



**Ordinance Establishing Weaver Village as a Conditional Zoning District**

**2008**

ORDINANCE ESTABLISHING CONDITIONAL ZONING FOR PROPERTY(S) LOCATED  
ON WEAVER BOULEVARD (WEAVER VILLAGE)

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WHEREAS, the Town of Weaverville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, Section 36-84 of the Code of Ordinances of the Town of Weaverville establishes the procedures and requirements for zoning property to Conditional Zoning District; and

WHEREAS, this proposed amendment is consistent with the Town's Comprehensive Land Use Plan because it provides adequate buffers to help mitigate conflicts between established low-density residential neighborhoods and existing high-intensity commercial districts by means of a medium-density, mixed-use complex featuring an amalgam of commercial, retail, office and single-family residential uses.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEAVERVILLE THAT:

Section 1. The Zoning Map of the Town of Weaverville be, and the same is hereby, amended as follows:

The zoning classification of that certain real property described in Exhibit A and identified on Buncombe County tax maps as PINs 9742.05-29-1461, 9742.05-29-4650 and 9742.06-29-5251 be rezoned from R-1 Residential District to Conditional Zoning District. A copy of the Buncombe County tax map showing said lots with striping is attached hereto as Exhibit "A" and made a part hereof. Said rezoning is subject to compliance with the approved "Master Site Plan" and the conditions set out in Exhibit "B", attached hereto and made a part hereof.

Section 2. That the Office of the Zoning Administrator is hereby authorized and directed to make the changes as hereinbefore enacted in said zoning map.

Section 3. That if any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 4. That all ordinances and clauses of ordinances in conflict herewith be and are hereby repealed, to the extent of such conflict.

Section 5. That this ordinance shall be in full force and effect on the date of adoption.

Read, approved and adopted the 19<sup>th</sup> day of May, 2008.

Shirley Shields  
Town Clerk

Mary "Beth" Stroed  
Mayor

EXHIBIT B

CONDITIONS OF APPROVAL

1. All uses allowed within the C-1, Central Business District shall be allowed in Zones A, B and C as shown on the "Master Site Plan" as finally approved on the property being rezoned (the "Property") except for the following uses: child care/day care facilities (unless they do not exceed 5,000 square feet and all exterior play areas are enclosed with fencing materials acceptable to the Town's Zoning Administrator,) employment offices (which are greater than 5,000 square feet or include construction labor employment,) construction offices with outside storage, movie theatres, funeral homes, government buildings whose uses exceed 1.2 vehicle trips per thousand square feet per hour, churches and other places of worship, veterinarian offices or clinics with outside kennels or runs, check cashing services, pawn shops, bail bond services, newspaper publishing operations, museums, hotels and motels, and multi-family dwellings or buildings. Further, only single family dwellings shall be allowed within Zone D as shown on the "Master Site Plan" as finally approved.
2. No adult oriented businesses, as defined in section 36-28 of the Code of Ordinances of the Town of Weaverville, shall be located on the Property.
3. No drive-through or drive-in type restaurants shall be allowed on the Property, including, but not limited to, drive up and eat restaurants, except that a drive-through restaurant shall be allowed in a structure located within Zone A whose footprint is located close to the western boundary of the Property, provided the restaurant has a minimum number of twenty (20) indoor seats, no more than one drive-through lane or area, no more than one window for ordering and receiving and no more than one speaker box for ordering which shall be designed to prevent noise and light trespass on to any residentially used property.

