

Amy H. Cannon  
County Manager

Tracy Jackson  
Assistant County Manager



# CUMBERLAND COUNTY

NORTH CAROLINA

Rawls Howard  
Director

David Moon  
Deputy Director

## Cumberland County Joint Planning Board

### TENTATIVE AGENDA

June 15, 2021

6:00 P.M.

- I. INVOCATION AND PLEDGE OF ALLEGIANCE
- II. ADJUSTMENTS TO / APPROVAL OF AGENDA
- III. PUBLIC MEETING WITHDRAWALS
- IV. ABSTENTIONS BY BOARD MEMBERS
- V. APPROVAL OF THE MINUTES OF MAY 18, 2021
- VI. CHAIRMAN'S WELCOME AND RULES OF PROCEDURE
- VII. PUBLIC MEETING CONSENT ITEMS

#### TEXT AMENDMENT

- A. **P21-35:** REVISION AND AMENDMENT TO THE TOWN OF HOPE MILLS ZONING ORDINANCE IN ITS ENTIRETY FOR THE PURPOSE OF BRINGING THE ORDINANCE INTO COMPLIANCE WITH THE NEWLY ADOPTED CHAPTER 160D STATE STATUTES; TOWN OF HOPE MILLS (APPLICANT) (HOPE MILLS)
- B. **P21-41:** REVISION AND AMENDMENT TO THE TOWN OF SPRING LAKES CHAPTER 42 ZONING AND CHAPTER 36 SUBDIVISION ORDINANCES IN ITS ENTIRETY FOR THE PURPOSE OF BRINGING THE ORDINANCES INTO COMPLIANCE WITH THE NEWLY ADOPTED CHAPTER 160D STATE STATUTES; TOWN OF SPRING LAKE (APPLICANT) (SPRING LAKE)

#### REZONING CASE

- C. **P21-26:** REZONING OF 14.04 +/- ACRES FROM A1 AGRICULTURAL DISTRICT TO R20 RESIDENTIAL DISTRICT OR A MORE RESTRICTIVE DISTRICT, LOCATED AT 2120 SMITH ROAD, SUBMITTED BY NORTHWOOD INVESTMENTS, LLC (OWNER).

#### CONDITIONAL ZONING CASE

- D. **P21-29:** REZONING 5.16 +/- ACRES FROM RR RESIDENTIAL DISTRICT TO RURAL RESIDENTIAL DISTRICT RR/CZ CONDITIONAL ZONING DISTRICT UP TO 3 LOTS OR A MORE RESTRICTIVE ZONING DISTRICT, EAST OF BAYWOOD ROAD AND NORTH AND WEST OF TOBACCO ROAD, SUBMITTED BY LINDA SMITH AND LINDA D BLACK (OWERS). (EASTOVER)
- E. **P21-33:** REZONING 41.98 ACRES +/- FROM A1 AGRICULTURAL DISTRICT TO R7.5 RESIDENTIAL DISTRICT/CONDITIONAL ZONING DISTRICT UP TO 122 LOTS ZERO LOT LINE SUBDIVISION OR TO A MORE RESTRICTIVE ZONING DISTRICT, OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED EAST OF NC 87 HWY AND SOUTH OF

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OLABURNS DR., SUBMITTED BY JAMES D. HUBBARD AND NORMA GARCIA; CHERI AND MARTY LASSITER; TOMMY J AND DEBRA WOODSELL; TRAVIS ALLEN AND JILL ELIZABETH HUBBARD; PAMELA AND MICHAEL DOMANSKI; MICHAEL S. AND JODI M. DAVIS, CHRISTOPHER L DAVIS, KRISTIN M. DAVIS; BOYD D. PARSONS JR. AND MAE SMITH PARSONS. (OWNERS).

- F. **P21-38:** REZONING 70.98 +/- ACRES FROM R6A, RR, AND R10 RURAL RESIDENTIAL AND RESIDENTIAL DISTRICTS TO R6A RESIDENTIAL DISTRICT/ CONDITIONAL ZONING DISTRICT UP TO 120 LOTS ZERO LOT LINE SUBDIVISION OR A MORE RESTRICTIVE ZONING DISTRICT, NORTH OF ODELL RD, SUBMITTED BY ELMA S SMITH POA VICTORIA M MCLEOD AND SAMANTHA WULLENWABER (OWNERS). (SPRING LAKE)

### VIII. PUBLIC MEETING CONTESTED ITEMS

### IX. DISCUSSION

- PRESENTATION OF SERVICE AWARD
- OFFICER ELECTIONS
- BOARD VACANCY RECOMMENDATION PROCESS
- ENERGOV IMPLEMENTATION
- BETHANY LAND USE PLAN DROP-IN MEETING
- TRAVEL FOR PLANNING BOARD
- SIGN REGULATIONS UPDATE

### X. ADJOURNMENT



# CUMBERLAND COUNTY

NORTH CAROLINA

PLANNING & INSPECTIONS

PLANNING STAFF REPORT  
**Text Amendment CASE # P21-35**

**Jurisdiction: Town of Hope Mills**

## EXPLANATION OF THE REQUEST

This request is a town, staff-driven comprehensive text amendment to the Town of Hope Mills Zoning Ordinance to bring the current ordinance into compliance with the recently adopted Chapter 160D State Statutes. The Chapter 160D statutes were created to clarify terminology and modernize review processes, as well as address legal issues such as permit choice, staff and board conflict of interest, and appeal processes.

The statutes became effective June 19, 2020 with a deadline of July 1, 2021 for the updating of all local ordinances.

## STAFF RECOMMENDATION

In Case P21-35, the Planning and Inspections staff **recommends approval** of the text amendment and finds the request consistent with the 2030 Growth Vision Plan. While specific 2030 Growth Vision Plan policies do not address a comprehensive update to the Town of Hope Mills Zoning Ordinance, a current ordinance that is in compliance with the state statutes allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans for the Town of Hope Mills within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

## ARTICLE I ADMINISTRATIVE PROVISIONS

### **Sec. 102A-101. Intent and purpose.**

The zoning regulations and districts as set forth in this ordinance have been made in accordance with a comprehensive land use plan and are designed to protect the public health, safety and welfare; to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; protect the quality of the environment; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

These regulations have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses and with a view to conserving the value of building and encouraging the most appropriate use of land throughout the town.

Contained herein are provisions providing for the administration, amendment and enforcement of this ordinance and defining the duties and powers of a Board of Adjustment in accordance with the provision of the NC General Statutes and amending in its entirety the previously adopted zoning chapter, including all amendments to said chapter.

**State Statute Reference:** N. C. GEN. STAT. § ~~160D-107, 109, 406, 702, 704, 705, 903, 908~~

### **Sec. 102A-102. Title.**

This ordinance shall be known and may be cited as the "Town of Hope Mills Zoning Ordinance."

### **Sec. 102A-103. Authority.**

The Town of Hope Mills Board of Commissioners, pursuant to the authority conferred by N. C. GEN. STAT. § ~~160D-107, 109, 406, 702, 704, 705, 903, 908~~ does hereby adopt, approve, ordain and enact into law this ordinance.



### **Sec. 102A-104. Jurisdiction.**

On and after October 20, 2008, this ordinance shall govern the use of all lands lying within the town. If the municipality proposes to exercise extraterritorial jurisdiction under 160D, the owners of all parcels of land proposed for addition to the area of extraterritorial jurisdiction shall be notified. The notice shall be sent by first-class mail to the last addresses listed for affected property owners in the county tax records. The notice shall inform the landowner of the effect of the extension of extraterritorial jurisdiction, of the landowner's right to participate in a legislative hearing prior to adoption of any ordinance extending the area of extraterritorial jurisdiction.

### **Sec. 102A-105. Application.**

This provisions of this ordinance shall be interpreted and applied as minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, general welfare and protection of the property rights of the owners of land within the town.

### **Sec. 102A-106. Ordinance administrator.**

This ordinance shall be administered and enforced by the Town Manager or the manager's designee. This official or their representative shall have the right to enter upon the premises in any manner authorized by law as required to carry out the necessary duties for the fair and impartial enforcement of this ordinance. All questions arising in connection with enforcement and interpretation of this ordinance shall be presented first to the Chief Building Inspector who is charged with the day-to-day enforcement of this ordinance. If the Chief Building Inspector finds that they are not authorized to make a determination or judgment or that the question automatically falls within the jurisdiction of the Board of Adjustment, then the matter shall be referred to the board for review and decision in accordance with the provisions of Article XVII.

