

JOINT ADVISORY BOARD MEETING DECEMBER 7, 2020

Agenda:

Background on 160D

Selected 160D Topics:

Conditional Use District Zoning

Conditional Zoning

SUP Conditions

SUP Review Process

Next Steps

BACKGROUND

Chapter 160D – new section of NC General Statutes containing rules for local land use authority

- Created by Session Law 2019-111
- Revised by Session Law 2020-25

PART I

In effect now

Revisions to development review procedures –

no text amendments required

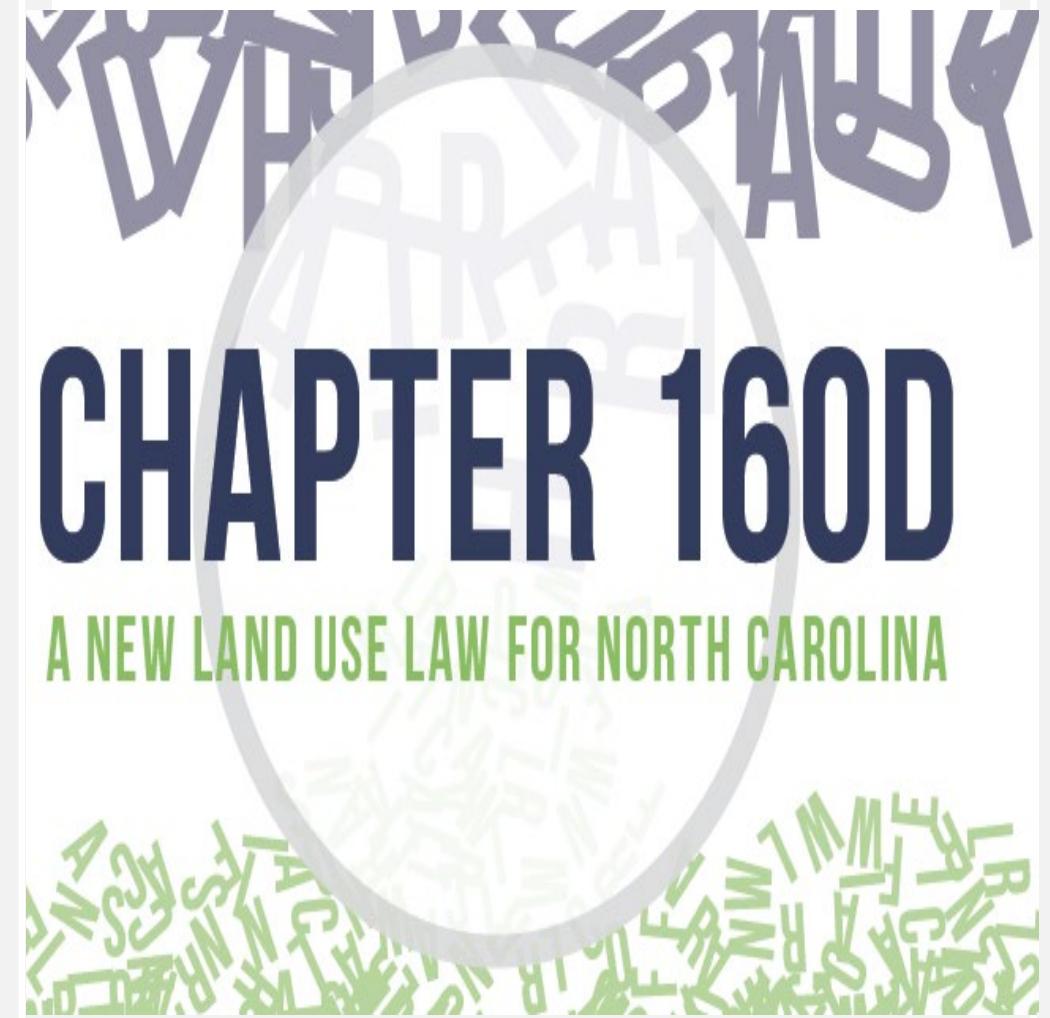
PART II

Compliance required by July 2021

Updates to LUMO and Town Code

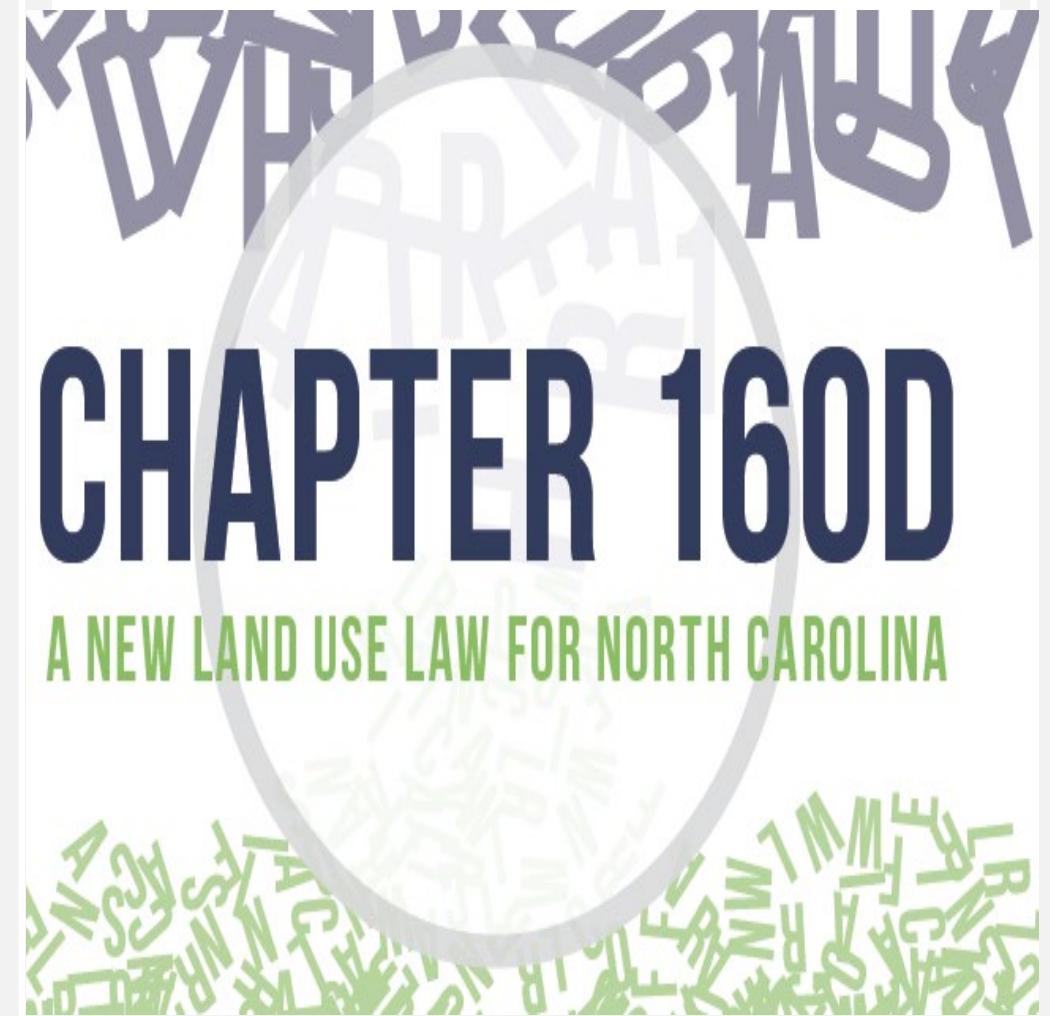
CONDITIONAL USE DISTRICT ZONING

- 160D eliminates this development review option
- Combines Legislative Rezoning with Quasi-judicial Special Use Permit
- Developed to place conditions on rezonings



CONDITIONAL USE DISTRICT ZONING

- Problematic since combines legislative & quasi-judicial actions
- Still retain Special Use Permits



