

ARTICLE 5

AMENDMENTS TO DEVELOPMENT ORDINANCE AND ZONING MAP

(amended June 30, 2021 to comply with NCGS 160D)

5.1 General

The Midland Town Council may amend, supplement, modify, or repeal any provision of this ordinance or amend the zoning maps according to the procedure established by G.S.160D-601. Such amendments shall be evaluated for compliance with the “Town Plan 2030 – Land Use and Comprehensive Master Plan – Revision 1”, adopted August 9, 2011 and other applicable adopted plans, and may require a land use plan and/or comprehensive master plan amendment to ensure compatibility between the plan(s) and the amendment. Amendments and modifications shall be acted upon by the Town Council, after recommendation from the *Planning and Zoning Commission*.

5.2 Initiation of amendments

Proposed changes or amendments to the text of this chapter may be initiated by the Midland Town Council, the Midland *Planning and Zoning Commission*, the *Board of Adjustment*, the *Planning, Zoning and Subdivision Administrator*, any owner of a legal or equitable interest in land located in the Town or its extraterritorial jurisdiction, or any resident of the Town or its extraterritorial jurisdiction. Proposed zoning map amendments may be initiated by the Midland Town Council, the Midland *Planning and Zoning Commission*, the *Board of Adjustment*, the *Planning, Zoning and Subdivision Administrator*, or any owner of a legal or equitable interest in the property for which the map amendment is requested. A zoning study of a defined area may be requested upon submittal to the Midland Planning Services Department of a petition signed by 51 percent of the property owners in the defined area for which the zoning study is requested who own at least 51 percent of the property (calculated by both land area and number of parcels) in the defined area for which the zoning study is requested. The area for which the zoning study is requested must be defined by the petitioners requesting the zoning study and may be of any size and include any number of individual contiguous parcels, including a public street. The area defined by the petitioners will be used by Town staff to determine if the required 51 percent of property owners owning at least 51 percent of the property have signed the petition requesting the zoning study. Upon confirmation that the petition for a zoning study is valid, it shall be forwarded to the Midland Town Council for a determination of whether the zoning study should be initiated for the defined area and any portion thereof. The Town Council may initiate the zoning study, elect not to initiate the zoning study, or reduce the size of the area to be included in the zoning study and initiate a zoning study of the reduced area.

5.3 Amendment Process

5.3-1 Initial Application Process

- (A) Pre-filing meeting. Before filing a petition for an amendment or a request for a zoning study, an applicant shall meet with the *Planning, Zoning and Subdivision Administrator* to discuss the proposed amendment or request and to become more familiar with the applicable requirements and approval procedures.
- (B) Neighborhood meeting. It is highly recommended that the applicant for a zoning map amendment (rezoning) meet with representatives of the neighborhood in which the property for which the map amendment (rezoning) is proposed is located. This meeting, which should be held at the pre-application stage, will allow the applicant to explain the proposed map amendment (rezoning) and to be informed of the concerns of the neighborhood.
- (C) Filing.
 - (1) A petition requesting an amendment or a zoning study shall be filed with the Planning Department on a form provided by the *Planning, Zoning and Subdivision Administrator*.
 - (2) Applicable fees shall be payable as set forth by the Midland Town Council.
 - (3) Petitions must be submitted by 12:00 noon on the third Friday of the month in order for the petition to be heard at the meeting of the Midland *Planning and Zoning Commission* scheduled at least 30 days later.
- (D) Content of applications.
 - (1) Each application shall contain or be accompanied by all information required on the application form provided by the *Planning, Zoning and Subdivision Administrator*.
 - (2) Every amendment proposing to change the district boundary lines shall be accompanied by a metes and bounds description, a survey of the area involved, or reference to existing lots, sufficient in the estimation of the *Planning, Zoning and Subdivision Administrator* to plot or otherwise identify the amendment on the official zoning maps of the Town of Midland.
 - (3) Any person designated by the owner(s) of the property included in the petition to serve as agent for the owner shall submit such authorization in writing with the application.

5.3-2 Review by the Technical Review Committee

- (A) General. Upon submission of a request for a zoning map amendment (rezoning) that requires compliance with design guidelines as set forth in this Ordinance, the request shall be

scheduled for review by the Midland Technical Review Committee prior to being submitted to the Midland *Planning and Zoning Commission* for review and recommendation. The Technical Review Committee shall review the request for compliance with the design standards set forth in this Ordinance. Upon receipt of the request, the Technical Review Committee shall hold a meeting to consider the proposal.