### **Sec. 102A-107. Zoning permit.**

(a) *Zoning permit required.* It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to commence the moving, alteration or repair of any structure, or the use of any land or building, including accessory structures, until the Chief Building Inspector has issued a zoning permit for such work or use. Such permit shall include a statement that the plans, specifications for, and intended use of such land or structure, in all respects, conform with the provisions of this ordinance and Chapter 86. Application for a zoning permit shall be made in writing to the Chief Building Inspector on forms provided for that purpose. Zoning

permits shall be void after ~~six twelve~~ months from date of issue unless substantial progress on the project has been made by that time.

(b) *Approval of plans.* The Chief Building Inspector shall review all applications for a zoning permit for any purpose regulated by this ordinance and Chapter 86 for conformity with this ordinance and Chapter 86. To this end, every application for a zoning permit shall be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the Chief Building Inspector to ascertain whether the proposed activity is in conformance with this ordinance and Chapter 86:

- (1) The actual shape, location and dimensions of the lot;
- (2) The shape, size and location of all buildings or other structures to be erected, altered or moved and of any building or other structures already on the lot;
- (3) The existing and intended use of all such buildings or other structures; and
- (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this ordinance and the Chapter 86 are being observed.

In any planned district, the Chief Building Inspector shall not issue a zoning permit except in conformance with an approved site plan. The site plan shall also, without limitation, comply with all applicable standards of Article XV.

(c) *Issuance of zoning permit.* If the proposed activity as set forth in the application conforms with the provisions of this ordinance and Chapter 86, the Chief Building Inspector shall issue a zoning permit for such purpose. If any application for a zoning permit is not approved, the Chief Building Inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall in no case be construed as waiving any provision of this ordinance or of Chapter 86 and the town reserves the right to rescind any zoning permit mistakenly issued in contravention of the provisions of this ordinance or of Chapter 86.

(d) *Inspections.* Administrative staff may inspect work undertaken pursuant to a development approval to assure that the work is being done in accordance with the applicable State and local laws and of the terms of the approval. In exercising this power, staff are authorized to enter any premises within the jurisdiction of the local government at all reasonable hours for the purposes of inspection or other enforcement action, upon presentation of proper credentials; provided, however, that the appropriate consent has been given for inspection of areas not open to the public or that an appropriate inspection warrant has been secured.

**Sec. 102A-108. Certificate of occupancy required.**

No land or structure (except for signs) or part thereof hereafter erected, moved or altered in its use shall be used until the Chief Building Inspector has issued a *Certificate of Occupancy* stating that such land, structure or part thereof conforms with the provisions of this ordinance and Chapter 86. Within three days after notification that a structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the Chief Building Inspector to make a final inspection thereof, and to issue a *Certificate of Occupancy* if the building or premises or part thereof conforms with the provisions of this ordinance and Chapter 86, or if such certificate is refused, to state the reason for the refusal in writing.

**Sec. 102A-109. Bona fide farm exemption.**

The provisions of this ordinance do not apply to bona fide farms. This ordinance does not regulate or exercise controls over croplands, timberlands, pasturelands, orchards, or other farmlands, or any farmhouse, barn, poultry house, or other farm buildings, including tenant or other dwellings for persons working on said farms, so long as such dwellings shall be in the same ownership as the farm and located on the farm. To qualify for the bona fide farm exemption, the land must be a part of a farm unit with a N.C. Cooperative Extension Office or U.S. Department of Agriculture farm number assigned. Residences for non-farm use or occupancy and other non-farm uses are subject to the provisions of this ordinance.

**Sec. 102A-110. Fees.**

Each applicant for a zoning amendment, either general or for a conditional zoning district, text amendment, alternate yard requirement, appeal from administrative decisions, variance or special use permit shall pay a nonrefundable fee in accordance with a schedule recommended by the Planning Board and adopted by the Board of Commissioners.

(Amd. 05-05-14)

**Sec. 102A-111. Conflict-of-Interest Standards for Governing and Appointed Boards.**

- (1) Financial conflicts. A board member must not vote on a decision if the outcome would have a direct, substantial, and readily identifiable financial impact on the board member.
- (2) Relationship conflicts. A board member must not vote on a decision if the board member has a close family, business, or associational relationship with certain interested individuals (relationship with the property owner for a rezoning, the applicant for a text amendment, and an affected person for quasi-judicial decision).

- (3) Additional Conflicts for Quasi-Judicial Decisions. In addition to the financial and relationship conflicts, for quasi-judicial decisions a board member also must not vote if the board member has bias or undisclosed *ex parte* communications.
- (4) Resolving objections. Board members may recuse themselves. If there is objection to a board member participating, and the member chooses not to recuse, then the remaining members of the board must vote on the member's participation.

### **Sec. 102A-112. Conflict-of-Interest Standards for Administrative Staff.**

- (1) Financial conflicts. A staff person cannot make a decision if the outcome would have a direct, substantial, and readily identifiable financial impact on that person.
- (2) Relationship conflicts. A staff person cannot make a decision if that person has a close familial, business, or other associational relationship with the applicant or other person subject to the decision.
- (3) Business conflicts. Staff cannot have a financial or employment interest in a business with a financial interest in a development in the jurisdiction. An exception is provided for when the staff person is the owner of the property.
- (4) Additional conflicts. The conflict standard also prohibits administrative staff from engaging in work that is inconsistent with their duties or the interest of the local government.
- (5) Conflicts and Staff Recommendations. It is prudent to the same conflict-of-interest standards as when the administrator is the decision maker.

## **ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS**

The interpretation of terms, methods of measurement, and definitions contained in this article shall be observed and applied when construing this ordinance, except when the context clearly indicates otherwise. Words not otherwise defined shall be construed and given their customary and ordinary meaning.

### **Sec. 102A-201. Interpretation of common terms and words.**

For the purpose of interpreting certain words or terms contained within this ordinance, the following shall apply:

(a) Words used in the present tense include the future tense. Words used in the singular number include the plural, and words used in the plural number include the singular, unless the natural construction of the wording indicates otherwise.

(b) The word "shall" is always mandatory and not discretionary.

(c) The word "may" is permissive.

(d) The word "person" includes any firm, association, organization, partnership, corporation, trust or company, or any other legal entity, as well as an individual.

(e) The word "lot" shall include the words "piece," "parcel," "tract" or "plot."

(f) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for" and "occupied for."

(g) Any reference to an "article" or "section" shall mean an article or section of this ordinance, unless otherwise specified.

(h) Where any provision of this ordinance conflicts with any other provision of this ordinance, any other town regulation, or any local, State, or Federal law, the most restrictive provision will apply.

### **Sec. 102A-202. Methods of calculation**

The rules set out herein shall be used to enforce and apply this ordinance, unless such rules are inconsistent with specific criteria contained within an individual article or section. If a discrepancy arises between the following methods and any specific section elsewhere in this ordinance, the standards of the section shall prevail.

(a) *Fractional requirements.* When any requirement of this ordinance results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit, and a fraction of less than one-half shall be disregarded. When the of the number of dwelling units permitted on a lot submitted for approval as a group development results in a fraction of a dwelling unit, a fraction of one-half or more shall be considered a dwelling unit, and a fraction of less than one-half shall be disregarded.

(b) *Computation of time.* The time within which an act is to be completed shall be computed by excluding the first day and including the last day; if the last day is a Saturday, Sunday or legal holiday recognized by the town, that day shall also be excluded.

(c) *Calculations of measurement.* The spatial separations required by this ordinance shall be calculated as follows:

(1) *Distance*. By drawing a straight line from the closest point on the perimeter of the exterior wall of the site being measured to the closest point of the property line in question.

(2) *Separation from a use/structure*. By drawing a straight line from the closest point on the perimeter of the exterior wall, structure or bay to another structure, the property line, or a well or septic, as applicable.

(3) *Area*. Multiplying the length times the width and then further calculate to provide total acreage or square footage.

### **Sec. 102A-203. Definition of specific terms and words.**

In further amplification and for clarity of interpretation of the context, the following definitions of word usage shall apply:

*Abutting/contiguous*: Having property or district lines in common, i.e., two lots are abutting if they have any portion of any property line in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, alley, railroad right-of-way or stream.

