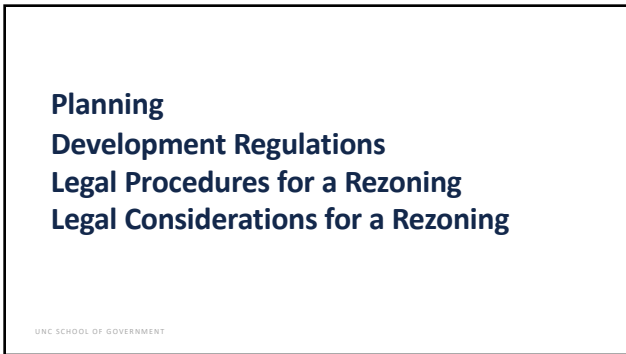


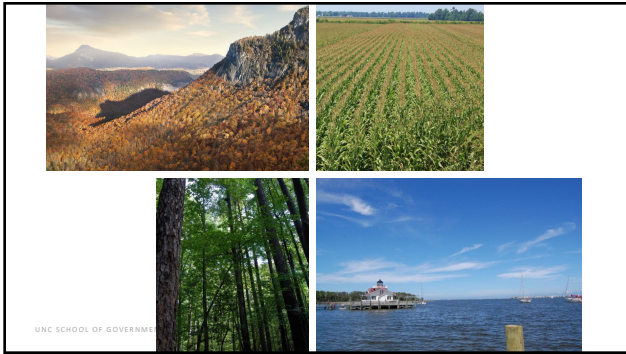
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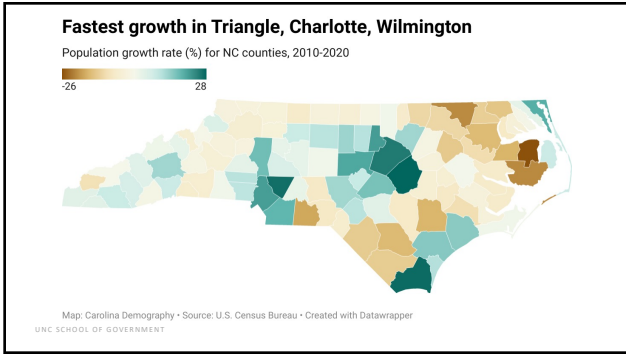
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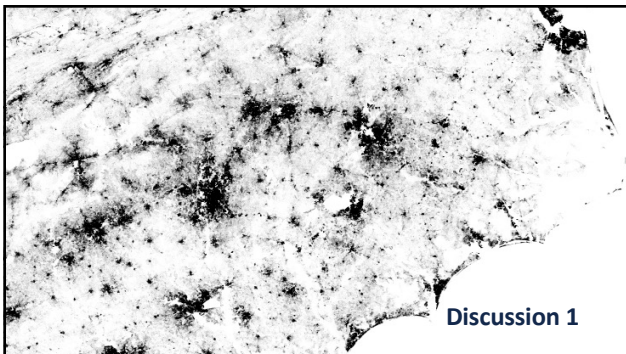
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Development Regulations
Spring 2024

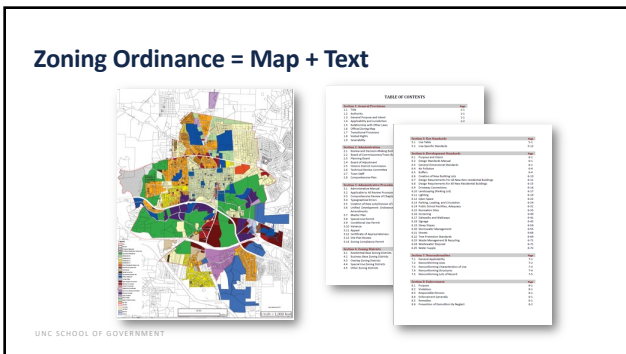
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Typical Zoning Requirements

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Raleigh Unified Gov. Ordinance, Adopted Feb. 18, 2013