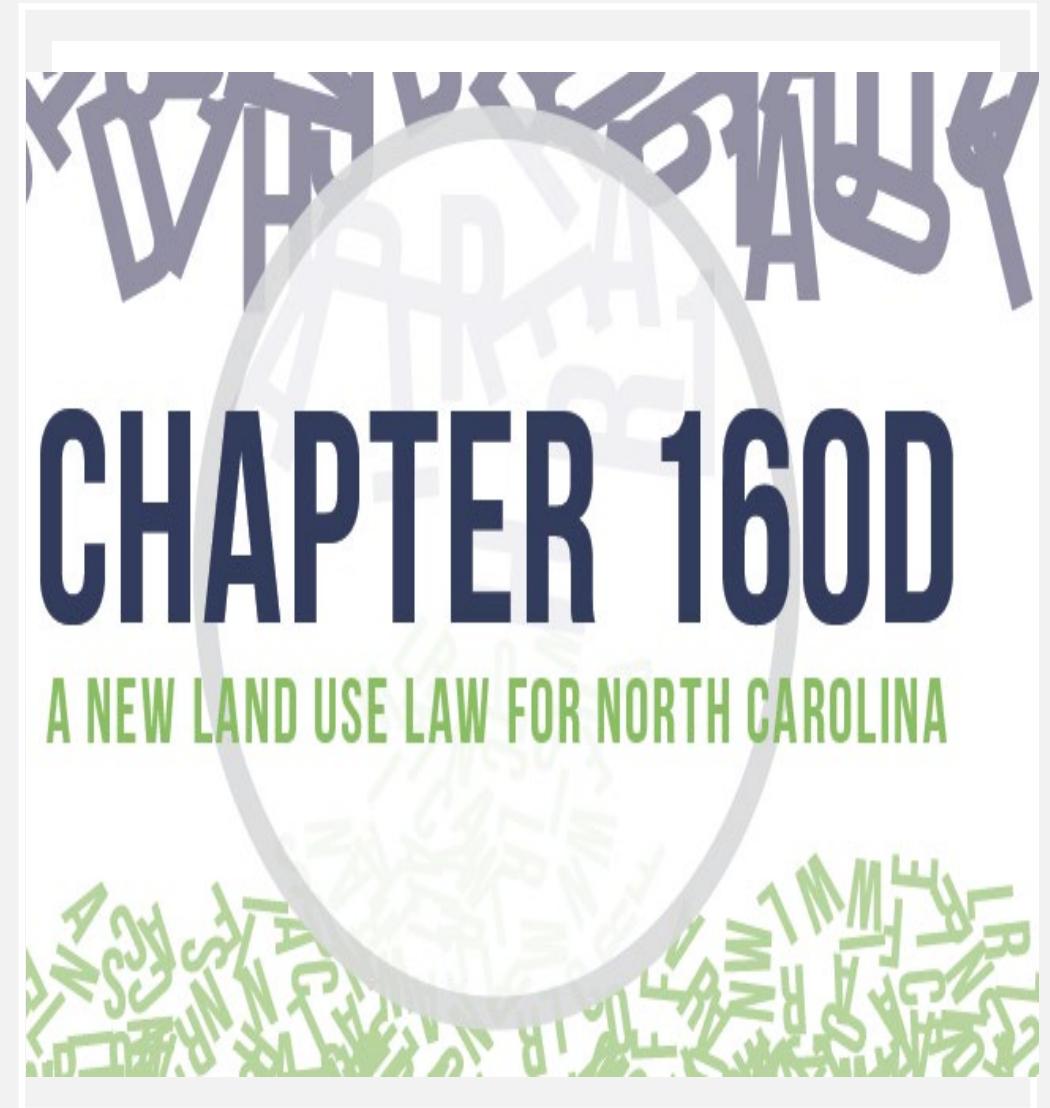
WHY DID THE STATE
ELIMINATE
CONDITIONAL USE
DISTRICT ZONING?

Constraints of Quasi-Judicial Proceedings

- Council must make decisions solely on evidence presented at evidentiary hearing
- Limitations on those permitted to speak at evidentiary hearings

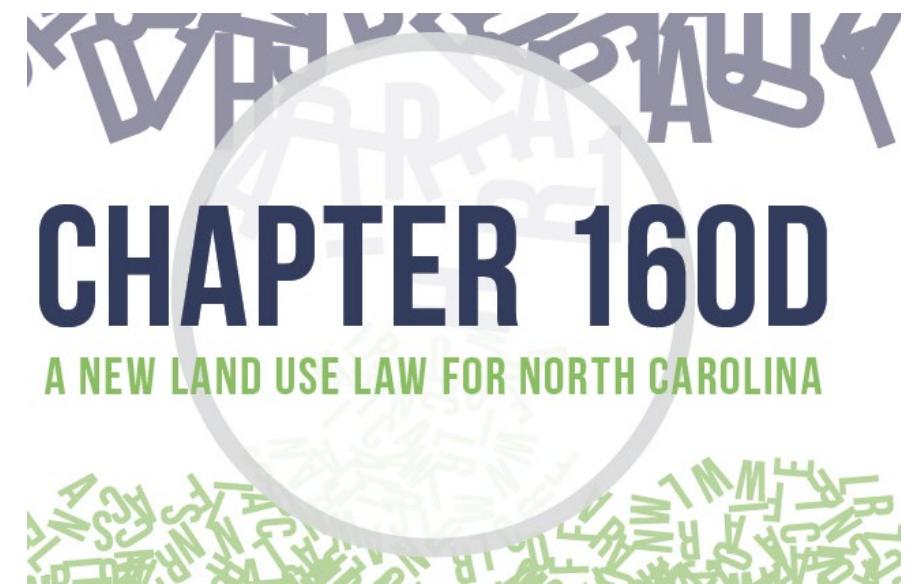
CONDITIONAL ZONING

- Replaces Conditional Use District Zoning under 160D
- Written Consent to Conditions for Conditional Zoning Applications
- Latitude on Placing Conditions on Conditional Zoning Applications



SPECIAL USE PERMITS

- When can Special Use Permits be utilized after 160D Implementation?
 - Use Matrix
 - 20/40 Rule



SPECIAL USE PERMITS

- Restrictions on Placing Conditions on SUP's - **Must** fall under Town's basic zoning authority
- **May** address compliance with adopted long-range plans, within zoning authority
- Written Consent to Conditions
- Part I change – *in effect now*

What is the Town's Basic Zoning Authority?