*Access*: A way of approaching or entering a property. Access also includes ingress, the right to enter and egress, and the right to leave.

*Accessory building or use*: A building or use, not including signs, which is:

(a) Conducted or located on the same zoning lot with, and of a nature customarily incidental and subordinate to, the principal structure;

(b) Clearly incidental to, subordinate in area and purpose to, and serving the principal use; and

(c) Either in the same ownership as the principal use or clearly operated and maintained solely for the comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

*Agriculture*: The practice of cultivating the soil, producing crops, and raising livestock; such as but not limited to dairying, pasturage, viticulture, horticulture, hydroponics, floriculture, aquaculture, truck farming, orchards, forestry and animal and poultry husbandry, as defined in N.C. GEN. STAT. § 105-277.2. The operation of any accessory uses shall be secondary to that of the normal agricultural activities.

*Airport operations (major)*: Any area of land or water which is used or intended for use for the landing and taking off of aircraft having a seating capacity of ten or more person, and

any appurtenant areas which are used or intended for use for airport buildings or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

*Airport operations (minor):* Any area of land or water designed and set aside for the landing and takeoff of aircraft provided that no aircraft capable of seating more than nine persons shall be permitted to utilize the site. This definition includes all necessary facilities for the housing and maintenance of aircraft.

*Alley:* A public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

*Alter:* To make any change, addition or modification in construction, occupancy or use.

*Alternative structure (regarding telecommunication facilities):* A structure which is not primarily constructed for the purpose of holding antennas but on which one or more antennas may be mounted. Alternative structures include, but are not limited to, flagpoles, buildings, silos, water tanks, pole signs, lighting equipment, steeples, billboards and electric transmission towers.

*Amusement center:* An establishment offering five or more amusement devices, including, but not limited to, coin-operated electronic games, shooting galleries, table games and similar recreational diversions within an enclosed building.

*Ancillary use:* That which is commonly subordinate to or incidental to a principal or primary use – also see *Accessory Structure or Use*.  
(Amd. 08-15-11)

*Antenna:* Any exterior transmitting or receiving device that radiates or captures electromagnetic waves (excluding radar signals).

*Apartment:* A room or suite of rooms intended for use as a residence by a single household or family. Such a dwelling unit may be located in an apartment house, duplex, non-residential building or as an accessory use in a single home.

*Approach surface zones:* An inclined plane located directly above the approach area to the Fayetteville Regional Airport. The dimensions of the approach area are measured horizontally. The approach areas for each particular runway are symmetrically located with respect to the extended runway center lines and have lengths and widths as indicated on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the *Airport Master Plan*. The *Airport Airspace Plan* also shows the slopes of the respective approach surface zones.

*Approval authority:* The Board of Commissioners or other board or official designated this ordinance as being authorized to grant the specific zoning or land use permit or approval that constitutes a site specific development plan.

*Assembly:* An event causing a company of persons to collect together in one place, and usually for some common purpose, such as for deliberation and legislation, worship or social entertainment.

*Avigation easement:* An easement, recorded with the Cumberland County Register of Deeds, intended to protect property owners and residents of properties in close proximity to the Fayetteville Regional Airport and by providing for the free and unobstructed passage of aircraft in and through the air space above said properties thus providing for the safe, convenient and reasonable operation of the airport.

*Bars & nightclubs:* Establishments including private clubs, sport bars/clubs etc., that may be licensed to sell alcoholic beverages to be consumed on the premises and do not meet the criteria to be a restaurant.

*Bed and breakfast:* A form of temporary/transient housing with breakfast included, but no other meals available. There is no restaurant, but overnight guests may use a dining room, which is open only during breakfast hours.

*Berm:* Any elongated earthen mound designed or constructed to separate, screen or buffer adjacent land uses.

*Billboard:* See Sec. 102A-1402 for all sign-related definitions.

*Board of Adjustment:* A quasi-judicial body whose establishment, powers, authority, and responsibility is described in detail in Article XVII.

*Board of Commissioners:* The governing body of the Town of Hope Mills.

*Boarding house:* A building other than a bed and breakfast, hotel, inn or motel where, for compensation, meals are served and lodging is provided.

*Bona fide farm:* Any tract of land where the land is used for the production of and activities relating to, or incidental to, the production of crops, fruits, vegetables, ornamental and flowering plants, dairy, livestock, poultry and all other forms of agricultural products having a domestic or foreign market.

*Borrow source operations:* The removal of soil, sand or other soil materials, with further processing limited to dry screening to remove roots, trash, objectionable and other deleterious material. The provisions of this ordinance shall not apply to bona fide farming activities, operations subject to N.C. Department of Transportation (NCDOT) contractual agreements or jurisdiction for the duration of the contract only, and any operations exempt



from the N.C. Mining Commission's regulations. These exemptions shall apply in all zoning districts.

*Buffer:* An opaque fence, wall, berm, hedge or other natural planting or a combination thereof, which will restrict the view from adjoining streets and/or abutting properties.

*Buildable area (buildable envelope):* The space remaining on a lot after the minimum open space requirements (yards, setbacks, etc.) have been met.

*Building:* Any structure enclosed and isolated by exterior walls constructed or used for residence, business, industry or other public or private purposes, or accessory thereto, including tents, lunch wagons, dining cars, trailers, manufactured homes and attached or unattached structures consisting of roof and supporting members, and similar structures whether stationary or movable.

*Building footprint:* The portion of a lot's area that is enclosed by the foundation of buildings, plus any cantilevered upper floor, stoops, porches, chimneys, decks, etc.

*Building frontage:* The linear foot of a building that runs approximately parallel to and faces public or private street(s).

*Building height:* The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the building.

*Building lot coverage:* The amount of net lot area or land surface area, expressed in terms of a percentage that is covered by all principal buildings.

*Building, principal (main building and/or structure):* A building in which the principal use is conducted for the lot on which it is situated.

*Building, setbacks:* The minimum distance from all property and/or right-of-way lines to the closest projection of the exterior face of buildings, walls or other forms of construction (i.e. decks, landings, terraces, and porches, etc.).

*Building, temporary:* A building used temporarily for the storage of construction materials and equipment incidental and necessary to on-site permitted construction of utilities, or other community facilities, or used temporarily in conjunction with the sale of property within a development under construction.

*Caliper:* A measurement of the diameter of a tree trunk. Such measurement shall be taken according to the following standards:

(a) New nursery (to be installed) and regulated (existing on-site) trees up to and including four inches in diameter shall be measured six inches above ground level.

(b) For trees above four inches in diameter, the caliper measurement shall be taken 12 inches above ground level.

*Call center:* A central building or office place where agents or operators man banks of telephones to either make outgoing, or field incoming telephone calls for a large company or organization.

*Camouflage:* To disguise with paint or other aesthetic means so as to blend with the surrounding area.

*Campground/RV parks:* Land upon which shelters (such as tents, travel trailers and recreational vehicles) are erected or located for occupation by transients and/or vacationers. They may include such permanent structures and facilities as are normally associated with the operation of a campground.

*Canopy, marquee or awning:* A roof-like cover extending over a sidewalk, walkway, driveway or other outdoor improvement for the purpose of sheltering individuals or equipment from the weather. An awning is made of fabric or some flexible fabric-like substance. Canopies and marquees are rigid structures of a permanent nature.

*Cemetery:* As defined in Chapter 65, Article 9, of the General Statutes of North Carolina, any one or a combination of more than one of the following in a place used or to be used and dedicated or designed for cemetery purposes:

- (a) Burial park for earth interment;
- (b) Mausoleum; or
- (c) Columbarium.

*Certificate of Occupancy:* Official certification that a premise conforms to the provisions of this ordinance and the N.C. Building Code, and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use upon completion of the building or site final inspection. Unless such a certificate is issued, a structure cannot be occupied, but a certificate may be issued for a portion of a structure ready for occupancy, such as separate dwelling or commercial units in a structure with multiple units.

*Change of use:* Changing the original purpose of the building to a different use or changing the lot configuration due to changed requirements (e.g., adding display or storage areas).