4. No businesses that sell gasoline or other petroleum products measured through a pumping device shall be allowed on the Property.
5. No convenience stores shall be allowed on the Property.
6. No businesses will operate 24 hours a day other than a drug store or automated teller machines operated by financial institutions.
7. No businesses that perform any type of automobile services, including, but not limited to oil changes or car washes, shall be allowed on the Property.
8. No automobile or farm equipment sales lots nor individual vehicles offered for sale shall be allowed on the Property.
9. None of the structures to be located in Zone A as shown on the approved site plan shall have a footprint which exceeds 14,500 square feet. No more than one structure with a footprint of 14,500 square feet shall be allowed in Zone A and the total square footage of all levels of all structures to be located in Zone A shall not exceed 40,000 square feet. The maximum footprint limits for Zone A exclude enclosed garbage dumpster areas and/or covered drive-through areas.
10. None of the structures to be located in Zone B as shown on the approved site plan shall have a footprint which exceeds 10,000 square feet. No more than one structure with a footprint of 10,000 square feet shall be allowed in Zone B and the total square footage of all levels of all structures to be located in both Zone B and Zone C together shall not exceed 30,000 square feet.
11. None of the structures to be located in Zone C as shown on the approved site plan shall have a footprint which exceeds 8,000 square feet. No more than one structure with a footprint of 8,000 square feet shall be allowed in Zone C and the total square footage of all levels of all structures to be located in Zone C shall not exceed 14,000 square feet.
12. No business or facility that is primarily involved with heavy shipping or storage shall be allowed on the Property; provided, however, businesses will be allowed to receive

shipments and store products for their own sales and use. No outside storage shall be permitted on the Property, except during periods of construction or remodeling.

13. There shall be no parking of service vehicles for a period of 24 hours.

✓ 14. The architecture of all of the structures located on the Property shall be of an Arts and Crafts style, using Arts and Crafts finishes (which include stone, wood timbers, brick, stucco, cement siding and cedar shake shingles on exterior elevations and architectural design roof shingles) and colors. The architectural style shall match the style shown in the applicant's Power Point presentation, except for the architectural style of the pharmacy building shown in the presentation, and the presentation is hereby incorporated by reference in these conditions and as an essential part of the applicant's petition for zoning. The color patterns for all structures shall be those shown on the plan sheets or sample boards as approved by the Town Council, unless otherwise approved by the Town's Zoning Administrator. The architectural style and colors shall tie the project together through all four zones on the Property.

✓ 15. No vinyl siding shall be used on any structure on the Property.

✓ 16. No bare metal fencing shall be allowed on the Property. Fencing of a height of four (4) feet which meets this requirement shall be placed along the top elevation of the retaining wall running along the western boundary of the property. The fencing shall be constructed as shown on the approved "Master Site Plan".

17. No structure on the Property shall be over 35 feet above finished grade elevation on any side of the structure.

✓ 18. Weaverville Partners shall grant to the Town of Weaverville a "non-development easement" around the perimeter of the property which abuts residentially used property as of the date of issuance of the building permit for the project. The "easement" will vary in width according to the "Master Site Plan" as finally approved, with a minimum width of two (2) feet. The purpose of this easement will be to prohibit this project and the Property included in the project from ever expanding beyond its size as shown on the approved plan and from

connecting this project to any future development. This easement will not increase any set back requirements and set backs shall be measured from the actual property lines as shown on the "Master Site Plan" as finally approved. No structures or drives or parking areas may be constructed within the "non-development easement," except that emergency access may be provided through that strip of property conveyed pursuant to Paragraph 19 below.

✓ 19. Weaverville Partners shall convey to the Town of Weaverville by gift deed any interest it may have in the unopened portion of Reagan Lane which is approximately 30 feet wide and 245 feet long and which runs south from the central portion of the Property to Moore Street. If Weaverville Partners has any easement or right of way across this unopened portion of Reagan Lane, it will execute any documents necessary to surrender its rights to cross over the subject portion of the Property; provided, however, Weaverville Partners may reserve an easement for utilities to the Property. The Town will cooperate with Weaverville Partners in the event Weaverville Partners makes an application for this conveyance to be deemed a charitable contribution.

20. Weaverville Partners shall convey to the Town of Weaverville by gift deed the portion of the Property located on the North side of Weaverville Boulevard, consisting of an area of approximately .93 acres and identified as PIN #9742.05-29-0995. This portion of the Property shall not be rezoned to Conditional Zoning District. The Town will cooperate with Weaverville Partners in the event Weaverville Partners makes an application for this conveyance to be deemed a charitable contribution.

21. All lighting on the property shall be mounted on posts no more than 16 feet tall. Blocking, shielding and aiming of all exterior lighting shall be used to minimize light trespass on to adjoining residential properties; provided, however, light posts within Zone A may exceed 16 feet in height if security lighting requirements of financial institutions exceed that limit and there is no light trespass on to adjoining residential properties. The exterior lighting plan shall be subject to review and approval by the Town's Zoning Administrator prior to installation.