- (B) Notification. The meeting of the Technical Review Committee at which the request is reviewed is not a public hearing and therefore no notice is required.
- (C) Review – General. The review meeting shall be conducted in accordance with the rules of procedure of the Midland Technical Review Committee. The Committee shall make recommendations to the Midland *Planning and Zoning Commission* regarding whether the proposal complies with the design standards set forth in this ordinance. When considering a proposal, the Technical Review Committee shall consider only the compliance of the proposal with the design standards set forth in this Ordinance.
- (D) Finding of Compliance by the Midland Technical Review Committee. Following a finding by the Technical Review Committee that the proposal complies with the design standards set forth in this Ordinance, the action shall be reported to the Midland *Planning and Zoning Commission* for a recommendation according to the process set forth in section 5.3-3 of this ordinance.
- (E) Finding of Non-compliance by the Midland Technical Review Committee. If the Technical Review Committee finds that the proposal does not comply with the design standards set forth in this ordinance, the petitioner may request that the consideration of the request by the *Planning and Zoning Commission* be postponed for up to ninety (90) days. The purpose of the postponement is to provide the petitioner time to address issues identified by the Technical Review Committee in their review of the proposal and/or to revise the proposal to address the issues that resulted in the finding of non-compliance. Following the negative recommendation of the Technical Review Committee and the postponement, if requested by the petitioner, the application with the Technical Review Committee's finding, shall be forwarded to the *Planning and Zoning Commission* for their consideration and recommendation. If the petitioner revises the proposal to address issues identified by the Technical Review Committee, the revised proposal shall be forwarded to the *Planning and Zoning Commission* for consideration and recommendation.

Review by the Midland Planning and Zoning Commission

- (A) General. Upon submission of a request for a Midland Development Ordinance amendment or an Official Zoning Map amendment, the request shall be scheduled for review by the Midland *Planning and Zoning Commission*. The Midland *Planning and Zoning Commission* shall hold a meeting to consider the requested amendment(s).
- (B) Notification. The *Planning, Zoning and Subdivision Administrator* shall prepare a public notice as described below that indicates the official receipt of an application for a Midland Development Ordinance amendment or an Official Zoning Map amendment. This notice for publication shall include the following:
1. Brief description of the requested amendment;
 2. The time, date, and place at which the request will be considered; and
 3. Contact information for staff receiving comments concerning the request.

The notice shall be published in a newspaper of general circulation at least five (5) days prior to the date on which the request is to be considered. Should the applicant not hold a neighborhood meeting to discuss the proposed zoning map amendment (rezoning), as described in section 5.3-1.(B) above, this notice also shall be mailed to the owners of any property located within 500 feet of the property in question at least ten days, but not more than 25 days, before the date on which the request is to be considered. A sign stating the above information shall be posted on the subject property ten days before the date on which the application is to be considered if the recommended neighborhood meeting is not held.

- (C) Review – General. The amendment shall be considered in accordance with the rules of procedure of the Midland *Planning and Zoning Commission*. The Commission shall make recommendations to the Midland Town Council regarding whether to approve or deny each proposed amendment. When considering an amendment, the *Planning and Zoning Commission* shall consider the compliance and compatibility of the amendment with the “Town Plan 2030 – Land Use and Comprehensive Master Plan – Revision 1”, adopted August 9, 2011; the Description of Zoning Districts contained in Section 8.3 of this Ordinance; and other adopted plans for the area affected by the proposed amendment.
- (D) Affirmative recommendation by the Midland Planning and Zoning Commission. Following an affirmative recommendation by the Midland *Planning and Zoning Commission* on the proposed amendments, the action shall be reported to the Midland Town Council for a public hearing and final action according to the process set forth in section 5.3-4 of this ordinance. The public

hearing will be scheduled as provided by Town Council's rules of procedure.