*Chapter 86 [town's subdivision ordinance]:* The portion of the Town of Hope Mills Code of Ordinances that governs the subdivision of land and establishes provisions for other special developments within the town; the chapter is entitled: *Subdivision Regulations*.  
(Amd. 05-05-14)

*Club or lodge (private, non-profit, civic or fraternal):* Non-profit associations of persons, who are bona fide, dues-paying members, which own, hire or lease a building, or portion thereof, the use of such premises being restricted to members and their guests. The affairs and management of such "private club or lodge" are conducted by a board of directors, executive committee or similar body chosen by the members. It shall be permissible to serve food and meals on such premises provided that adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed provided it is secondary and incidental to the promotion of some other common objective of the organization, and further provided that such sale of alcoholic beverages is in compliance with applicable Federal, State and local laws.

*Conditional use:* A use or occupancy of a structure or a use of land, permitted only upon the successful rezoning to a conditional zoning district and made subject to the limitations and conditions specified therein. (Articles V, VI, VII and VIII)  
(Amd. 05-05-14)

*Condominium development:* A project of two or more units in one or more multi-unit buildings designed and constructed for unit ownership as permitted by the *North Carolina Unit Ownership Act* (N.C. GEN. STAT. 47A-1 *et seq.*) and shall be approved under the requirements for condominium developments set forth in Chapter 86.

*Conical surface zone:* An area that extends upward and outward from the periphery of the horizontal surface zone with a slope of 20:1 measured in a vertical plane passing through the Fayetteville Regional Airport reference point. Measuring radially outward, from the periphery of the horizontal surface zone, the conical surface extends for a horizontal distance as shown on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

*Conservancy organization:* Any legally established incorporated entity, whether for profit or non-profit, whose primary mission is dedicated to the protection of the environment and natural resources.

*Convalescent home (nursing home):* An institution that is advertised, announced or maintained for the express or implied purpose of providing nursing or convalescent care for persons unrelated to the licensee. A convalescent home is a home for chronic or nursing patients who, on admission, are not as a rule acutely ill and who do not usually require special facilities such as an operating room, x-ray facilities, laboratory facilities or obstetrical facilities. A convalescent home provides care for persons who have remedial ailments or other ailments for which continuing medical and skilled nursing care is indicated; who, however, are not sick enough to require general hospital care. Nursing care is their primary need, but they will require continuing medical supervision. A major factor that distinguishes convalescent homes is that the residents will require the individualization of medical care.

*Critical root zone:* A circle extending around the tree with a one-foot radius for every one inch of tree diameter.

*Day care facility:* A building or dwelling regularly used for recreational or supervisory care of six or more persons (adults or children), not including the operator's own family members, during any 24-hour period. It does not matter where it is located, whether the same or different persons attend and whether or not it is operated for profit. The following are not included: public schools; nonpublic schools, as described in N.C. GEN. STAT. § 110-86(2); summer camps having children in full-time residence; summer day camps; specialized activities or instruction such as athletics, clubs, the arts, etc.; and bible schools normally conducted during vacation periods.

*Density:* The average number of families, persons, housing units or buildings per unit of land.

*Developed:* Land that has been converted to a specific purpose by new construction or the addition of planned or structured improvements, not otherwise excluded by the provisions of this ordinance.

*DNL:* The A-weighted average day/night sound level in decibels during a 24-hour period.

*Driveway:* A private access way, the use of which is limited to persons residing, employed or otherwise using or visiting the parcel in which it is located.

*Dwelling:* Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

*Dwelling, multiple family:* A residence designed for or occupied by two or more families with separate housekeeping and cooking facilities for each.

*Dwelling, single-family:* A detached residence designed for or occupied by one family only.

*Dwelling unit:* A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

*Equestrian facilities:* An integral part of and developed in conjunction with residential developments, including: horse ranches, boarding stables, riding schools and academies, trails, and horse exhibition facilities. Barns, stables, corrals, paddocks and the like are considered accessory and incidental to the foregoing uses.

(Amd. 05-05-14)

*Easement:* A right given or reserved by the owner of land for specific limited use of that land.

*Essential site requirements:* Any construction or reconstruction of site development features required by any local, State or Federal regulations, ordinances or laws, such as underground drainage, off-street parking, driveways, retention areas or similar improvements required for the intended use of the site, which cannot be accommodated on the site without the removal of regulated trees.

*Façade:* The exterior walls of a building which is adjacent to or fronting on a public right-of-way or other public area; typically the front of a building, but also includes any side or rear of a building facing a public right-of-way or other public area.  
(Amd. 08-15-11)

*Family:* One or more persons occupying a single housekeeping unit and using common cooking facilities, provided that, unless all members are related by blood, marriage or adoption, no such family shall contain over five persons. The presence of household employees or children in foster care shall not disqualify any premises otherwise satisfying the above rules.

*Fences or walls:* A tangible barrier constructed of any allowable material erected for the purpose of providing a boundary or as a means of protection, or to prevent uncontrolled access, or for decorative purposes (such as ornamental gate or ornamental gates), or to screen from viewers in or on adjoining properties and streets, materials stored and operations conducted behind it.

*Fence or wall, open:* A tangible barrier in which the openings through which clear vision and the free passage of air is possible from one side to the other on a horizontal plane occupying 75 percent or more of the side area of the barrier fence or wall; all other barriers are solid fences or walls.

*Flea market:* Sales area (indoors or outdoors) in which space is set aside or rented, and which is intended for use by one or more individuals to sell a variety of articles.

*Floor area, gross:* The total area of a building measured by taking the outside dimensions of the building at each floor level.

*Floor area, net:* The horizontal area of each floor of a building or structure; excluding those areas not directly devoted to the principal, incidental, or accessory use, such as: storage areas, stairwells, elevators, closets, restrooms, maintenance rooms, hallways, and similar areas.

*Food sales/grocery stores:* Stores specializing in the sale of edible products as its principal business with incidental sales of household supplies.

*Garage, commercial:* Any building or premises, except those described as a private or parking garage, used for the storage or care of motor vehicles, or where any such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale.

*Garage, private:* An accessory building or portion of a building permitted in any district allowing residential uses, providing for the storage of private motor vehicles used by the occupants of the principal building, and in which no business, occupation or service for profit is in any way conducted, except in an approved home occupation.

*Golf course/driving range:* Land developed for the recreational purpose of golf, excluding miniature golf courses and including country clubs, private and public courses, driving ranges and pro and snack shops.

*Governmental use:* A building, structure or facility owned and operated or occupied by a unit of local government of the State, including but not limited to the Town, another municipality, any agency of the State, the United States or any State thereof, or any Indian tribe recognized as such by the federal government. This definition does not include any utility, whether owned and/or operated by any public or private agency.

*Gross floor area:* The total number of square feet within a building devoted to a particular use, including the space occupied by such supporting facilities as storage areas, work areas, toilets, mechanical equipment and the like.

*Group development:* A group of two or more principal uses, structures, or dwelling units occupying, built on, or intended to occur on a single lot, tract, or parcel of land.

*Group home:* A home with support and supervisory personnel, some or all of whom are nonresident, that provides room and board, personal care and habilitation services in a residential environment to not more than six resident handicapped persons 24 hours a day, seven days a week.

*Group quarters:* A building or group of buildings, which houses more than two persons in other than a traditional family setting. Housing may be in individual rooms or communal rooms with bathroom facilities and other common use areas. Housing may be free of charge or with a fee (monetary or service). This definition shall not include foster care homes, therapeutic foster care homes or other uses specifically listed in Sec. 102A-403, Use Matrix, i.e., group homes and residential habilitation support facilities. It does include, but is not limited to, rooming/boarding houses, dormitories, residence halls, membership lodgings, halfway houses, alcohol and drug abuse centers, homeless shelters and hospice facilities, orphanages and religious quarters.

*Halfway house:* An establishment whose primary purpose is the rehabilitation of persons. Such services include drug and alcohol rehabilitation and rehabilitation for prison parolees and juveniles. This shall not include facilities defined and licensed as "group homes." Halfway houses will be regulated as "group quarters."

*Handicapped person:* A person with a temporary or permanent physical, emotional or mental disability, including but not limited to mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to themselves or others as defined in N.C. GEN. STAT. § 122C-3(11).

*Hazardous materials storage:* The keeping, retention or leaving of hazardous materials in closed containers, tanks, cylinders or similar vessels; or vessels supplying operation through closed connections to the vessel. Hazardous materials storage is not a permitted use inside the corporate limits of the town.