✓ 22. A T-turnaround or other turnaround as shown on the approved plan shall be constructed at the end of Reagan Lane which runs off of Main Street where it intersects with the Property boundary. Plantings in a buffer strip of twenty (20) feet wide shall be installed and maintained all around the turnaround area and shall be shown on the approved plan.

✓ 23. A minimum of 1.76 acre of open space or green space shall be maintained on the Property at all times.

24. Parking in Zones A, B and C shall be provided at not less than four(4) spaces but no more than five (5) spaces per one thousand (1,000) square feet of finished floor space. Parking for residential dwellings in Zone D shall be two (2) spaces per unit, inclusive of interior garage spaces.

✓ 25. Setback minimums and landscaping buffer areas shall be as shown on the approved "Master Site Plan".

26. Subject to the conditions set forth on this Exhibit "B", the footprints of structures in Zones A, B and C may be relocated and/or combined and the footprints of structures in Zone D may be relocated.

27. Subject to the conditions set forth on this Exhibit "B" and any other applicable laws, portions of the Property designated Zones A, B and C shall be deemed to be a "unified business development" and the portion of the Property designated Zone D shall be deemed to be a "unified housing development" for the purpose of being designated as exempt in Section 25-26 of the Town's Subdivision Ordinance.

28. Weaverville Partners shall provide to the Town of Weaverville a Letter of Credit for \$75,000 to insure the site is substantially completed according to the approved "Master Site Plan" and these conditions.

29. Weaverville Partners shall add the Town of Weaverville as an additional obligee on the grading contractor's performance bond.





**Amendment to Ordinance Establishing Weaver Village as a Conditional Zoning District**

**And Revised Site Plan**

**2012**

**An Ordinance Amending the Conditional Zoning for Property(s)  
Located on Weaver Boulevard (Weaver Village)**

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**WHEREAS,** the Town of Weaverville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

**WHEREAS,** Section 36-84 of the Code of Ordinances of the Town of Weaverville establishes the procedures and requirements for zoning property to Conditional Zoning District, including, but not limited to, limiting uses and establishing conditions; and

**WHEREAS,** the Town Council of the Town of Weaverville previously adopted the "Ordinance Establishing Conditional Zoning for Property(s) Located on Weaver Boulevard (Weaver Village)" on May 19, 2008, (hereinafter "Weaver Village CZD Ordinance"); and

**WHEREAS,** Weaverville Partners, LLC, as developer of Weaver Village, has requested an amendment to Condition No. 9 of Exhibit "B" of the Weaver Village CZD Ordinance to increase the maximum footprint of a structure within Zone A from 14,500 sq. ft. to 16,500 sq. ft. and to move the boundary line between Zone A and Zone B to accommodate a structure with a larger footprint; and

**WHEREAS,** this proposed amendment is consistent with the Town's Comprehensive Land Use Plan because it maintains adequate buffers to help mitigate conflicts between established low-density neighborhoods and existing high-intensity commercial districts by continuing a mixture of commercial, retail, office and single-family residential uses and because it maintains the maximum square footage of 40,000 sq. ft. for all levels of all structures to be located in Zone A.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF WEAVERVILLE THAT:**

**Section 1.** No. 9 of the Conditions of Approval in Exhibit "B" of the Weaver Village CZD Ordinance be, and the same is hereby, amended to read as follows:

9. None of the structures to be located in Zone A on the approved site plan shall have a footprint which exceeds 14,500 sq. ft.; provided, however, one structure may have a footprint of up to a maximum of 16,500 sq. ft. if the structure is used only as a grocery store and provided that there is no access off of Weaver Village Way to the remaining currently undeveloped parcel owned by the developer in Zone A within 75 feet of the intersection of Weaver Village Way and the southern right-of-way margin of Weaver Boulevard. No more than one structure with a footprint of 14,500 sq. ft., or a footprint of 16,500 sq. ft. for only a grocery store, shall be allowed in Zone A. The total square footage of all levels of all structures to be located in Zone A shall not exceed 40,000 sq. ft. The maximum footprint limits for Zone A exclude enclosed garbage dumpster areas and/or covered drive-through areas.

