1,000 square feet, whichever is less. For residential development, increases in density are limited to ten percent of the development or no more than ten dwelling units, whichever is less. The Jackson County Planning Director, however, shall have the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standard or because Planning Council consideration and a public hearing is deemed appropriate under the circumstances. If the Jackson County Planning Director declines to exercise this authority, the applicant may request a map amendment as permitted Section 3.7.12 Map Revisions/Rezoning.

- F) Review of approval of a conditional zoning district. It is intended that property shall be reclassified to a Conditional Zoning District only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Planning Council may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Council determines that progress has not been made in accordance with the approved petition and conditions, the Planning Council shall forward to the Board of Commissioners a report, which may recommend that the property not be rezoned or be classified to another district.

#### Approval Process-

- (i) Pre-Application meeting- must schedule a pre-application conference with Planning Department staff to discuss site plan issues and submittal requirements.
- (ii) Pre- Application submittal- Applicant must submit a pre-application and concept site plan for review.
- (iii) Pre-Application meeting- applicant shall schedule a pre-application meeting with staff to discuss the application and related materials to review, discuss possible changes to the request, and public meeting requirements.
- (iv) Community meeting- Prior to the submission of a completed final application for conditional zoning, the applicant must hold at least one community meeting. This meeting shall be completed prior to staff preparing a staff report for the Planning Council's consideration.
  - a. Community meeting procedures- The applicant shall be responsible for provide mailed notice to all property owners within 500 ft. of the project boundary two weeks prior to the scheduled community meeting. The notice shall include the time, date, place, and brief description of the project.
  - b. The applicant shall provide a written report about the meeting that should include the people and organizations contacted about the meeting, the manner and date, time and location of the meeting, a roster of people in attendance, a summary of the issues

discussed, and a description of any changes made to the application based on the community feedback.

(v) Formal Submittal Requirements-

- a. Completed Application
- b. Community Meeting report
- c. 11x17 conceptual site plan drawn to scale along with a full size plan with the following information:
  1. Project narrative.
  2. Property to be developed, including surveyed property lines, topography, streams and other waterbodies with buffers, floodplain as shown on the official Flood Hazard Boundary maps for Jackson County, delineation of watershed boundaries, slopes in excess of 35%, and impervious calculations.
  3. Existing roads and utilities on and adjacent to the property, with rights of way and easements. Typical road cross sections.
  4. Limits of disturbed area (grading area).
  5. Proposed buildings with square footage, maximum height, and uses.
  6. Proposed typical building elevations.
  7. Traffic, parking, and circulation plans, showing the proposed locations and arrangements of parking spaces and access points to adjacent streets including typical parking space dimensions and locations along with typical street cross sections. This shall include all existing and proposed points of access to existing streets.
  8. Identification and calculation of open space.
  9. Location of pedestrian facilities.
  10. Conceptual landscaping plan with proposed plant list, all proposed setbacks, buffers and screening required by Article IX of the Ordinance or proposed by the applicant.
  11. Phasing Plan- timeline and identification of phases
  12. Location, type, and size of proposed signs.
  13. Traffic Impact Analysis, if required by NCDOT or Article IX of the Ordinance.
  14. Proposed Utility Plan.
  15. Location and description of outdoor lighting.

(vi) Community Planning Council Review and Recommendation

The Community Planning Council Review and Recommendation shall follow the procedures set forth in Section 3.7.12 (iv).

(vii) Planning Board Review and Recommendation –

The Planning Board Review and Recommendation shall follow the procedures set forth in Section 3.7.12 (v).

(viii) Board of Commissioners Review and Decision

The Board of Commissioners Review and Decision shall follow the procedures set forth in Section 3.7.12 (vi).

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