*Height:* For purposes of determining vertical (height) limits related to the airport overlay district, established and regulated by the Federal Aviation Administration, the datum shall be *mean sea level* elevation unless otherwise specified.

*Highway Plan:* A plan, formally known as *Fayetteville Area Metropolitan Planning Organization Highway Plan* that provides and defines a functional system of streets permitting travel from origins to destinations with directness, ease and safety. Different streets in this system are designed and called on to perform specific functions, thus minimizing the traffic and land service conflict.

*Home occupation:* Any occupation or profession carried on entirely within a dwelling or accessory building on the same lot by one or more occupants thereof.

*Horizontal surface zone:* A plane, circular in shape with its height 150 feet above the established Fayetteville Regional Airport elevation and having a radius from the airport reference point as indicated on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

*Hospital:* An institution designed for the diagnosis, treatment and care of human illness or infirmity and providing health services primarily for inpatients and including as related: clinic facilities, laboratories, outpatient departments, training facilities and staff offices.

*Hotel/motel:* A building or other structure kept, maintained, advertised as or held out to the public to be a place where sleeping accommodations are supplied for pay to transient or permanent guests or tenants and where rooms are furnished for the accommodation of such guests. Entry to sleeping rooms may be from the interior or exterior of the building. Food may be served in dining rooms, restaurants or cafes, which may be located in the same building as the sleeping rooms or may be in one or more separate buildings.

*Internet café/video gaming:* Any for profit business enterprise, whether as a principal, accessory or incidental use, providing three or more computers and/or other electronic devices for access to the internet, email, applications, video games, or any other similar

activity for a fee that either rewards the user in currency or in any manner capable of being converted to currency whether immediate or future or any other form of compensation. This term includes but is not limited to "internet cafes," "cybercafés," "sweepstakes," or "business center." This term does not include any governmental use.

(Amd. 04-16-14)

*Junk yard/salvage yard:* Any area exceeding 200 square feet, in whole or in part, where waste or scrap materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including but not limited to, scrap iron and other metals, paper, rags, vehicles, rubber tires and bottles. A "junk yard" includes a motor vehicle wrecking yard, but does not include uses established entirely within enclosed buildings. It also includes residential outside storage of the above items.

*Kennel:* Any premises where four or more dogs which are three months old or older are kept commercially or as pets, including the boarding of animals, keeping of animals for breeding purposes or for sale, but excluding pet grooming shops, veterinary clinics and veterinary hospitals.

*Land, gross area:* The square footage of all the area included within the external boundary of the property to be developed excluding existing public streets and railroad rights-of-way.

*Land, net area:* The land area required to meet the minimum dimensional zoning district standards as required by this ordinance.

*Lateral access:* The provision of ingress and egress between adjoining or abutting nonresidential uses to facilitate the circulation of vehicular traffic between those uses and designed to relieve traffic congestion, provide protection from through traffic, and limit individual driveway access along public rights-of-way.

*Loading area or space, off-street:* An area logically and conveniently located for bulk pickups and deliveries, and accessible to such vehicles used for the pickups and deliveries. Any required off-street loading space is not to be included as off-street parking space in computing required off-street parking space. (Article XIII)

*Loading and service area:* Area which is used for trash or garbage collection, vehicular loading and unloading, outdoor storage or repair, or for covered storage where the structure has no walls to screen views. Loading doors without an exterior platform (dock) are not included.

*Lot:* A parcel of land occupied or intended for occupancy, by a main building or group of main buildings together with any accessory buildings, including such yards, open spaces, width, and area as are required by this ordinance, either shown on a plat of record or described by metes and bounds and recorded with the Register of Deeds.



*Lot, corner:* A lot abutting the intersection of two or more streets, or a lot abutting on a curved street or streets, which streets have an angle of intersection of not more than 135 degrees.

*Lot, depth:* The depth of a lot is the average distance between the front and back lot lines excluding street rights-of-way.

*Lot, flag:* A lot where the main body of the lot is separated from the street giving access to the property, but which has an included strip of land at least 35 feet in width connecting the lot to the street, thus providing lot access.

*Lot, frontage:* The linear feet of property measured along the property line that abuts a public street or an approved private street.

*Lot, interior:* A lot other than a corner lot.

*Lot, through:* A lot, other than a corner lot, having frontage on two parallel, or approximately parallel streets, or a corner lot having frontage on three or more streets.

*Lot lines:* The property lines bounding a lot. Where a lot of record includes a public street right-of-way, the lot lines are presumed not to extend into the right-of-way.

*Lot of record:* A lot which is part of a subdivision, a plat of which has been recorded in the office of the Cumberland County Register of Deeds, or a lot described by the metes and bounds, the description of which has been recorded in the office of the Cumberland County Register of Deeds, and if applicable, meets all requirements of Chapter 86.

*Lot width:* The straight-line distance between the points where the building setback line intersects the two side lot lines.

*Manufactured home:* A manufactured building designed to be used as a single-family dwelling unit, which has been constructed and labeled indicating compliance with the U.S. Department of Housing and Urban Development administered National Manufactured Housing Construction and Safety Standards Act of 1974, as amended.

*Manufactured home, Class A:* A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

- (a) The manufactured home has a length not exceeding four times its width, with length measured along the longest axis and width measured at the narrowest part of the other axis.

(b) The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction.

(c) All roof structures shall provide an eave projection of no less than six inches, which may include a gutter.

(d) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (whose reflectivity does not exceed that of gloss white paint) or wood or hardboard siding, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction.

(e) The manufactured home is set up in accordance with the standards set by the N.C. Carolina Department of Insurance and a continuous permanent masonry foundation, or permanent masonry curtain wall, un-pierced except for required ventilation and access, is installed under the manufactured home.

(f) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the N.C. Department of Insurance, attached firmly to the primary structure and anchored securely to the ground.

(g) The moving hitch, wheels and axles, and transporting lights have been removed.

*Manufactured home, Class B:* A manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction, but that does not satisfy all of the criteria necessary to qualify the home as a Class A manufactured home.

*Manufactured home, Class C:* Any manufactured home that does not meet the definitional criteria of a Class A or Class B manufactured home.

*Manufactured home park:* A multi-family development on any site or tract of land with three or more spaces intended to be occupied by manufactured homes, regardless of whether a charge is made for such services. Manufactured home parks may include recreational facilities and other incidental structures necessary to support the residents of the park. (Chapter 86)

*Manufactured home space:* A plot of land within a manufactured home park designed for the accommodation of one manufactured home. (Chapter 86)

*Massage and bodywork therapy:* Systems of activity applied to the soft tissues of the human body for therapeutic, educational or relaxation purposes as regulated by N.C. GEN.

STAT., Chapter 90, Article 36 and the N.C. Board of Massage and Bodywork Therapy. The application may include:

(a) Pressure, friction, stroking, rocking, kneading, percussion or passive or active stretching within the normal anatomical range of movement;

(b) Complimentary methods, including the external application of water, heat, cold, lubricants and other topical preparations;

(c) The use of mechanical devices that mimic or enhance actions that may possibly be done by the hands.

*Massage and bodywork therapist:* Any person who is licensed by the North Carolina Board of Massage and Bodywork Therapy to practice massage and bodywork therapy as defined and regulated by N.C. GEN. STAT., Chapter 90, Article 36.

*Mini-warehouse/storage facilities:* A building or group of buildings, in a controlled access and/or fenced compound that contains varying sizes of individual, compartmentalized and controlled access stalls or lockers for the dead storage of a customer's personal property, goods or wares. No sales, service, or repair activities other than the rental of dead storage units are permitted on the premises.

*Mixed use:* A single building containing more than one type of land use where the residential use occupies no more than 40 percent of the total building floor area and the non-residential use occupies a minimum of 60 percent of the total floor area or a single development of more than one building and use with the different types of land uses in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.  
(Amd. 08-15-11)

*Mobile storage units:* Self-contained portable units designed to be temporarily placed on a lot for the purpose of loading and/or unloading the contents, with the unit being transported to and stored at a permanent storage facility. (Examples include: Pods, U-pack, Mini-Mobile, etc.)

*Modular structure:* A manufactured structure designed for year-round residential or commercial use, with major components or modules pre-assembled and transported to a site for final assembly, foundation, construction, and utility connection. Such structures must meet all requirements of the N.C. Building Code and must have attached a North Carolina Validating Stamp.