**Section 2.** The approved Master Site Plan be and is hereby amended to accommodate the increase in maximum footprint allowed in Zone A by relocating the boundary between Zone A and Zone B of the Weaver Village CZD Ordinance to the zone boundary line as shown on the revised "Master Site Plan," which is attached hereto as Exhibit "A" and made a part hereof

**Section 3.** It is the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance are severable and if any phrase, clause, sentence, paragraph or section of this ordinance shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance, since they would have been enacted by the Town Council without the incorporation in this ordinance of any such unconstitutional or invalid phrase, clause, sentence, paragraph or section.

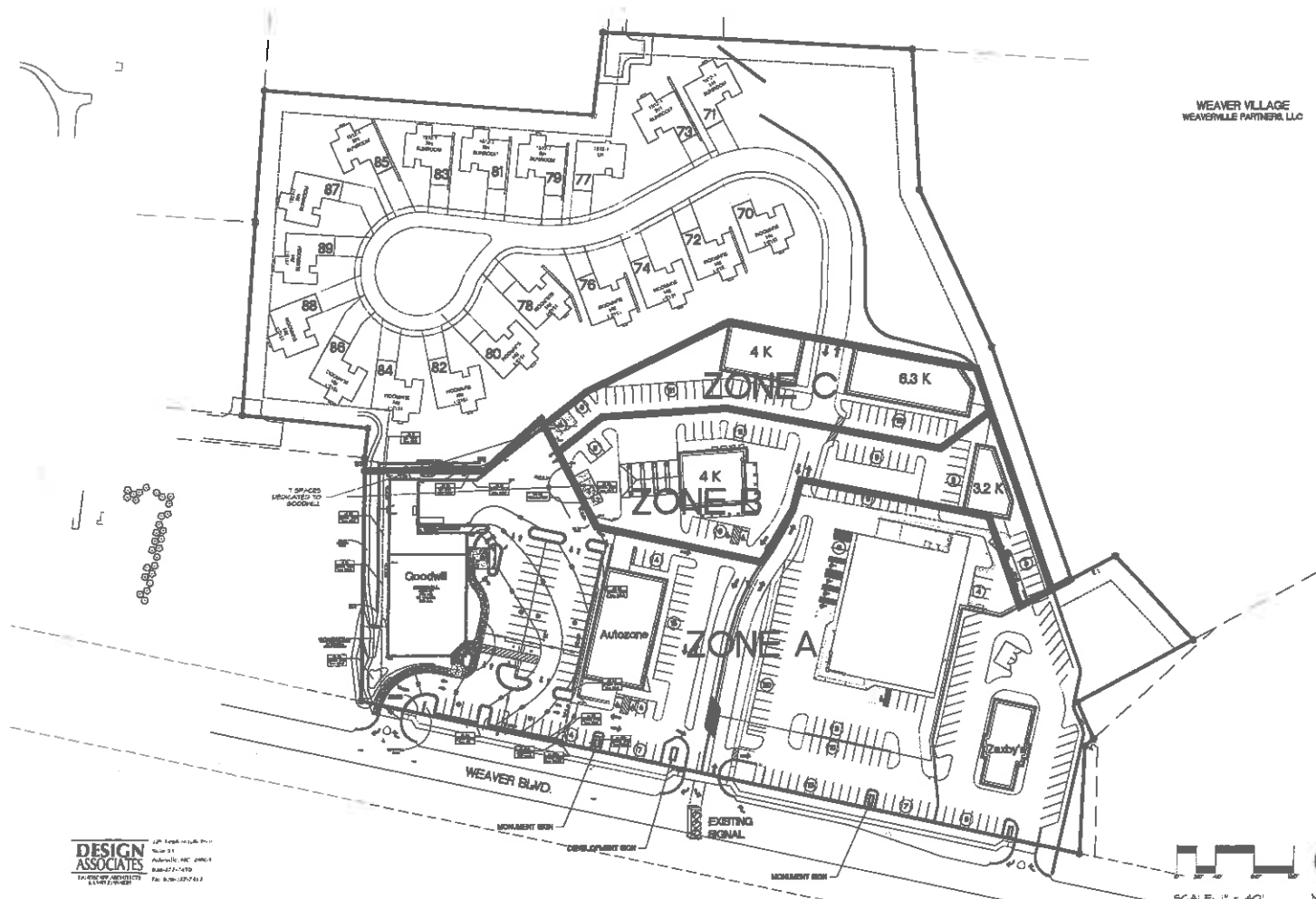
**Section 4.** This ordinance shall become effective upon adoption.