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Zoning...Use

- YES - Permitted Uses
- NO - Prohibited Uses
- MAYBE - Special Use

Use Category	RESIDENTIAL				COMMERCIAL				INDUSTRIAL				Suburban Residential
	RS	RS-2	RS-3	RS-4	CC	CC-2	CC-3	CC-4	IC	IC-2	IC-3	IC-4	
Accessory dwelling	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Accessory structure	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Adult entertainment	N	N	N	N	N	N	N	N	N	N	N	N	N
Adult motion picture	N	N	N	N	N	N	N	N	N	N	N	N	N
Adult tavern	N	N	N	N	N	N	N	N	N	N	N	N	N
Adult video store	N	N	N	N	N	N	N	N	N	N	N	N	N
Advertising signs	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Animal kennel	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Animal boarding	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Animal day care	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Animal hospital	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Animal training	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Antique store	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Arts and crafts store	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Auto repair	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Auto sales	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Auto wash	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Auto detailing	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Auto storage	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Auto transfer	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Auto wrecking	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone Express	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone Plus	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone Pro	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone Super	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone Ultra	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X2	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X4	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X5	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X6	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X7	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X8	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X9	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X10	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X11	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X12	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X13	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X14	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X15	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X16	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X17	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X18	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X19	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
Autozone X20	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

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Land Subdivision

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Infrastructure & Environment

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Building Code and Property Codes

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Unified Development Ordinance or Stand-Alone Ordinances

- Land Use Zoning
- Land Subdivision
- Stormwater
- Flood Damage Prevention
- Sign Ordinance
- Adult Business Ordinance
- Manufactured Home Ordinance
- Historic Preservation
- Minimum Housing Code
- Nuisance Code

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Types of Development Decisions

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	Administrative	Quasi-Judicial	Legislative
Character			
Example			
Hearing			
Decision-Maker			

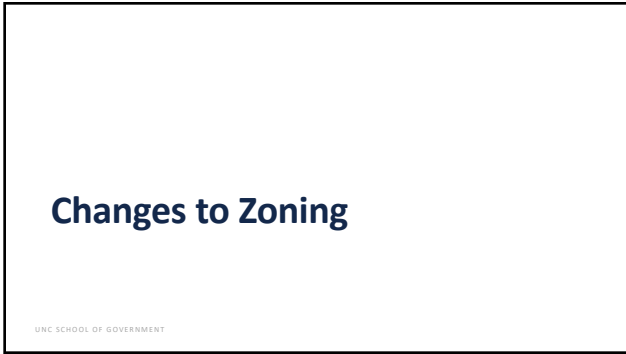
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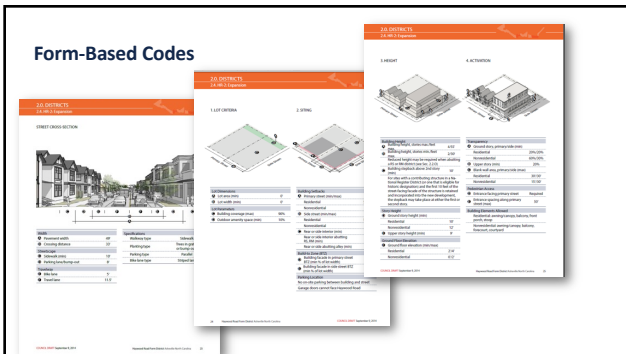
	Administrative	Quasi-Judicial	Legislative
Character	Based on objective standards	Based on discretionary standards and evidence in the record	General policy decision by elected officials
Example	Notice of Violation; Zoning Permit	Variance; Special Use Permit	Rezoning; Conditional Zoning
Hearing	Typically none, sometimes Administrative Hearing	Evidentiary	Legislative
Decision-Maker	Typically staff	Typically appointed board	Governing board

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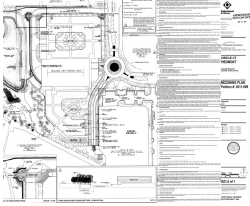
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Conditional Zoning

- Zoning district with individualized standards/site plan made a part of the ordinance standards
- Conditions may address compliance with ordinance and plans and the impacts reasonably expected to be generated
- Mutual consent



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Local Land Use Planning in North Carolina

Spring 2024

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**Local Land Use Planning
Implementing Plans
Role of the Planning Board**

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Local Land Use Planning
 Creating a Vision and Balancing Competing Community Interests

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Why Plan?

- Guide development decisions
- Public engagement in policy-making
- Guide efficient public investment
- Technical analysis of conditions
- Identify needs and prioritize actions
- Qualify for certain funding and meet legal mandates
- Establish a vision for the community

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Plan Requirement

GS 160D-ARTICLE 5

Article 5.
Planning.

§ 160D-501. Plans.
 (a) Requirements for Zoning. – As a condition of adopting and applying zoning regulations under this Chapter, a local government shall adopt and reasonably maintain a comprehensive plan or land-use plan.