*More intensive use:* A use that will have a greater impact on the surrounding area than the previous use, including activities which generate more traffic, require more employees or service deliveries, or utilize more square footage than the previous use existing on the site.

*Motor vehicle:* A machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle, except that said definition shall not include a "manufactured home" as defined in this ordinance.

*Motor vehicle parking lot:* An area or plot of land used for, or designated for, the short-term parking of serviceable motor vehicles, either as a principal use or as an accessory use.

*Motor vehicle parking lot, commercial:* A tract of land which is used for the storage of legally licensed, insured and registered motor vehicles, not accessory to any other use on the same or any other lot, and which contains parking spaces rented to the general public or reserved for individuals by the hour, day, week, or month.

*Motor vehicle parking space:* An area of not less than 20 feet in length and nine feet in width for one motor vehicle, plus the necessary access space.

*Motor vehicle parking, off-street:* A parking space located outside of a public street right-of-way.

*Motor vehicle storage lot:* A plot of land used for the open storage of vehicles, which does not meet the definition of a junkyard or motor vehicle parking lot.

*Multi-Phased Development:* A development containing 25 acres or more that is both of the following: (a) Submitted for development permit approval to occur in more than one phase; (b) Subject to a master development plan with committed elements showing the type and intensity of use of each phase.

*New construction:* Any single-family development, multi-family or non-residential structure, parking lot or motor vehicle or manufactured housing sales lot for which a building permit or construction permit is issued or upon which construction actually begins on or after the effective date of this ordinance.

*Nonconforming lot:* A lot existing at the effective date of this ordinance or any amendment to it that was created in compliance with Chapter 86 in effect at the time of lot creation and that does not meet the minimum area or lot width or depth requirements of the district in which the lot is located.

*Nonconforming structure:* An existing structure that does not comply with the dimensional requirements of this ordinance for the district in which it is located either at the effective date of this ordinance or as a result of subsequent amendments thereto.

*Nonconforming use:* Any existing use of land or structure which does not comply with the use regulations of this ordinance for the district in which it is located either at the effective date of this ordinance from which this ordinance was derived or as a result of subsequent amendments thereto.

*Nuisance:* Anything that unreasonably interferes with the use or enjoyment of property, endangers personal health or safety, or is offensive to the senses.

*Obscene matter:* Any item with a context of a sexual nature depicting, describing or related to anatomical areas and sexual activities.

*Obstruction:* Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in this ordinance.

*Open space:* The land used for recreation, natural resource protection, amenities and/or buffer areas. Open space may include, but is not limited to, walkways, recreation areas, playgrounds, wooded areas, greenways and watercourses.

*Ordinance:* This, the Town of Hope Mills Zoning Ordinance, a technical ordinance, including any amendments thereto. Whenever the effective date of the ordinance is referred to, the reference includes the effective date and the effective date of any amendment to the Zoning Ordinance. This ordinance consists of two parts – a text and a map, in hardcopy or digital format.

*Person:* Any individual, association, firm, partnership, public or private utility, or body politic or corporate.

*Planning Department/ Planning Staff:* The county agency that is contracted with the town for planning services and is responsible for and tasked with planning and land use matters for the town and the surrounding area.

*Planting area:* A reserved landscape area free of concrete, asphalt, stone, gravel, brick or other paving material, aside from approved walkways, which is required or used to provide growth area for required plant material.

*Planting strip:* Planting area along a public right-of-way which is reserved for landscaping purposes.

*Plat/plan:* A map, usually of land which is to be or has been subdivided or developed, showing the location, boundaries, and ownership of properties; the location, bearing and length of every street and alley line, lot line and easement boundary line; and such other information as may be necessary to determine whether a proposed subdivision or development meets all required standards of this ordinance, Chapter 86 and other applicable regulations.

*Premises:* A lot and the structure or structures located on it.

*Principal structure/principal uses:* The primary building(s), purpose(s) or function(s) that a parcel or structure serves or is intended to serve.

*Public utility station:* A structure or facility used by a public or quasi-public utility agency to store, distribute or generate electricity, gas, telecommunications and related equipment or to pump or chemically treat water. This does not include telecommunication towers, storage or treatment of sewage, solid waste or hazardous waste.

*Public water and/or sewer:* Municipal, sanitary district, community, and privately owned water and/or sewer systems as regulated and controlled by the N.C. Utilities Commission, N.C. Board of Health, N.C. Department of Environment and Natural Resources (NCDENR) and the County Public Health Department.

*Public way:* Any street, alley or similar parcel of land, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

*Quarry operations:* The extraction or removal by any means, to include, but not limited to, such activities as blasting, excavating, jacking of minerals, ores or other materials which are processed by washing, wet screening, classifying, crushing, material gradation or other treatment which combines, mixes or blends with other materials.

*Recreation, indoor:* An establishment providing completely enclosed recreation activities. Accessory uses shall be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed uses. Included in this definition shall be bowling, roller or ice skating, billiards, pool, motion picture theatres and related amusements.

*Recreation, outdoor:* An area free of buildings except for restrooms, dressing rooms, equipment storage, maintenance buildings, open-air pavilions and similar structures used primarily for recreational activities.

*Recreation, outdoor (with mechanized vehicle operations):* An area or establishment, which requires the use of motors or engines for the operation of equipment or participation in the activity and afforded passage along a tract or course, typically of rough terrain. This definition includes but is not limited to go-cart tracks, bicycle motocross (BMX) courses and the like. This definition does not include golf courses (golf carts) or other low impact motorized vehicles.

*(Amd. 06-15-09)*

*Recreational vehicle:* A vehicular, portable structure built on a single chassis or capable of being placed in or on a vehicle; designed to be self-propelled or towable by a light duty truck; and designed primarily for use as temporary dwelling for recreational, camping, travel or recreational use. The basic entities are travel trailer, camping trailer, truck camper, and motor home.

*Recreational vehicle park:* See "Campground/RV park" above.

*Religious worship activity:* Any premises, the principal purpose of which is religious worship and in which the principal structure is the principal place of worship. Accessory uses may include religious education classrooms, assembly rooms, kitchen, library room or reading room, recreation hall, and a one-family dwelling unit (parsonage), but excluding day care facilities and facilities for residence or training of religious orders.

*Residential habilitation support facility:* A day care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment to more than six resident handicapped persons.

*Restaurant:* An eating establishment, including cafeterias, cafes, grills, fast-food establishments, etc., that has gross receipts from food sales and non-alcoholic beverage sales of at least 30 percent of the total gross receipts including alcoholic beverage sales. This definition does not include those uses regulated as a sexually oriented business.

*Right-of-way:* An area owned and maintained by the town, other municipality, the State of North Carolina, a public utility, a railroad or a private entity for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities or railroads.

*Seasonal sales establishments:* For purposes of this ordinance, the temporary offering for purchase of fireworks sales, pumpkins and Christmas trees to the general public.

*Setback:* The required distance between every structure with other structures, whether on the same or separate lots, and every structure and the lot lines of the lot on which it is located.

*Sexually oriented business:* Any business or enterprise that has as one of its principal business purposes or as a predominant purpose of its business an emphasis on matter and conduct depicting, describing or related to anatomical areas and sexual activities specified in N.C. GEN. STAT. § 14-202.10.

*Shopping center:* A group of retail and other commercial establishments that is planned and designed for the site on which it is built, functioning as a unit, with common entrance ways, off-street parking, landscaped areas, and pedestrian paths provided on the property as an integral part of the unit.

*Sign:* See Sec. 102A-1402 for all sign-related definitions.

*Site plan:* A scaled drawing depicting uses and structures proposed for a parcel of land as required by this ordinance and Chapter 86. It includes such items as lot lines, streets, building sites and setbacks, means of access, parking, reserved open space, buildings, major landscape features - both natural and manmade - and, depending on requirements, the locations of proposed utility lines. The specific criteria for site plans are found in Article XV.

*Site specific development plan:* A land development plan submitted to the town and considered at public hearing for purposes of obtaining one of the following zoning or land use permits or approvals: subdivision plat (if properly finalized and recorded), conditional zoning site plan or special use permit or zoning permit. (Sec. 102A-1802)  
(Amd. 05-05-14)

*Sleeping unit:* A room or space on which people sleep, which can also include permanent provisions for living, eating, and either sanitation or kitchen facilities but not both. Such rooms and spaces that are also part of a dwelling unit are not sleeping units.