Read, approved and adopted this the 17<sup>th</sup> day of December, 2012.

Allan P. Root  
Allan P. Root, Mayor

Shelby Shields  
Shelby Shields, Town Clerk

WEAVER VILLAGE  
WEAVERVILLE PARTNERS, LLC



**DESIGN ASSOCIATES**  
LANDSCAPE ARCHITECTS  
1201 South 11th Street  
Suite 211  
Aurora, IL 60005  
630.271.1119  
Fax: 630.272.7111

SCALE: 1" = 40'  
NORTH



## Conditional Zoning District Description within Chapter 36 - Zoning

Sec. 36-84. - Conditional zoning district.

- (a) Intent. The CZD-conditional zoning districts provide for those situations where a particular use, properly planned, may be appropriate for a particular site, but where the general district has insufficient standards to mitigate the site-specific impact on surrounding area.
- (b) Use permitted. The uses which may be considered for a conditional zoning district shall be established on an individual basis, at the request of the property owner, according to the procedures of section 36-83(d). Zoning of a conditional zoning district is not intended for the securing of early or speculative reclassification of property. It is expected that, in most cases, a general district will appropriately regulate site-specific impact of permitted use and structures on surrounding areas.
- (c) Definition of conditional zoning district. For purpose of this section, a "conditional zoning district" shall be defined as a zoning district in which the development and use of the property included in the district is subject to predetermined ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to the particular property. If the property use is ever proposed to be changed from the original approved plan, then the new proposed use and plan must be resubmitted for approved by the town council.
- (d) Petition of request. Property may be rezoned to a conditional zoning district only in response to and consistent with a petition of the owners, or agents of the owners of all of the property to be included in the district and shall be accompanied by an official petition, a statement analyzing the reasonableness of the proposed rezoning request by the petitioner, the established fee, and documentation as required by the following:
  - (1) A petition for a conditional zoning district must include a site plan and supporting information that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property;
  - (2) A boundary survey and vicinity map showing the property's total acreage, current zoning classification(s) general location in relation to major streets, date and north arrow;
  - (3) Existing topography on the site and within 300 feet of the boundary of the site, and the general nature of the proposed topography at four-foot contours;
  - (4) All existing easements, reservations, rights-of-way, and any other valid restrictions on the use of the land;
  - (5) The number and general location of all proposed structures;
  - (6) The proposed use of all land and structures, including the number of residential units or the total square footage of any nonresidential development;
  - (7) All yards, buffers, screening, and landscaping required by the town code;
  - (8) All existing and proposed points of access to public streets and the locations of proposed new streets;
  - (9) Delineation of areas within the floodplain;
  - (10) Proposed number and location of the signs;
  - (11) Proposed phasing, if any, and the approximate completion time for the project;
  - (12) The location of existing and proposed storm drainage patterns and facilities intended to serve the development;
  - (13) Traffic, parking, and circulation plans, showing the proposed location and arrangement of parking spaces and ingress and egress to adjacent streets, existing and proposed;
  - (14) A list of adjoining properties including county tax parcel numbers and the name and address of each owner, provided in digital form;

