

Rezoning: A Citizen's Guide

I. Introduction

Zoning determines the types and intensity of uses and development that are allowable on a piece of land. When someone wants to change the zoning of land, a rezoning request is initiated. A rezoning is an amendment to the Town's Land Use Management Ordinance. For that reason, a rezoning request is often referred to as a Zoning Atlas Amendment.

This guide summarizes the process through which the Town considers rezoning applications.

If you have questions or need more information, we encourage you to call the Planning Department at 968-2728. Please also refer to Articles 3 and 4 of the Chapel Hill Land Use Management Ordinance.

II. Rezoning Applications

Rezoning may be requested in two ways:

1. A rezoning request to a general use district is submitted to change the zoning of land to a different zoning district in which any of several kinds of developments and uses are possible;

General use district rezoning may be proposed by any citizen or citizen's representative (regardless of land ownership), by the Town Council, the Planning Board or other Town advisory board, or by the Town staff.

2. A conditional rezoning request is submitted in order to allow development and uses only with a Special Use Permit.

Example: An owner of land now zoned residential could ask for Office/Institutional "conditional use" rezoning, and separately apply for a Special Use Permit to construct an office building.

NOTE: Only the owner(s) of a piece of land may request conditional use rezoning for the land.

Once the process is initiated, the steps are the same for both general use and conditional use rezoning requests: a) nearby property owners are notified; b) a public information meeting is held; c) staff prepares a report for presentation to the Planning Board; d) the Planning Board considers the request and prepares a recommendation; e) a Public Hearing is held; and f) action is taken by the Town Council.

Fees: The application fee for a rezoning application is based on the number of acres involved. Applications for rezoning are filed at the Planning Department. A statement of justification and a precise description of the property are usually included with the application.

III. Public Information Meeting

An informal public information meeting is scheduled after an application for rezoning has been received. Notification is mailed to owners of property within 1,000 feet of the property proposed to be rezoned, as well as to the applicant. At this meeting, Town staff will describe the rezoning process, the applicant presents the proposal, and citizens may ask questions.

IV. Staff Report

The Town's Planning staff review the application and prepare a staff report and recommendation to the Planning Board.

V. Discussion by Planning Board

The Planning Board discusses the rezoning request at one or more meetings (usually on the first Tuesday of the month). This discussion occurs before the Public Hearing. Under the Planning Board's rules of procedure, citizens may speak to the Board on the proposal. The Planning Board makes a recommendation to the Town Council.

VI. Information on Protest Petitions

State law provides for protest petitions against proposed rezonings. The State law requirements for an effective protest petition include having signatures of owners of either:

1. Twenty percent (20%) of the land area proposed to be rezoned, or
2. Five percent (5%) of a 100-foot-wide buffer extending along the entire boundary of each discrete or separate area proposed to be rezoned. A street right-of-way is not considered in computing the 100-foot buffer area as long as that street right-of-way is 100 feet wide or less. When less than an entire parcel of land is subject to the proposed rezoning, the 100-foot buffer shall be measured from the property line of that parcel.

A protest petition must be submitted at least two full workdays before the date of the Public Hearing on a rezoning request. If a valid protest petition is filed, rezoning can occur only if three-fourths of Council members vote in favor. Usually this means 7 out of the 9 elected officials vote in favor. However, vacant positions on the Council or members who are excused from voting are not considered in determining the three-fourths count.

For more information please call the Planning Department at 968-2728. To get the [form for a protest petition](#), contact the Chapel Hill Town Clerk at 968-2743 or the Planning Department.

VII. The Town Council's Public Hearing

The Town Council's Public Hearing is normally on the 3rd Monday of each month at 7:00 PM in the Council Chambers at Town Hall (405 Martin Luther King Jr. Boulevard). Notification is mailed to owners of property within 1,000 feet of the proposed rezoning, as well as to the applicant.

Two public notices of the hearing date, time, and location are published in a local newspaper.

Recommendations, presentations, comments, and questions at the hearing may be subject to time limits. At the end of the hearing, the Council refers comments and questions from the hearing to the Town Manager for further study and a recommendation.

VIII. Action by the Town Council

The Town Council usually votes on rezoning requests on the 2nd Monday of the month after the Public Hearing. The Council's decision is based on whether the rezoning:

- A. Corrects a "manifest error" in the Town's Zoning Atlas; or
- B. Is justified due to changed or changing conditions in a particular area or in the Town's planning jurisdiction in general; or
- C. Is necessary to achieve the purposes of the Town's Comprehensive Plan.

Any rezoning decision by the Council may be subject to judicial review in Superior Court.

IX. Questions

If you have any questions, please call, visit, or write to the Town's Planning Department. The Town's regulations and procedures on rezoning are primarily in Article 4 of the Chapel Hill Land Use Management Ordinance, which may be viewed or purchased in the Planning Department at Town Hall. Articles 3 and 4 of the Ordinance also include sections on conditional use zoning and Special Use Permits.

Please Note:

This guide is based on the Town's Land Use Management Ordinance originally adopted on January 27, 2003. The Ordinance may change and this brochure may become out of date. This guide summarizes portions of the Land Use Management Ordinance, and is not intended to comment on any particular zoning request. This guide is intended for general information purposes and is not a statement of legal opinion. This guide does not replace or supersede the Land Use Management Ordinance.

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