- (E) Negative recommendation by the Midland Planning and Zoning Commission. If the *Midland Planning and Zoning Commission* has made a negative recommendation on an amendment, the petitioner may request that the consideration of the request by the Town Council be postponed for up to ninety (90) days. The purpose of the postponement is to provide the petitioner time to address issues identified by the *Planning and Zoning Commission* in their review of the request and/or to revise the request to address the issues that resulted in the negative recommendation. Following the negative recommendation of the *Planning and Zoning Commission* and the postponement, if requested by the petitioner, the application with the *Planning and Zoning Commission's* recommendation shall be forwarded to the Town Council for their consideration and action. If the petitioner chooses to revise the request to address the issues identified by the *Planning and Zoning Commission*, the petitioner must schedule a meeting with the *Planning, Zoning and Subdivision Administrator* and Chair (or Vice Chair) of the *Planning and Zoning Commission* a minimum of 14 days prior to the Town Council meeting at which the request will be considered. The purpose of this meeting will be to review any revisions made to the application as a result of the *Planning and Zoning Commission* meeting. If the revision(s) to the request, at the discretion of the *Planning, Zoning and Subdivision Administrator* and Chair (or Vice Chair) of the *Planning and Zoning Commission*, has not addressed the issues identified by the *Planning and Zoning Commission*, the petitioner may: i) elect to take the request "as is" to the Town Council for their consideration, or ii) further postpone action by the Town Council to allow for further revisions to the request.
- (F) No action by the Midland Planning and Zoning Commission. If the *Midland Planning and Zoning Commission* has made neither a positive nor a negative recommendation on a proposed amendment within 30 days of first considering it, the proposed amendment shall be forwarded to the Town Council for consideration. The proposed amendment shall be accompanied by a record of the *Midland Planning and Zoning Commission's* comments regarding the amendment and the reasons, if any, for their lack of action.
- (G) Continuance by the Midland Planning and Zoning Commission. In those cases where, upon hearing the request, the *Planning and Zoning Commission* feels that more information is needed, questions have arisen, or other circumstances occur in which additional time is needed to enable the Commission to make a decision, consideration of the request may be continued. The *Planning and Zoning Commission* may, by majority vote of

members present, continue the consideration of the request until the next regularly scheduled *Planning and Zoning Commission* meeting. The Commission shall direct the appropriate person(s) to obtain the needed information, provide answers to questions, and/or conduct other investigations during this time to enable the Commission to make a decision at the next regularly scheduled meeting. The *Planning and Zoning Commission* shall take action (affirmative or negative recommendation) on continued items at their next regularly scheduled meeting.

- (H) Content of recommendation and statement of consistency. Any recommendation made by the Midland *Planning and Zoning Commission* to the Midland Town Council pursuant to this section shall be in writing and shall include a statement describing whether the proposed amendment is consistent with the comprehensive plan that has been adopted by the Town and any other officially adopted plan that is applicable, and shall address any other matter deemed appropriate by the *Planning and Zoning Commission*. A comment by the *Planning and Zoning Commission* that a proposed amendment is inconsistent with the Town's Land Use Plan, Comprehensive Master Plan and other adopted plans for the area affected shall not preclude consideration of approval of the proposed amendment by the Town Council. (G.S.160D-605(a).
- (I) Conflict of Interest. Members of appointed boards shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. 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. (G.S. 160DD-109(b).

5.3-4

Review by the Midland Town Council.

- (A) Review - General. Following receipt of a recommendation on a proposed amendment, or in the case of a negative recommendation, the receipt of the petitioner's request for a public hearing, or in the case of no action by the Midland *Planning and Zoning Commission* as described in section 5.3-3 above, the Midland Town Council shall hold a public hearing on the proposed amendment. The public hearing will be scheduled and conducted as provided by the Town Council's rules of procedure.
- (B) Notification. When a change is proposed in a zoning boundary or classification of a parcel, notice of the public hearing shall be sent by first class mail to the owner of that parcel and the owners, as

shown on the appropriate county tax listing, of all parcels abutting that parcel of land at least ten days before the date on which the request is to be considered. Should the applicant not hold a neighborhood meeting to discuss the proposed zoning map amendment (rezoning), as described in section 5.3-1.(B) above, this notice also shall be mailed to the owners of any property located within 500 feet of the property in question at least ten days before the date on which the request is to be considered. A sign stating the above information shall be posted on the subject property ten days before the date on which the application is to be considered if the recommended neighborhood meeting is not held. The person or persons mailing such notices shall certify to the Town Council that proper notice has been given.