*Solid waste disposal facility:* Any depository of solid waste, excluding earth for fill and septage. This definition includes, but is not limited to, sanitary landfills, sewage treatment facilities and waste incinerators.

*Special use:* Those uses for which a permit is required for the proposed activities which are essentially compatible with other uses or activities permitted in a zoning district, but which present unique challenges or possess unique characteristics, or qualities that require comprehensive review at a quasi-judicial public hearing by the Board of Adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions. (Section 102A-1706)

*Street:* A public or private thoroughfare which affords the principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except an alley.

*Street, centerline:* A line officially determined to be lying halfway between the two edges of the street right-of-way.

*Street line:* The dividing line between a street or road right-of-way and the contiguous/abutting property.

*Street, private:* Any road, street, or alley which is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public. (This does not include neighborhood public roads, cart paths and ingress/egress easements.) Requirements for private streets are in Chapter 86.

*Street, public:* A dedicated and accepted for maintenance purposes public right-of-way for vehicular traffic that affords the principal means of access to abutting properties.

*Street tree:* Any tree planted within or adjacent to a public right-of-way.

*Streetscape:* Improvements intended primarily for the visual enhancement of the public right-of-way.



*Structure:* That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in a permanent manner.

*Subdivision:* All divisions of a less than ten acre tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development, whether immediate or future, with certain modifications as more particularly defined in Chapter 86.

*Swimming pool, children's wading:* Any swimming pool that does not meet the definitions of "private" or "public" swimming pool below.

*Swimming pool, private:* Any structure which contains water over 24 inches in depth and which is used, or intended to be used, for swimming or recreational bathing in connection with a single-family residence and which is available only to the family and guests of the house holder. This includes in-, on- and above-ground swimming pools.

*Swimming pool, public:* Any swimming pool that does not meet the definition of "private swimming pool" located above. Chapter 86 and the County Public Health Department also have provisions regulating public swimming pools.

*Therapeutic foster care home:* A 24-hour residential treatment facility located in a private residence which provides professionally trained parent substitutes who work intensively with children and adolescents who are emotionally disturbed or have a substance problem, or both. These homes shall not serve more than two children or adolescents.

*Temporary:* A permit or event for a limited period of time.

*Transient lodgings:* Land used or intended to be used or occupied by a group of two or more detached or semi-detached buildings, except manufactured homes, or by a multiple unit building containing guest rooms, with motor vehicle parking spaces and incidental utility structures which are provided in connection therewith, all of which is used or designed for use primarily by motor vehicle transients.

*Tower:* Any fabricated structure or device including, but not limited to, relay stations for commercial operations, such as cable television, telecommunication, radio, television stations and the operation of such uses. "tower" shall not include structures that support antennae or similar devices that support or facilitate HAM radio or citizen band communication.

*Townhouse:* A single structure on its own separate lot containing one dwelling unit that occupies space from the ground to the roof, and is attached to one or more other dwelling units by at least one common wall.

*Transitional zone:* The areas within the Fayetteville Regional Airport airspace that extends outward and upward from the sides of the approach zones for a horizontal

distance as shown on the *Airport Airspace Plan* contained within the *2005 Fayetteville Regional Airport Master Plan*, Sheet No. 6, or any subsequent amendment upon official adoption to the Airport Master Plan.

*Unit:* A use, group, structure, or other entity regarded as an elementary structural or functional constituent of a whole.

*Variance:* A variance is a relaxation of the terms of this ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. (Section 102A-1705)

*Vehicular display/service area:* An area where manufactured homes, motor vehicles, motor homes, boats and trailers are displayed for sale, parked while awaiting service, or having been serviced, are awaiting customer pickup.

*Vehicular use area:* Areas accessible to vehicular traffic on a regular established basis, and which have an improved surface such as gravel, asphalt, brick or concrete pavement. Examples include but are not limited to driveways and parking lots. Areas that are not accessible on a regular basis to the general public and are not visible from a public right-of-way shall not be considered as a vehicular use area for purposes of this ordinance. Also not included as vehicular use areas by this definition are areas, including parking lots that are screened from public rights-of-way, which screens may not totally block from view the area screened but are installed and maintained as provided for in this ordinance.

*Vertical mixed use:* Buildings erected for two or more different uses, providing space for non-residential uses on the ground floor with residential areas located on the upper floors and functionally designed to share vehicular and pedestrian access and parking areas.

*Yard:* A space on the same lot with a principal building, open, unoccupied, and unobstructed by buildings or structures from the ground to the sky, except where encroachments and accessory buildings are expressly permitted herein.

*Yard, front:* An area of which the width is measured the entire length of the front property line between the side property lines; and the depth is measured as the distance between the street right-of-way or property line and the required front yard setback line.

*Yard, rear:* An area of which the width is measured the entire length of the rear property line between the side property lines; and the depth is measured as the distance between the property line and the required rear setback line.

*Yard, side:* An area extending from the required front setback to the required rear setback, or to the front or rear property lines where no front or rear setback is required by the provisions of this ordinance, the minimum and average dimensions of which are determined by the standards of property development of the zoning district in which such lot is located.

*Zero lot line development:* A single development including, but not limited to, patio homes, townhouses, condominiums, businesses, individual lots and including one or more structures comprising at least two individual lots, dwelling units, or businesses, whether attached or detached, intended for separate ownership and developed in accordance with the standards of Chapter 86.

*Zoning:* A police power measure, enacted by the Board of Commissioners pursuant to enabling statutes, in which the town is divided into districts or zones within which permitted, conditional, and special uses are established, as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts.

*Zoning Board:* The town's appointed body established for the purpose of conducting hearings to derive at and formulate recommendations to advise the Board of Commissioners on zoning-related matters.

*Zoning district:* An area established by this ordinance where the individual properties are designed to serve compatible functions and to be developed at compatible scales.

*Zoning vested right:* A right pursuant to N.C. GEN. STAT. **160D-102, 108, 108.1** to undertake and complete the development and use of property under the terms and conditions of an approved site-specific **development vesting** plan.

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## ARTICLE III ZONING DISTRICTS

(Amd. 05-05-14)

### Sec. 102A-301. Establishment of districts.

For the purpose of this ordinance, the areas shown on the town's zoning map are divided into the following classes of general, conditional and overlay districts.

### Sec. 102A-302. Zone characteristics.

(a) *Residential districts.* Residential districts are composed of certain existing residential areas of the town and certain areas where similar residential development appears likely to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of each district by promoting and encouraging a suitable environment for family life and prohibiting certain activities of a non-residential nature. To these ends, development is limited to dwellings which provide homes for the residents plus certain additional uses such as schools, parks, recreation facilities, and certain other public facilities. This system of classification is utilized to optimize orderly development by providing a variety of living environments based on different levels of permitted population density and facilitating the adequate provision of transportation and other public facilities.

(1) *RR rural residential.* A district intended for traditional rural use with lots of 20,000 square feet or above. The principal use of the land is for low-density residential and agricultural purposes. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.

(2) *R-20 residential district.* A district designed primarily for single-family units with a lot area of 20,000 square feet or above.

(3) *R-15 residential district.* A district designed primarily for single-family dwelling units with a lot area of 15,000 square feet or above.

(4) *R-7.5 residential district.* A district designed primarily for single-family dwellings on lots with a lot area of 7,500 square feet or above.

(5) *R-6 residential district.* A district designed for a mix of single- and multiple-family dwellings.

(6) *R-6A residential district.* A district designed for a mix of single- and multiple-family dwellings including the use of manufactured homes on individual lots and in manufactured home parks.

(7) *R-5A residential district.* A district designed primarily for multiple-family housing with a maximum density of 13.5 dwelling units per net acre.

(8) *R-5 residential district.* A district designed primarily for multiple-family dwelling units with a maximum density of 29 units per acre, dependent upon the type of development.

(b) *Office and institutional district.*

- *O&I(P) planned office and institutional district.* This district is designed primarily for agencies and offices rendering specialized services in the professions, finance, real estate, and brokerage as well as the traditional institutional functions both public and private, public assembly, religious and certain cultural and recreational activities and group housing. The uses in this district classification may be characterized as having no retail or wholesale trade, except as incidental use. The district is normally small and often situated between business and residential areas. The regulations are designed for maintaining more compatibility with nearby residential districts than would exist with a commercial district. To promote the essential design features with the O&I(P) district, site plan approval is a requirement.

