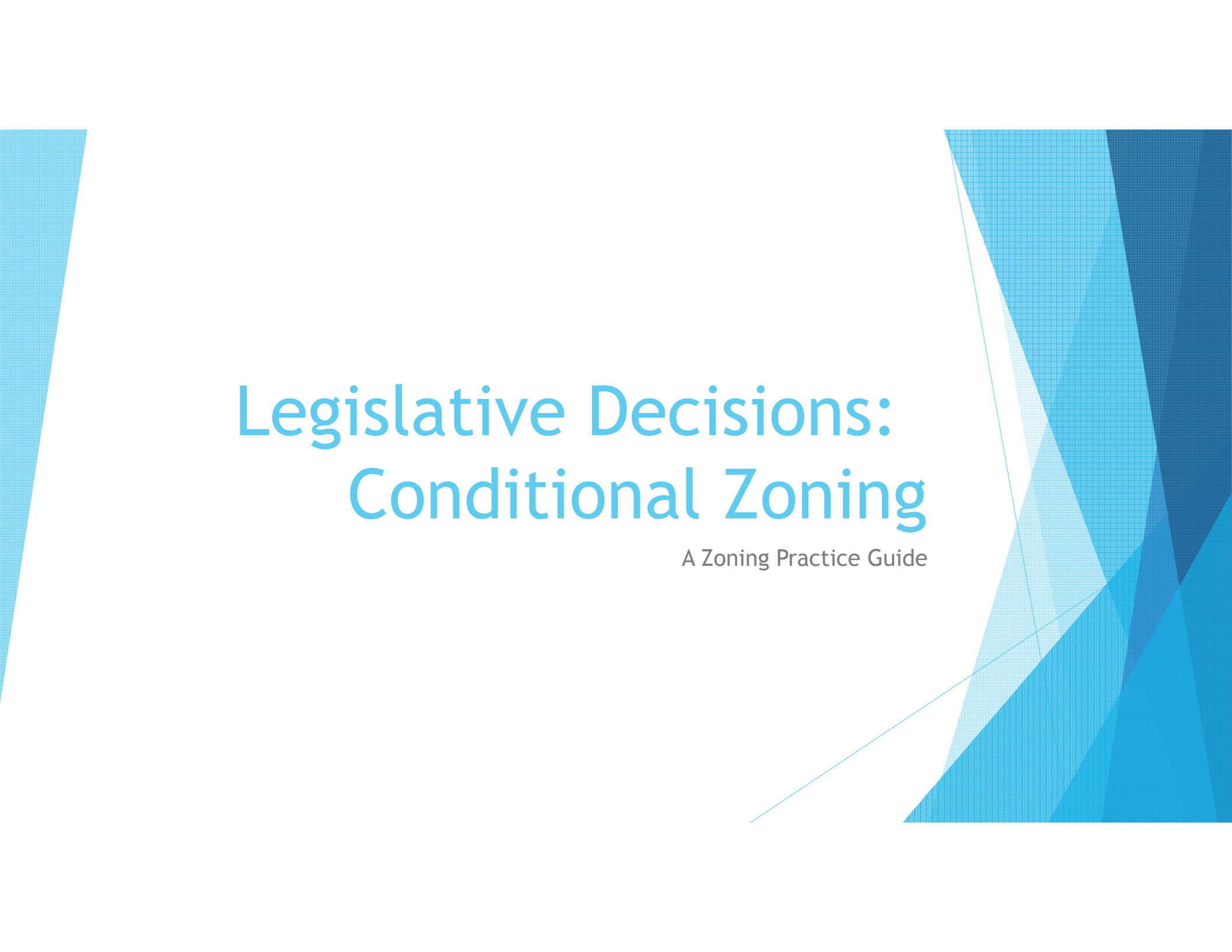


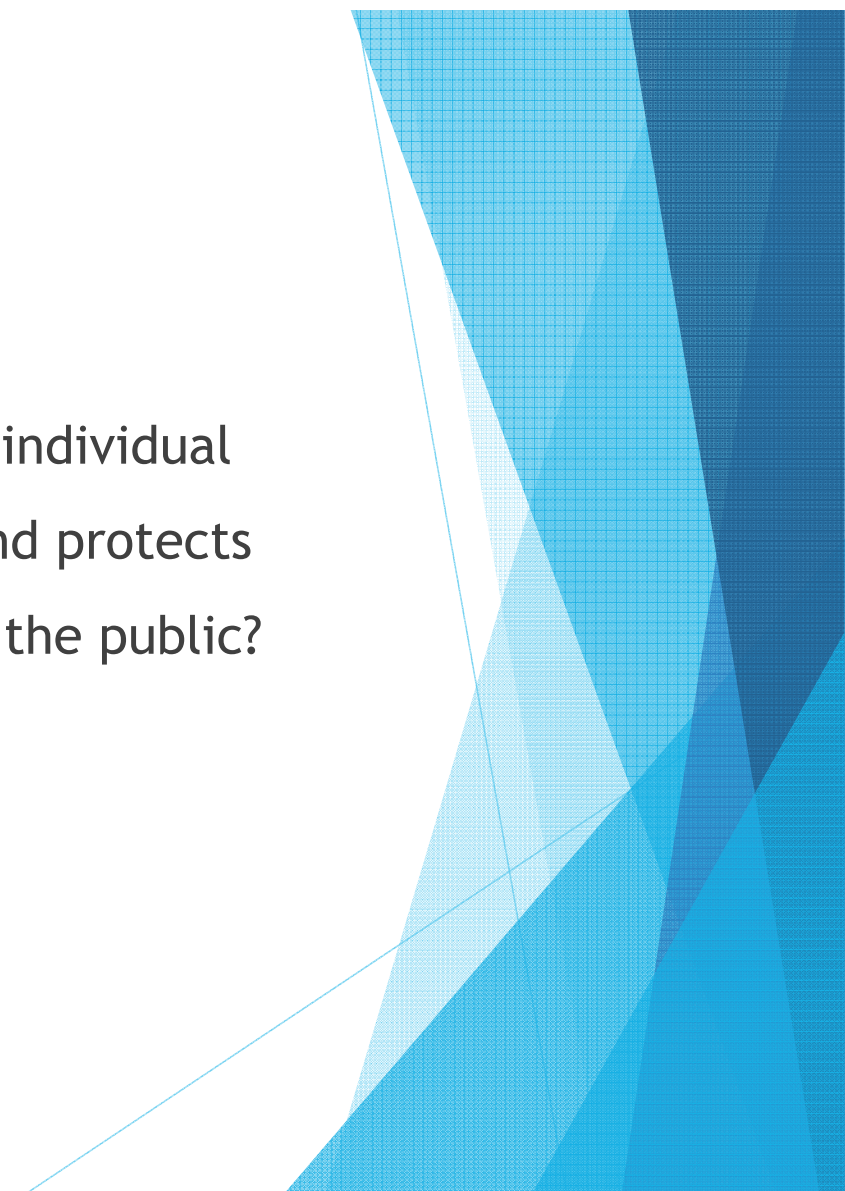


Legislative Decisions: Conditional Zoning

A Zoning Practice Guide

CONDITIONS AND REZONING

How can site specific conditions be imposed on individual rezonings in a way that is legal, enforceable, and protects the rights of the landowner, the neighbors, and the public?



Type of Zoning District	Characteristics
Conventional	• Range of permitted uses • May include some Conditional Use Permits • Uniformly required
Conditional Use District	• No permitted uses • Only conditional use permits • Rezoning / conditional use permit done concurrently
Conditional	• May be used to create a stand-alone district • May limit range of uses • Will include site-specific conditions and limits • Useful tool for unique and complex projects

CONVENTIONAL DISTRICTS

- ❑ Conventional zoning districts allow for a range of uses, which are outlined in a table of uses
- ❑ The overall zoning district may include general conditions. These might include things like a setback of 50 feet, vegetative buffering, and specified parking requirements.
- ❑ The rezoning of an individual site cannot require individualized conditions that do not also apply to all other parcels in that same district.
- ❑ Rezoning must be based on suitability of land for all potential uses in the district.
- ❑ Requires a legislative decision

CONDITIONAL USE DISTRICT

- ❑ Must be requested by the owner
- ❑ Combines rezoning with concurrent conditional use permit, involving two decisions
- ❑ No permitted uses allowed - only conditional uses
- ❑ Requires a quasi-judicial proceeding

CONDITIONAL DISTRICT

- ❑ Conditional zoning is a legislative zoning process that includes site-specific conditions
- ❑ Comparable to special use districts without the procedural challenges of quasi-judicial decision making
- ❑ Project-specific conditions also may be incorporated into a development agreement