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Plan process and updates

- Process is same as legislative zoning decision
- “reasonably maintained”
- Still advisory
- May be coordinated with other plans (CAMA, functional plans, regional plans)

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Comprehensive Plan

- Traditional Focus of Local Planning
- Long Range View (10 to 20 years)
- Integrated View of Issues
 - Land use, transportation, housing, recreation; economic development, environment

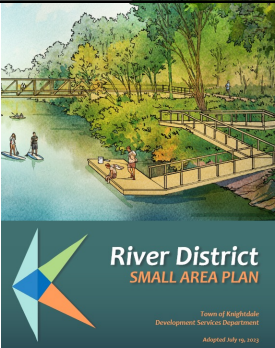


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Specialized Plans

- Neighborhood Plans
- Small Area Plans
- Corridor Plans
- Historic District Plans
- Watershed Plans



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Functional Plans

- Transportation and thoroughfare plans
- Public utility plans – water and sewer
- Recreation and open space plans
- Public facility plans
- Capital improvement plans and budgets

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Strategic Planning

- Focuses on a few critical issues
- Emphasizes action (particularly useful for spending decisions)
- Works best for issues like economic development, housing, and education involving a number of players
- Focuses on steps to be taken, who will take them, and how much it will cost

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Seven-Step Planning Process

PlanNC Guidebook
A Practitioner's Guide to Preparing Streamlined Community Plans

- Step 1: Summarize Existing Conditions
- Step 2: Engage the Community
- Step 3: Set Goals and Policies
- Step 4: Map the Future
- Step 5: Select Implementation Strategies
- Step 6: Draft and Adopt the Plan
- Step 7: Move to Action

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**Local Land Use Planning
Implementing Plans
Role of the Planning Board**

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Infrastructure & Investments

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**Actions and Organization of the
Local Government**

- Public lands and building
- Departmental organization and work plans

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Development Regulations and Decisions

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**Local Land Use Planning
Implementing Plans
Role of the Planning Board**

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Statutory Duties

- **Advise** on Comprehensive and Land Use Planning (G.S. 160D-301 & -601)
- **Advise** on Initial Zoning (G.S. 160D-604(a))
- **Advise** on Zoning Amendments (Plan Consistency) (G.S. 160D-604(b))
- **May advise** on other development regulations (G.S. 160D-604(c))

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Potential Decision-Making

- Preliminary and final subdivision plats (G.S. 160D-803)
- Special use permits (G.S. 160D-705)
- May serve as
 - Board of Adjustment (variances, appeals, etc.)
 - Historic Preservation Commission (certificates of appropriateness)

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Composition (G.S. 160D-301)

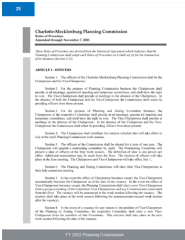
- At least three members
- Proportional representation for extraterritorial jurisdiction (G.S. 160D-307)
- Broad local discretion: local rules for composition, terms, process for appointments, etc. (160D-310)
- May establish joint planning board
- May assign duties to another board
- Members
 - Must take an oath of office (G.S. 160D-309)
 - May get compensation (G.S. 160D-301 & -502)

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Rules of Procedure (G.S. 160D-308)

- May be adopted by governing board
- If not adopted by governing board, then may be adopted by the board itself
- Maintained by local government clerk (or another authorized official)
- Posted to the website



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**Local Land Use Planning
Implementing Plans
Role of the Planning Board**

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Discussion 2

Consider your plans and planning in your community.

- Are your adopted plans current?
- What ways are you implementing your plans?
- What are missed opportunities for implementation?

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Legal Procedures for a Rezoning
And Other Legislative Development Decision

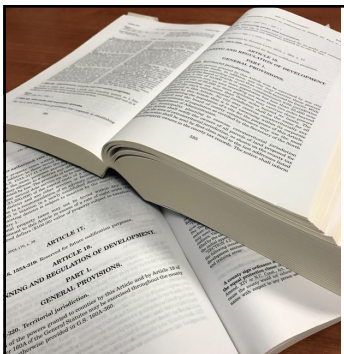
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**Legal Framework
Application and Staff Review
Planning Board Advice
Governing Board Decision**

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**NC Authority
Chapter 160D
Local Legislation**

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Open Meetings (G.S. 143-318.10(d))

An official meeting is “a *meeting, assembly, or gathering together at any time or place* or the simultaneous communication by conference telephone or other electronic means of a majority of the members of a public body for the purpose of conducting hearings, participating in deliberations, or voting upon *or otherwise transacting the public business* within the jurisdiction, real or apparent, of the public body.”