Publication of legal notice shall also be required for zoning map amendments as provided for text amendments. The first class mail notice shall not be required if the zoning map amendment directly affects more than 50 properties, owned by a total of at least 50 different property owners, and the Town elects to use the expanded published notice provided for in this subsection. In this instance, the Town may elect to either make the mailed notice provided for above, or may as an alternative elect to publish notice of the hearing as required by G. S. 160D-602(b), but provided that each advertisement shall not be less than one-half of a newspaper page in size. The advertisement shall only be effective for property owners who reside in the area of general circulation of the newspaper that published the notice. Property owners who reside outside of the newspaper circulation area, according to the address listed on the most recent property tax listing for the affected property, shall be notified by first-class mail according to the provisions above. (G. S. 160D-602(b)).

When a zoning map amendment (rezoning) is proposed, the Town shall, within the same time period before the scheduled public hearing, prominently post a notice of the public hearing on the property proposed for a zoning map amendment (rezoning) or on an adjacent public street or highway right-of-way. When multiple parcels are included within a proposed zoning map amendment (rezoning), a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons. (G. S. 160D-602(a)).

In addition, the subject property shall be posted in a conspicuous location(s) with the time, date, and notice of public hearing. A sign stating such information shall be posted on the subject

property ten (10) days before the date on which the request is to be considered.

- (C) Action.
- (1) Before acting on any proposed amendment, the Midland Town Council shall consider any recommendation made by the Midland *Planning and Zoning Commission*, the recommendation submitted by the *Planning, Zoning and Subdivision Administrator* to the *Planning and Zoning Commission*, the comments made at the public hearing, and any other relevant additional information.
 - (2) When considering a proposed amendment, the Midland Town Council shall not evaluate the petition based on any specific proposal for the use or development of the property. The petitioner shall not use any graphic materials or descriptions of the proposed development except for those that would apply to all uses permitted by the requested classification.
 - (3) Upon reviewing all pertinent information, the Midland Town Council may:
 - a. Adopt the proposed amendment;
 - b. Reject the proposed amendment;
 - c. Continue the consideration of the request to their next regularly scheduled meeting or other agreed upon time;
 - d. Refer the proposed amendment back to the Midland *Planning and Zoning Commission* for further consideration or hearing; or
 - e. Modify the proposed amendment.
- (D) Statement of Consistency. When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the

overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken.

- (E) Conflict of Interest. A governing board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this Chapter where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A governing 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. (NCGS 160D-109(a))

5.3-5 Reserved (amended October 13, 2015)

5.3-6 Waiting period for subsequent applications.

- (A) Waiting period - General. When an application for a zoning amendment has been approved or denied by the Midland Town Council, no rezoning application covering the same property shall be accepted or considered within 12 months after the date of the approval or denial. This restriction shall apply regardless of whether or not the new application is for a zoning classification different from the original application.
- (B) Waiting period - Waiver. The waiting period required by this section may be waived by a three-fourths vote of Midland Town Council if it determines that there have been substantial changes in conditions or circumstances which may relate to the request. A request for a waiver of the waiting period shall be submitted to the *Planning, Zoning and Subdivision Administrator*, who shall review and prepare a recommendation regarding action on the request. Said recommendation shall be considered by the Town Council in their review of the request for a waiver. If the request for the waiver is approved, the application shall go through the full review process as set forth above.

5.4 Conditional Zoning

5.4-1 Purpose.

Conditional zoning is established to provide for flexibility in the development of property while ensuring that the development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not possible when rezoning to a general use district. Additional standards and regulations may be attached to a proposed development to ensure compatibility with the surrounding uses and with applicable adopted plans in accordance with the requirements of this section.

5.4-2 Conditional zoning districts.

Conditional zoning is available for any of the general zoning classifications enumerated in this ordinance, except for those that require a site specific development plan as part of the application (e.g., Traditional Neighborhood Development District). The conditional zoning designation shall be indicated on all zoning maps and other official documents with the suffix, "(CZ)" (e.g. C601(CZ); IND(CZ)).

5.4-3 General requirements.

The following provision shall apply in the administration of conditional zoning.

