Legislation Details (With Text)

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Title:	Discussion of Conditional Zoning Process PURPOSE: The purpose of this item is for the Board of Aldermen to discuss the conditional zoning process and how it relates to public input.		
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TITLE:

Discussion of Conditional Zoning Process

PURPOSE: The purpose of this item is for the Board of Aldermen to discuss the conditional zoning process and how it relates to public input.

DEPARTMENT: Planning

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INFORMATION: At the June 23, 2015 public hearing, the Board adopted text amendments to the Land Use Ordinance that authorized the creation of conditional zoning districts corresponding with almost all of the existing zoning categories. <https://carrboro.legistar.com/MeetingDetail.aspx?ID=388585&GUID=F75209F2-5E07-4F85-A309-5D9B50F8D7DB&Search>=

The conditional zoning process is legislative, providing the Board with discretion in the decision and the ability to potentially participate in informal discussions about the project. During the public hearing, the Board may consider citizen input without regard to expert testimony.

To date the town has approved three conditional zoning requests, for a hair salon at 102 Center Street, an additional hair salon at 401 North Greensboro Street, and the Shelton Station mixed use project at 500 North Greensboro Street. Information submitted as an exhibit along with the application itself amounted to a fairly simple site plan identifying the subject properties for the two hair salons, as both were locating in existing structures. Shelton Station submitted a somewhat more detailed site plan type exhibit along with their application. All three applications also included a list of conditions that were adopted as a part of the approval of the rezoning.

Anticipating that the future use of conditional rezoning for large and/or potentially controversial projects will

draw considerable public input, the Board may wish to consider a standardized approach for receiving such input, for responding to citizens and for sharing concerns with all Board members prior to the public hearing, along with considering how much information should be submitted in the form of a site plan exhibit in advance of a public hearing for the application.

Suggested options and topics the Board may wish to discuss follow:

- **Mechanisms for contact with citizens and the applicant during review of a project:**

  Regarding contact with both citizens and the applicant, the Board could adopt a rule or policy that would limit discussions to circumstances where all Board members and the Mayor are a party to what is being discussed. These circumstances may occur during meetings in the Board room or during other types of meetings held for the purpose of discussing the application, as well as through emails sent to the entire Board with every party understanding that replying to all people involved in the email is required.

  On the other end of what the Board may find acceptable, the Board may decide that it is okay for any individual member to engage in discussions with citizens and the applicant at any time during the process. This may take place by way of phone calls, emails, informal meetings, etc, outside of more formal meetings or hearings held by the Town. Conditional zoning, as a matter of law, allows for open discussion in general. An important question then is whether the Board wants to allow full participation and open discussion between anyone and everyone, or wants to proceed in a more structured environment with less open discussion, as described above.

  The Board may also wish to discuss whether specific meetings should take place prior to a public hearing for the application. This may take the form of a staff led initiative to conduct a meeting similar to a Neighborhood Information Meeting, to be held at the outset of consideration of an application, or one or more other forums or formats for gathering input during the review process ahead of a public hearing.

- **Ability to negotiate / include requirements for a project in addition to Land Use Ordinance requirements:**

  As a reminder, a conditional rezoning application, if and when approved, must include a list of conditions that is found mutually acceptable to both the town and the applicant. This differs somewhat from a quasi-judicial consideration of a land use permit application, wherein any conditions attached to the permit must be credibly tied to an interest or concern based on public health, safety, or general welfare. Since conditional zoning decisions are legislative actions, the Board and applicant are free to negotiate and mutually agree upon any conditions that are attached to the approval. Carrboro's pertinent LUO language requires the applicant to present a draft list of conditions as a starting point. From there, staff, the Board, and citizens as well have an opportunity to request modifications to what was submitted, along with requests for potential new conditions.

  This section is included both to remind the Board of the legislative nature of these types of applications, as well as to potentially prompt discussion about when and how the list of conditions should be negotiated during the review. The Town's somewhat limited experience to date with this process has involved staff working with applicants on a list of conditions that has then been presented during the public hearing itself. Any negotiations between the Board and an applicant so far have taken place during the public hearing itself, with citizens weighing in or making requests and suggestions during the

hearing. Moving forward, the Board may wish to require that the proposed list of conditions be made available to all parties earlier in the process, so that suggestions and requests may be offered in advance of the hearing. It seems likely that any final negotiations regarding details of one or more conditions may still take place during the public hearing, but earlier distribution and consideration of the draft list may provide additional time for both citizens and Board members to carefully consider what they are asking for, as well as give the applicant more time to carefully consider what they are and are not willing or able to include as a condition.

- **Level of review and amount of details shared before a decision is made:**

  As described above, the site plan exhibit included in the three existing conditional zoning approvals in Carrboro included varying levels of detail. The materials for all three, however, did not go beyond what one would consider a simple site plan. As larger projects potentially come forward utilizing this process, the Board may wish to see more detailed exhibits in advance of holding a public hearing. It is not anticipated that a full permit level review will be completed prior to a conditional zoning request being taken to a public hearing, but both citizens and Board members may only be comfortable considering a larger project if a substantially complete site plan is included. This is especially true for any situation where a zoning permit is to be issued by staff following approval, with no additional public hearings being held. The Board could adopt a policy clarifying how much information should be submitted before the Board would be willing to formally consider an application. Alternatively, the Board may choose to let staff work out these details with an applicant on a case by case basis.

FISCAL & STAFF IMPACT: None associated with the discussion of this item.

RECOMMENDATION: Staff recommends that the Board discuss the conditional zoning process and give direction to staff as needed.