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Public Records (G.S. 132-1)

- Public Records are “all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, *regardless of physical form or characteristics*, made or received . . . in connection with the transaction of public business”

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Conflicts of Interest (160D-109)

- Financial Interest
“Members of appointed boards shall not vote . . . where the outcome of the matter being considered is reasonably likely to have a *direct, substantial, and readily identifiable financial impact* on the member.”
- Close Relationship
“An appointed board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.”

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Legal Framework
Application and Staff Review
Planning Board Advice
Governing Board Decision

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Who makes the request?


- Local Government Initiated
- Petitioner Request
- Rezoning
 - Landowner Request
 - No Third-Party Down-Zonings

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Petitioner Request

(PRE-APPLICATION), APPLICATION, STAFF REVIEW



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Zoning Amendments (160D-604)

- “all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment.”
- “whether the proposed action is consistent with any comprehensive plan . . . and any other officially adopted plan that is applicable.”
- “The planning board shall provide a written recommendation to the governing board that addresses plan consistency and other matters as deemed appropriate by the planning board . . .”

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Planning Board Meeting

- Planning board gets at least 30 days from referral (then governing board may move on without recommendation)
- Public Meeting (standard public meeting notice)
- Legislative Hearing, if required by local ordinance
- Additional Notice (mailed, posted, published), if required by local ordinance

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**Legal Framework
Application and Staff Review
Planning Board Advice
Governing Board Decision**

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Notice

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Notice for Legislative Hearing

Published/Newspaper Notice

- Two legal ads
- First 10-25 days before hearing
- Second in separate week

Additional Notice for Rezoning

- Posted notice on the site
- Mailed notice to affected parties and abutting landowners (newspaper alternative available)

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Hearing

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Legislative Hearing

- Reasonable rules acceptable
 - Time limits on speakers
 - Sign up sheets
 - Overall time limits
- Maintain fundamental fairness
- Due process limits for quasi-judicial do not apply
- May continue to a subsequent meeting

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Statements

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Statement of Plan Consistency

(G.S. 160D-605(A))

- Describe whether action is consistent with an adopted comprehensive plan and any other relevant officially adopted plan
- Required for all zoning decisions (approve or deny), including text amendments
- Can be adopted in the same motion as the zoning action or separately
- Purpose is to ensure that Plan is considered and implemented or modified as appropriate

• Effect of inconsistency: "the zoning amendment has the effect of also amending any future land-use map in the approved plan."

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Statement of Reasonableness

(G.S. 160D-605(B))

- Factors to avoid unreasonable spot zoning:
 - the size, physical conditions, and other attributes of the area proposed to be rezoned,
 - the benefits and detriments to the landowners, the neighbors, and the surrounding community,
 - the relationship between the current actual and permissible development on the tract and adjoining areas and the development that would be permissible under the proposed amendment;
 - why the action taken is in the public interest; and
 - any changed conditions warranting the amendment.
- Required for all rezoning / zoning map amendment decisions (approve or deny)
- Can be adopted in the same motion as the zoning action and/or statement of consistency; can be adopted separately

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Vote

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Vote

- Simple majority of members not excused
- No need for supermajority even on date of introduction (was required under old rule)

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Application and Staff Review
Planning Board Advice
Governing Board Decision

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Discussion 2

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Legal Considerations for a Rezoning
And Other Legislative Development Decisions

Spring 2024

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Rezoning Case Z-24-03

Apartment Developers, LLC seeks to rezone from Single-family (R-1) to Multifamily (RMF)




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Legitimate Zoning Considerations
Improper Zoning Considerations

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General Land Use Impacts

- To the owner/developer
 - Property value, free use of land, investment expectations
- To the neighbors
 - Safety, noise, odor, traffic, aesthetics, stormwater, property value, investment expectations
- To the community
 - Safety, convenience, traffic, appropriateness of use, character of community, property values, availability of housing types
- To the local government
 - Infrastructure costs (capital and maintenance), service costs, tax implications, diversity of economy, mix of housing types

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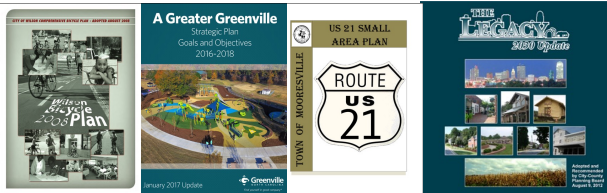
Statutory Purposes and Considerations

- “the character of the district and its peculiar suitability for particular uses”
- “a view to conserving the value of buildings”
- “and encouraging the most appropriate use of land”

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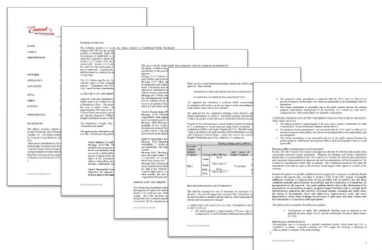
Consistency with Applicable Plans



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Recommendations from Planning Board and Staff



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Consider All Uses

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Rezoning Case Z-24-03

- What are the benefits and detriments to the owner, neighbors, and broader community?
- What do the adopted plans call for?
- What are the recommendations of staff and the planning board?
- What are all of the uses this would allow?
- What is in the public interest?