1. Height & size of buildings
2. Percent of lot covered
3. Size of yards, courts & other open spaces
4. Density of population
5. Location & use of buildings & land

SPECIAL USE PERMITS

- Restrictions on Placing Conditions on SUP's - **Must** fall under Town's basic zoning authority
- **May** address compliance with adopted long-range plans, within zoning authority
- Written Consent to Conditions
- Part I change – *in effect now*

What is **NOT** expressly part of Basic Zoning Authority? (key examples)

1. Targets for green building or energy management
2. Affordable housing exactions
3. Design standards for single-family
4. Road improvements not identified in a TIA
5. Impact Fees

Conditions also can't be used to exceed LUMO requirements or mandate improvements not shown in adopted plans

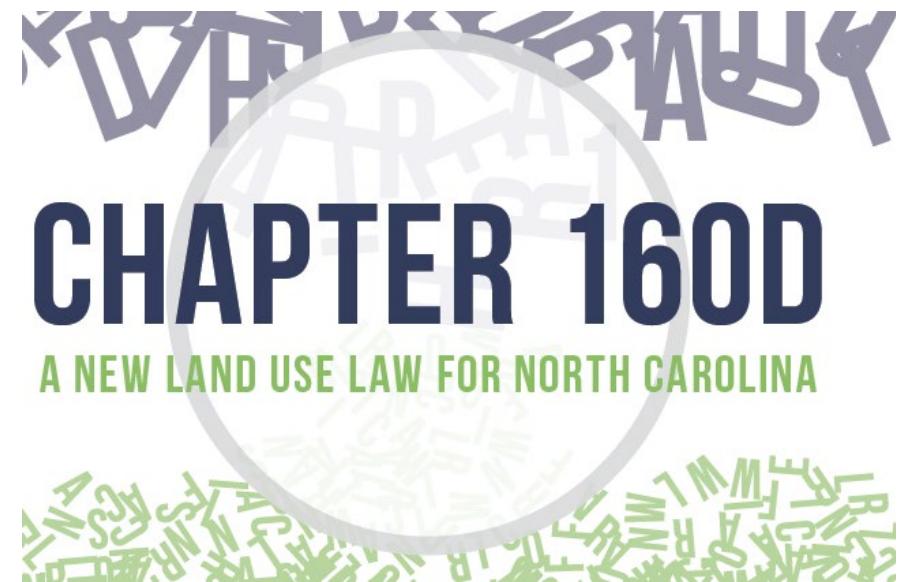
HOW DOES CONDITIONAL ZONING COMPARE?

- Everything listed here is an allowable condition in a Legislative Process
- Written Consent to Conditions still required

- ✓ Targets for green building or energy management
- ✓ Affordable housing
- ✓ Design standards for single-family
- ✓ Road improvements not identified in a TIA
- ✓ Impact Fees
- ✓ **Conditions that exceed LUMO requirements or mandate improvements not shown in adopted plans**