- ❑ The authority for development agreement (added to the statutes in 2005) allows for a developer and the local government to negotiate and agree to long-term provisions for large scale development. The agreement includes topics such as land use and design; provision of public facilities; and other performance standards.

CONDITIONAL ZONING APPROVAL PROCESS

- ❑ Request by owners (only the property owner can request)
- ❑ Public Information Meetings (applicant must conduct two prior to any recommendation by the Planning Board and approval by the Board of Commission)
- ❑ Property Notice of Public Hearing (mailing, legal ad, sign posted on property - *not to be confused with Public Information Meeting*)
- ❑ Referred to Planning Board (must determine if it's consistent comprehensive land use plan and provide a written recommendation)
- ❑ Statement of Consistency (reasonable, consistent with any applicable plans, and in the public interest)
- ❑ Legislative rezoning (must follow the standard process)

CONDITIONAL ZONING LIMITS

- ❑ Conditions may be proposed by applicant or local government
- ❑ Conditions must be mutually approved by the applicant and local government
- ❑ Conditions are limited to address conformity with ordinances and adopted plans
- ❑ Conditions are limited to address the impacts reasonably expected to be generated by the development use of the site
- ❑ Commonly, the conditions are more restrictive than those in underlying zoning districts - reduce number of uses, or increase the setbacks or buffering requirements
- ❑ Conditions may relax some standards - allow for mix of uses not typically allowed, relax the setbacks or height limits

MANAGING CONDITIONS

- ❑ Once adopted, same force and affect as any zoning district
- ❑ Zoning remains with the land - not the owner
- ❑ New owner(s) or developer(s) must abide by the conditions adopted
- ❑ Any significant changes to the adopted conditions must resubmit to the Board for approval to a new site plan

QUESTIONS?

Source: Adam Lovelady, Assistant Professor of Public Administration and Government, UNC School of Government; Gaston County Unified Development Ordinance