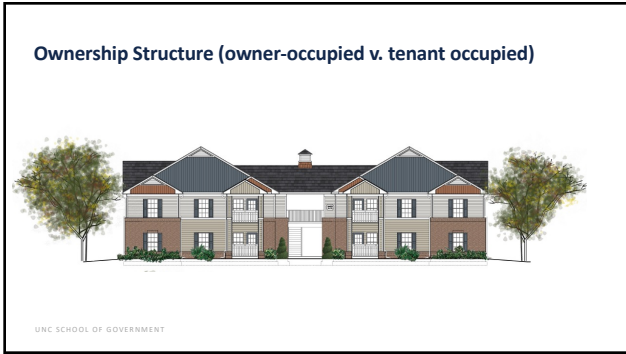
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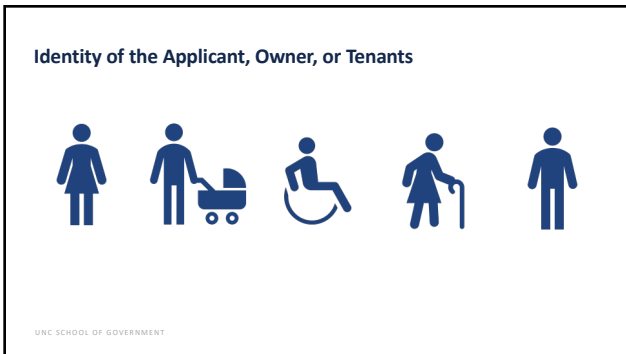
Legitimate Zoning Considerations
Improper Zoning Considerations

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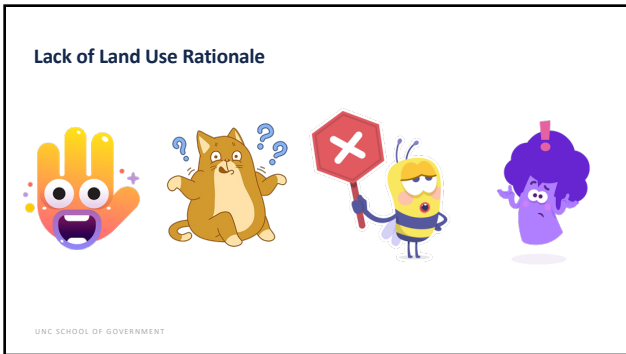
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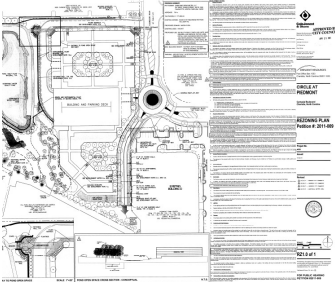


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**Conditions and Promises
(unless it is conditional!)**



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Land Uses with Some Legal Protection

STATE AND FEDERAL LAW PROVIDES PROTECTIONS FOR CERTAIN LAND USES;
WHILE REGULATIONS MAY STILL APPLY, LEGAL LIMITS ON LOCAL REGULATIONS APPLY

- Religious land uses
- Signs
- Manufactured homes
- Adult businesses
- Cell Towers
- Family Care Homes
- State Fair Housing (inclusion of affordable housing)
- Bona fide farm activities (outside of municipalities)
- And more!

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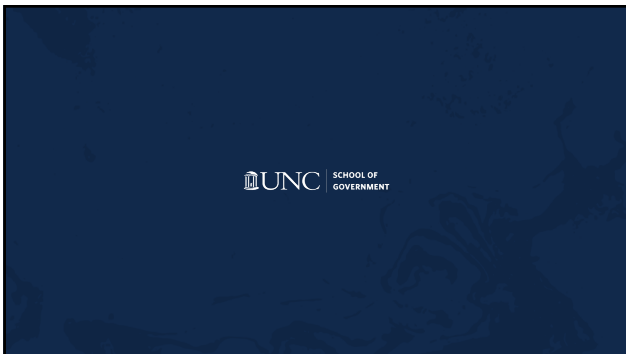
**Legitimate Zoning Considerations
Improper Zoning Considerations**

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