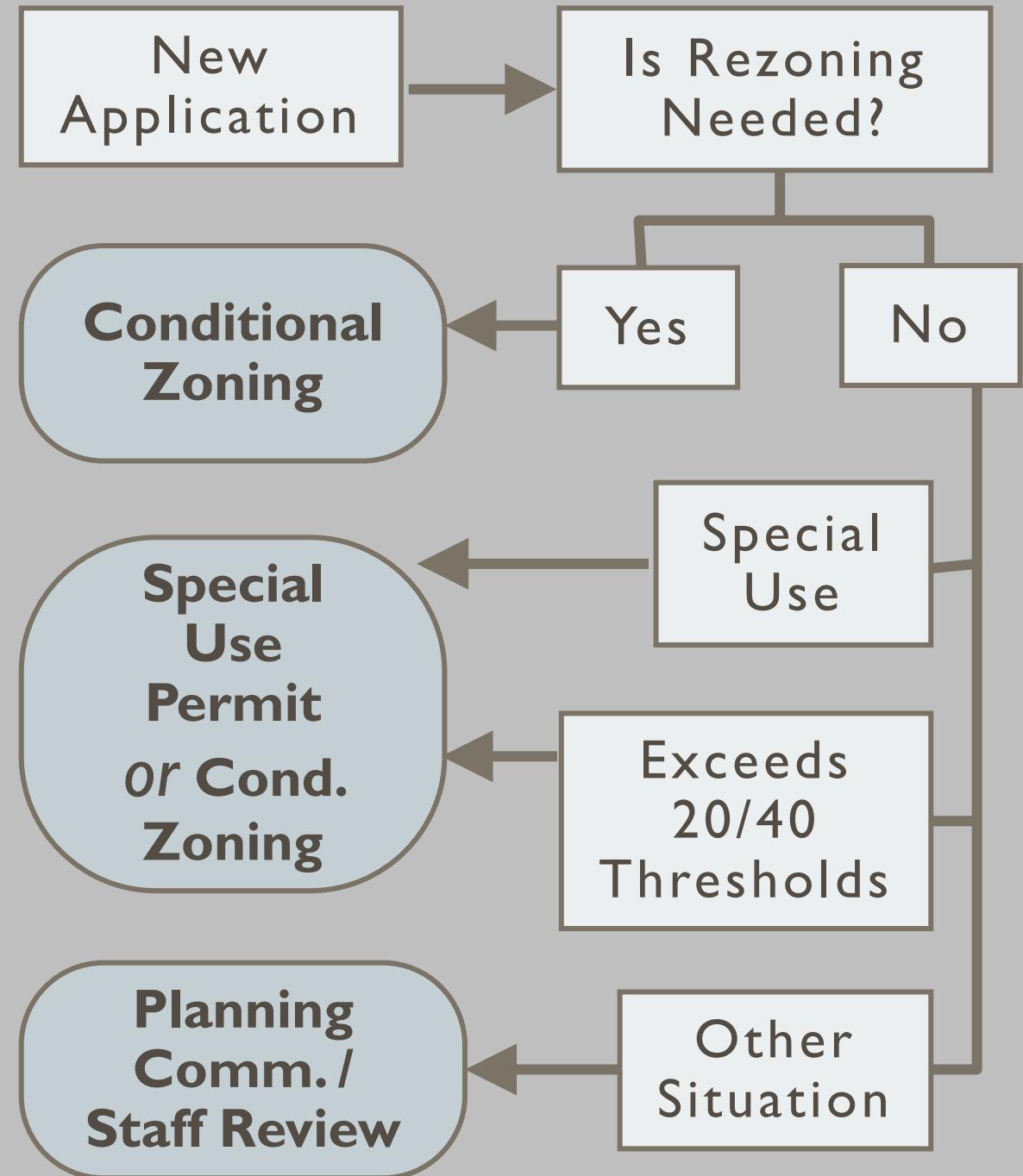
ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

- Advisory board recommendations may **NOT** be used by Council as the basis for deciding Special Use Permits



HOW COMMON WILL SPECIAL USE PERMITS BE?

- No Conditional Use District Zoning
- SUPs still utilized based on Use Matrix and 20/40 rule
- Around half of Council Reviews could be new standalone SUPs (based on historical data)



ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

Question:

What should be the future role of
Boards/Commissions?

ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

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What should be the future role of
Boards/Commissions?

ALTERNATIVES

- Preliminary Forum
- Discontinue
Board/Commission Review
- Vetted Input
 - Advisory Board Review
provided to & vetted by staff
 - Input informs the
Conditions transmitted to
Council

ADVISORY BOARD REVIEW OF SPECIAL USE PERMITS

Question:

What should be the future role of
Boards/Commissions?

VETTED BOARD/COMMISSION INPUT ALTERNATIVE

- Advisory Boards Review SUP
- Provide Input to Staff (*not Recommendations to Council*)
- Staff Evaluates Input
- Appropriate Conditions
Included in SUP Resolution of
Approval

NEXT STEPS

Report back to Council on
Advisory Board input

Public engagement underway
and continuing throughout
process

Text amendments enacted in
Spring 2021

1	Staff Assessment of Necessary Changes	March - July 2020
2	Council Introduction	June 2020
3	Public Engagement – Building Familiarity	July – Sept 2020
4	Council Discussion	Sept 2020 - Jan 2021
5	Public Engagement – Policy Choices	Oct 2020 - Jan 2021
6	Draft Text Amendments	Feb 2021
7	Planning Commission Review	Feb - March 2021
8	Council Review and Adoption	April - May 2021
9	Effective Date of Part II	July 1, 2021

**FINAL
QUESTIONS?**