- (A) A conditional zoning application shall be considered only upon request of the owner of the affected property or a duly authorized representative of the property owner.
- (B) Prior to submittal of the application, it is strongly recommended that the applicant meet with representatives of the surrounding property owners and of the surrounding neighborhood(s) to discuss the proposed development, and include a report of any such meetings in its application.
- (C) All standards and requirements of the corresponding general use zoning district shall be met, except to the extent that the conditions imposed by the conditional zoning are more restrictive than the general use standards.
- (D) No uses shall be permitted except those enumerated in the ordinance adopting the conditional zoning.
- (E) The conditions agreed upon pursuant to the conditional zoning approval shall be stated in the adopting ordinance and may limit the uses which are permitted on the property. By way of illustration and not limitation, conditions may specify location on the property of the proposed structure(s), the number of dwelling units, the location and extent of supporting facilities such as parking lots, driveways, and access streets, the location and extent of buffer areas and other special purpose areas, the timing of development, the height of structures, the location and extent of rights-of-way and other areas to be dedicated for public purposes,

and other such matters as may be identified as appropriate for the proposed development.

(F) Minor modifications to the approved conditional zoning ordinance may be approved by the Technical Review Committee. The minor modifications authorized herein are intended to provide relief where conditions established by the conditional zoning ordinance create a hardship based upon a unique physical attribute of the property itself or some other factor unique to the property which was not known at the time of ordinance adoption and which has subsequently rendered the property difficult or impossible to use due to the condition(s) imposed by the zoning. The permit holder shall bear the burden of proof to secure the modification(s). Such modifications shall be limited to the following:

1. A deviation of up to ten percent or 24 inches, whichever is greater, from the approved setback, provided that the conditions for approving a deviation from the required setback established by Article 14 (Flexible Development Standards) of this Ordinance are met.
2. A reduction of up to 25 percent in the number of parking spaces required for the use provided that the proposed development is located within ½ mile of either the Main Street District (MS) or the Old Midland District (OM) and on-street parking is available.
3. Any other minor modification in accordance with the limitations and procedures prescribed in this chapter, unless a conditional zoning ordinance adopted pursuant to this section specifies otherwise.

Any other modifications must be approved by the Town Council as an amendment to the conditional zoning ordinance, and may be referred to the *Planning and Zoning Commission* or Technical Review Committee as appropriate. The Technical Review Committee shall in every case have the discretion to decline to exercise the power to approve or deny modifications as provided for herein, and may require the applicant to seek an amendment to the conditional zoning ordinance.

(G) Any violation of a provision of a conditional zoning ordinance shall be treated the same as any other violation of this Ordinance and shall be subject to the same remedies and penalties as any other such violation.

(H) If for any reason any provision of a conditional zoning ordinance is found to be illegal or invalid, or if the applicant should fail to accept any condition, the entire conditional zoning ordinance shall be null and void, and the property shall revert to its previous zoning classification without further action by the Town Council.

- (I) If no formal action (e.g. construction plan submittal, permit application, etc.) has been taken to begin the development of the property in accordance with the conditional zoning ordinance within 24 months of its approval by Town Council, or no vested right has been obtained, then the property shall revert to its previous zoning classification, or the *Planning, Zoning and Subdivision Administrator* may initiate appropriate action to rezone the affected property to any other classification.
- (J) If the use or uses commenced pursuant to a conditional zoning ordinance adopted pursuant to this section are *abandoned* or discontinued or no vested right has been obtained then the property shall revert to its previous zoning classification, or the *Planning, Zoning and Subdivision Administrator* may initiate appropriate action to rezone the affected property to any other classification.
- (K) No variances or conditional use permits may be issued for developments on property that is subject to a conditional zoning ordinance.

5.4-4 Application procedure.

When applying for conditional zoning, the owner shall specify the nature of the proposed development and shall propose conditions to ensure compatibility with the surrounding uses and consistency with adopted plans. Applications for conditional zoning shall be processed, considered, and voted upon using the same procedures and subject to the same requirements as those established in this article for zoning map and zoning text amendments, except as provided below:

- (A) The application shall include site plans, landscape plans, building elevations, floor plans, and such other information required to provide the approving bodies with a complete and accurate description of the proposed development.
- (B) The application and supporting materials shall be reviewed by the Technical Review Committee in accordance with its procedures for reviewing applications for special use permits prior to the meeting of the *Planning and Zoning Commission* at which the application is to be considered. The recommendations and comments of the Technical Review Committee shall be reported to the *Planning and Zoning Commission*. In addition, the *Planning, Zoning and Subdivision Administrator* shall evaluate conditional zoning applications on the basis of the criteria for special use permits set out in Article 7, and shall submit said report at the public hearings on said applications.
- (C) Following review by the Technical Review Committee, the Midland *Planning and Zoning Commission* shall hold a public hearing on applications for conditional zoning. Notice of the public hearing shall be provided in accordance with the provisions of the requirements of this ordinance for map amendments. After holding the public hearing, the Midland *Planning and Zoning Commission*

may recommend approval of the application, including recommending conditions for the zoning; recommend denial of the application; or continue the consideration of the application in order to receive further information regarding the application. In those cases where, upon hearing the application, the *Planning and Zoning Commission* feels that more information is needed, questions have arisen, or other circumstances occur in which additional time is needed to enable the *Planning and Zoning Commission* to make a decision, consideration of the application may be continued. The *Planning and Zoning Commission* may, by majority vote of members present, continue the consideration of the application until the next regularly scheduled *Planning and Zoning Commission* meeting. The Board shall direct the appropriate person(s) to obtain the needed information, provide answers to questions, or other action(s) during this time to enable the *Planning and Zoning Commission* to make a decision at the next regularly scheduled meeting. The *Planning and Zoning Commission* shall take action (affirmative or negative recommendation) on continued items at their next regularly scheduled meeting.

- (D) Upon receipt of the recommendations from the *Planning and Zoning Commission*, the Town Council shall hold a public hearing on the application for conditional zoning. Notice of the public hearing shall be provided in accordance with the provisions for public hearings for map amendments as set forth in section 5.3-3 of this Ordinance and the North Carolina General Statutes.
- (E) The Town Council's consideration of an application for conditional zoning is legislative in nature, and the Council may consider any relevant information in its deliberations, including the criteria for issuing conditional use permits specified in Article 7. Consideration shall be given to adopted land use plans for the area, small area plans, corridor plans, and other land use policy documents, and to surrounding land uses. The Council may adopt or not adopt a conditional zoning ordinance, or may continue its consideration of the application as necessary or appropriate.
- (F) During the adoption of a conditional zoning ordinance, specific conditions may be proposed by the petitioner, Town Council, *Planning and Zoning Commission*, or Town staff, but only those conditions mutually approved by Town Council and the petitioner may be incorporated into the zoning regulations and permit requirements. Conditions and site-specific standards imposed in a conditional use district shall be limited to those that address the conformance of the development and use of the site to Town ordinances, an officially adopted land use, comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development or use of the site.

- (G) Specific findings of the Town Council are not required for action on an application for conditional zoning. When adopting or rejecting any zoning text or map amendment, the governing board shall approve a brief statement describing whether its action is consistent or inconsistent with an adopted comprehensive plan. The requirement for a plan consistency statement may also be met by a clear indication in the minutes of the governing board that at the time of action on the amendment the governing board was aware of and considered the planning board's recommendations and any relevant portions of an adopted comprehensive plan. If a zoning map amendment is adopted and the action was deemed inconsistent with the adopted plan, the zoning amendment shall have the effect of also amending any future land-use map in the approved plan, and no additional request or application for a plan amendment shall be required. A plan amendment and a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement describing plan consistency may address the overall rezoning and describe how the analysis and policies in the relevant adopted plans were considered in the action taken. When adopting or rejecting any petition for a zoning map amendment, a statement analyzing the reasonableness of the proposed rezoning shall be approved by the governing board. This statement of reasonableness may consider, among other factors, (i) the size, physical conditions, and other attributes of the area proposed to be rezoned, (ii) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (iii) 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; (iv) why the action taken is in the public interest; and (v) any changed conditions warranting the amendment. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the governing board statement on reasonableness may address the overall rezoning.
- (H) Upon adoption of a conditional zoning ordinance, the official zoning map of the Town of Midland shall be amended to add the conditional zoning district. The *Planning, Zoning and Subdivision Administrator* shall maintain a book or file for conditional zoning ordinances, and each conditional zoning ordinance shall be filed therein. Failure to comply with this provision shall not render the ordinance invalid.
- (I) The conditional zoning ordinance adopted as provided herein shall be perpetually binding upon the affected property unless

subsequently changed or amended as provided for in this Ordinance.

- (J) Conditional zoning ordinances are legislative in nature, and judicial review of conditional zoning ordinances shall be as provided by law for zoning ordinances.