

In a special PZ meeting on March 14, 2023, the Board unanimously recommended the following Conditional Zoning Ordinance to the Village Council. In addition, the Board also recommended adding “Dimensional Standards” to UDO Article XVI Section 21-16-1. The definition is included below.

Unlike a Special Use Permit (SUP) which requires a quasi-judicial approval process, Conditional Zoning provides an administrative option for the Village in reviewing and setting conditions for development. As such, PZ believes it is a valuable and appropriate zoning option which should be applicable in all zoning districts.

The amendments in the following document are consistent with applicable elements of the Foxfire Village Land Use Plan and Long Range Plan and are reasonable and in the public interest in order to provide clear and consistent guidance to property owners.

CONDITIONAL ZONING DISTRICTS

A. **Purpose.** This ordinance authorizes the creation of Conditional Zoning (CZ) districts proposed by the property owners and customized to the context of a particular development project or land use on a particular site where no mixed use development is proposed. Each CZ district includes one or more conditions of approval that help the project conform to Foxfire Village’s Unified Development Ordinance (UDO) and land use plans, and mitigate the impacts reasonably expected to be generated by the development or use of the site.

B. **Procedure.** Each district may only be considered by the Foxfire Village Council after review by the Planning and Zoning Board through a legislative decision-making process, following the procedures for zoning map amendments outlined in the UDO.

C. **Initiating a Conditional Rezoning.** A CZ proposal may only be considered by the Foxfire Village Council in response to the following:

- a. a petition signed by all owners of the property proposed for rezoning; or
- b. a motion, during a properly noticed public hearing on a conventional rezoning petition, to convert that petition into a conditional rezoning petition. This procedure may only be used if (a) the alteration of the initial proposal, including the proposed conditions, is insubstantial, or (b) the initial notice is broad enough to indicate the possibility of conditional zoning being considered and the changes result from objections, debate and discussion at the properly noticed initial hearing.

D. **Base Standards for Conditional Districts.** For each general use zoning district, this ordinance authorizes the creation of parallel CZ districts that have the same requirements as the general use district, as modified by one or more site-specific conditions.

E. **Conditions and Requirements.** The approval for each CZ shall specify all conditions of development and use of land that differ from the requirements of the corresponding general use district. Specific conditions may be proposed by the petitioner, by the Zoning Administrator, the Planning and Zoning Board or by the Foxfire Village Council, but only those conditions approved by the Foxfire Village Council and consented to by the petitioner in writing may be incorporated into the zoning regulations. Such

conditions must be designed to help the project conform to Foxfire Village UDO and land use plans, and/or mitigate the impacts reasonably expected to be generated by the development or use of the site. Such conditions may be stricter than the corresponding general use district. Such conditions may also relax applicable standards, as long as no dimensional standard (as defined in UDO Article XVI Table 21-6.1) is relaxed by more than 10%, the uses permitted by the corresponding general use district are not expanded, and the density of overall development is not increased beyond the density allowed in the corresponding general use district.

F. Eligible Uses. Uses allowed by right in the general use district are eligible to be considered in the corresponding conditional district, as modified by any conditions of approval.

G. Development Standards. Any proposed development within a CZ must meet all requirements of the corresponding general use district, as modified by any conditions of approval.

H. Submittal of Sketch or Site Plan. The CZ option is intended only for development proposals that are ready to proceed from plan approval to construction in a timely manner. As a result, each project must include a sketch plan and be followed by a site plan or preliminary plat that meets the site plan requirements listed in UDO Article XVI Section 21-16-1 (Definitions) and applicable requirements of the UDO Article VII Subdivision Checklist, as modified by any site-specific conditions.

I. Relationship to Overlay District Standards. Regulations applicable in an overlay zoning district shall apply to a CZ. If the standards governing a CZ expressly conflict with those governing an overlay district, the more restrictive standards shall apply. (Watershed Overlay District applies to all districts in UDO).

J. Revisions to Approved Conditional Zonings. Minor modifications to approved site plans that have no material effect on the character of the approved development and comply with all applicable standards of this Ordinance may be approved by the Planning and Zoning Board following review by the Zoning Administrator. Any other changes to approved site plans must be authorized by the Foxfire Village Council.

Changes in the following constitute minor modifications that may be approved by the Planning and Zoning Board:

1. Modifications in building placement, provided the placement does not decrease the setbacks agreed to during the conditional rezoning process by more than 10 percent;
2. Increases to building size and height not to exceed 10 percent; height increase allowed dependent upon local fire department capabilities
3. Increase to the impervious surfaces not to exceed 10 percent as governed by the WSO district
4. Modifications to the proportion of use type not to exceed 10 percent.
5. Modifications to the driveway locations if required by the North Carolina Department of Transportation; and

K. Expiration of Conditional Zoning. If within 18 months from the date of approval of the Conditional Zoning District, no building permit has been issued for the subject tract; the Zoning Administrator may ask the Planning and Zoning Board to schedule a hearing to consider progress made. If it is determined that active efforts are not proceeding, the Planning and Zoning Board may send a recommendation to

the Foxfire Village Council to simultaneously revoke the Conditional Zoning District and rezone the district to its classification prior to approval. If an extension is desired, a request must be submitted in writing to the Zoning Administrator prior to the expiration. Approval or denial of the extension shall be made by the Foxfire Village Council a regularly scheduled meeting. The total vesting period for extensions may not exceed five (5) years.