- (15) The location of significant trees on the petitioned property;
  - (16) The scale of buildings relative to adjoining properties, including sight lines;
  - (17) Information on the height of all proposed structures;
  - (18) Exterior features of all of the proposed development;
  - (19) Any supporting text shall constitute part of the petition.
- (e) Time limits. A time limit of 240 calendar days for securing applicable permits in order to construct the project and 365 calendar days thereafter for completion of the project; provided, however, the town council may approve up to an additional 365 calendar days for completion of the project, for good cause shown. In the event that the project involves more than three acres and/or more than 15,000 thousand square feet, the time period for securing applicable permits for the project shall be 365 calendar days and the time period for completion of the project shall be 730 calendar days thereafter; provided, however, the town council may approve up to an additional 180 calendar days for completion of the project, for good cause shown. Conditional zoning district projects that have approved detailed plans and have secured applicable permits for start of construction as of May 1, 2009, but on which there has not been a start of construction, will have an additional 12 months to be added to the construction time limits in this subsection from the date of approval of the detailed plans for the completion of the project.
  - (f) Minor modifications. Minor modifications to a project shall be submitted to the zoning administrator for review. No building permit for the proposed development or any part thereof shall be issued until the zoning administrator has determined that the pertinent detailed plans are in accordance with the application and general plans as approved by the town council.
  - (g) Future variance request. Property zoned CZD will not be able to apply for a variance on the approved project.
  - (h) Maintaining the zoning district. CZD is a change in the zoning district and therefore is maintained after the sale of the property. If the property owner wishes to change the approved CZD plan, the property owner must reapply with the town council for a zoning change.
  - (i) Guarantee of conditions. At the discretion of the town council, the council may require the property owner to guarantee the performance or completion of conditions included in the approved conditional zoning plan. Such guarantee may be in the form of:
    - (1) A surety performance bond made by a surety bonding company licensed and authorized to do business in the state;
    - (2) A bond of the developer with an assignment to the town of a certificate of deposit as security for the bond;
    - (3) A bond of the developer secured by an official bank check drawn in favor of the town and deposited with the town clerk;
    - (4) Cash or an irrevocable letter of credit; or
    - (5) A bank escrow account whereby the developer deposits cash, a note, a bond or some other instrument readily convertible into cash for a specific face value, with a federally insured financial institution in an account payable to the town. The amount of the guarantee shall be determined by the town council.
  - (j) District approval. If a petition for a conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to such district category, 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. Each conditional zoning district will be given a special number, distinguishing such district from another zoning district.
  - (k) Planning and zoning review. All conditional zoning shall require that the request be submitted to the town planning and zoning board to determine if approvals of such plans are made in consideration of

identified relevant adopted land-use plans for the area including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, and other land-use policy documents. A statement analyzing the reasonableness of the proposed rezoning shall be prepared by the town planning and zoning board for each petition for a rezoning to a conditional zoning district and submitted to the town council for final action on the request.

- (l) Public involvement. Before a public hearing may be held by the town council on a petition for a conditional zoning the petitioner must file in the office of the town clerk a written report of a at least one community meeting held by the petitioner. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, the date, time, and location of the meeting, a roster of the persons in attendance at the meeting, a summary of issues discussed at the meeting, and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting. In the event the petitioner has not held at least one meeting pursuant to this subsection, the petitioner shall file a report documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held. The adequacy of a meeting held or report filed pursuant to this subsection shall be considered by the town council but shall not be subject to judicial review.

Notice of such a public hearing shall be given to all the property owners within 200 feet of the property boundaries and in accordance with the provisions of G.S. 160A-364.

- (m) Judicial review. Conditional zoning district decisions under this section are a legislative process and not subject to judicial review.

In the event of noncompliance by a property owner or any subsequent resale or lease of a property for use other than that stipulated in the original CZD approval, the property owner would be in violation of the town zoning ordinance.

- (n) Approval procedures. Except as specifically modified by this section, the procedures to be followed by the town council in reviewing, granting, or denying any petition for conditional zoning shall be the same as those established for general use district zoning petitions under G.S. ch. 160A, art. 19.

The town council may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the town council holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no valid protest petition under G.S. 160A-386 was filed. If a valid protest petition under G.S. 160A-386 has been filed against a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new town council taking office.

- (o) Property in R-1 use district. Due to the distinct nature of the R-1 use district, the only lots in the R-1 district that are eligible for rezoning to a conditional use district are lots contiguous to and have the development's only access to Weaver Blvd., Main St. and Merrimon Ave.

(Ord. of 8-20-2007; Ord. of 11-17-2008, § 1; Ord. of 4-20-2009, § 3)