(c) *Commercial districts.*

(1) *C1(P) planned local business district.* This district is designed to cater to the ordinary shopping needs of the immediate neighborhood with emphasis on convenience goods. This district is customarily located adjacent to an arterial street and generally surrounded by residential areas. To promote the essential design features with the C1(P) district, site plan approval is a requirement for development proposed for the district.

(2) *C2(P) planned service and retail district.* This district is designed to allow for the non-residential development of land with service and retail uses not typically considered intrusive to neighboring residential properties or in areas generally requiring a greater degree of restrictions regarding the commercial use of properties.

(3) *C(P) planned commercial district.* The intent of this district is to assure the grouping of buildings on a parcel of land so as to constitute a harmonious, efficient and convenient retail shopping area. To promote the essential design features within this district, site plan approval is required. Any site plan design layout shall assure traffic safety and the harmonious and beneficial relations between the commercial area and contiguous land.

(d) *Industrial districts.*

(1) *M1(P) planned light industrial district.* This district is designed for a wide variety of light industrial operations involving manufacturing, processing, and fabrication of materials, operations involving wholesaling and bulk storage, other non-retail uses and certain public assembly and recreational uses. The general intent of the district is to prohibit residential, retail, and heavy industrial uses of the land. By their nature, the uses permitted in this district are generally not compatible with residential or shopping center uses. Access and compatibility with the surrounding uses are the most important location criteria for light industrial districts. To promote the essential design features with the M1(P) district, site plan approval is a requirement.

(2) *M(P) planned industrial district.* This district is designed primarily for basic manufacturing and processing industries, all of which normally create a high degree of nuisance and are not generally compatible with residential, service or commercial uses. The general intent of this district is to permit uses confined to wholesaling, manufacturing, fabrication, and processing activities that can be carried on in an unobtrusive manner and limited external effects with suitable open spaces, landscaping, parking, and service areas. The district is customarily located on larger tracts of land with good highway and rail access buffered from residential districts by other more compatible uses. Commercial activities are not permitted except those having only limited contact with the general public and those not involving the sale of merchandise at retail except for occasional temporary sale of items produced on the premises or for the purpose of serving employees, guests and other persons who are within the district with an industrial activity. To promote the essential design features within the M(P) district, site plan approval is a requirement.

(e) *Conservancy district.*

- *CD conservancy district.* This district is designed to preserve and protect identifiable natural resources from encroachment. The general intent of the district is to provide protection for such resource areas that will continue to provide limited development potential while preserving existing conditions to the extent feasible. Areas to be zoned in this district shall be identifiable as any land area deemed desirable for protection from development and may include, but not limited to: swamp, marsh, flood land, poor or very severe soils areas or managed and unmanaged woodland on U.S. Geological Survey maps, soil maps prepared by the U.S. Department of Agriculture, Soil Conservation Service or other appropriate sources.

(f) *Conditional zoning districts.*

(1) *Companion districts (\_\_\_/CZ).* Each district includes a companion conditional zoning district (e.g. RR has RR/CZ) where no uses are permitted by right. This district is designed for the development and use of the property subject to predetermined ordinance standards and rules imposed as part of the legislative decision creating the district and applying it to the particular property. (Article V)

(2) *Mixed use development - conditional zoning district (MXD/CZ)*. The purpose of this district is to encourage innovative development on a conditional basis by providing use flexibility while maintaining quality design standards tempered with proper controls regarding buffering, landscaping, open space designation, density and other ordinance site specific or relevant conditions. (Article VI)

(3) *Planned neighborhood development - conditional zoning district (PND/CZ)*. A district designed for the planned development of various residential densities concurrent with neighborhood oriented uses in a single project. (Article VII)

(4) *Density development - conditional zoning district (\_\_\_/CZ)*. The purpose of this district is to promote the preservation of open space within the town, through permanent restriction of development on a percentage of a tract, buffering, and clustering of lots, while at the same time providing for the residential development of land. The specific designation depends on the density of the development, i.e., R20/DD/CZ. (Article VIII)  
(Amd. 05-05-14)

(g) *Overlay districts*. The districts presented in this sub-section are created for the purpose of providing for special regulations in given designated areas of the town to accomplish stated purposes that are set forth for each district. These districts shall be in addition to, and shall overlap and overlay all other zoning districts within which lands placed in each district also lie, so that any parcel of land lying in an overlay district shall also lie in one or more of the other zoning districts provided for by this ordinance.

(1) *Airport overlay district*. The purpose of this district is to protect the public health, safety and welfare in the vicinity of the Fayetteville Regional Airport by minimizing exposure to and giving public notice of probable high noise levels and accident hazards generated by the airport operations and to encourage future development that is compatible with the continued operation of the airport and the economic well being of the town.

(2) *Reserved for future use*.

(3) *Historic overlay*. This overlay district is designed to promote the preservation and restoration of structures and landscape features within specified areas and/or neighborhoods of the town that are of historical, architectural and cultural importance, having significant character, design, setting, materials or value for their association with the town, Cumberland County, North Carolina or the nation. This district is designed to protect buildings, structures and sites, and their environs through guidelines administered by the town's Historic Advisory Committee.

(h) *Dormant/corresponding zoning districts*. This amendment makes dormant certain previously existing zoning districts created under the town's Zoning Ordinance of 1985, and subsequent amendments. The Planned Neighborhood Development is now dormant, and development shall either comply with the standards of the R7.5 residential



district or shall be submitted for approval under Article VII. The following previously existing zoning districts now correspond to current districts as indicated:

(1) HS(P) planned highway services district shall correspond to the C(P) planned commercial district;

(2) C3 heavy commercial district shall correspond to the C(P) planned commercial district;

(3) M2 heavy industrial district shall correspond to the M(P) planned industrial district; and

(4) R10 residential district shall correspond to R7.5 residential district.

### **Sec. 102A-303. Zoning maps; interpretation of district boundaries.**

(a) *Zoning maps.* All the territory included in the town is classified into one or more zoning districts and the boundaries of each of these districts are hereby adopted as shown on a series of maps in digital format, which is to be considered a part of this ordinance and entitled "*Zoning Maps, Hope Mills, North Carolina.*" The zoning maps and all notations, references, and all amendments thereto, and other information shown thereon are made a part of this ordinance, the same as if such information set forth in the map were all fully described and set out in this ordinance. The zoning maps are public record and shall be kept on file with the Chief Building Inspector and the County Planning Department, where it shall be available for inspection by the public. Regardless of the existence of purported copies of the zoning map which may from time to time be made or published, the zoning maps on file with the Planning Department and amendments thereto entered in the minutes of the Board of Commissioners shall be final authority as to the current zoning status of lands, buildings, and other structures in the zoning areas.

(b) *Interpretation of district boundaries.* If dispute exists as to the boundaries of any district shown on the zoning maps, the following rules shall apply:

(1) *Extensions of line.* Where such district boundaries are indicated as approximately following street or railroad rights-of-way, alley lines and lot lines, or extensions of such lines, shall be considered to be such boundaries. Where district boundaries are indicated as approximately following the centerline of stream beds or river beds, or such centerlines extended, such centerlines shall be considered to be such boundaries.

(2) *Undeveloped property.* For undeveloped property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale of the map.

(3) *Physical or cultural features.* Where physical or cultural features existing on the ground are at variance with those shown on the zoning maps, or in other circumstances not covered by sub-sections (b)(1) and (b)(2) of this section, the Board of Adjustment shall interpret the district boundaries.

(4) *Jurisdiction after annexation.* When any portion of the territory subject to this ordinance as shown on the zoning map has been annexed into the corporate limits of the town, such area or areas shall remain subject to the provisions of the previous jurisdiction's regulations for a maximum period of 60 days thereafter, or until such time that the area or areas are subject to the town regulations (initial zoning), whichever occurs first.

## **ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES**

### **Sec. 102A-401. General.**

Within the various zoning districts established in Article III and subject to the requirements of this ordinance, no land, building or structure shall be used, and no building or structure shall be erected which is intended or designed to be used, in whole or in part for any use other than the uses allowed by the various districts established herein. The use regulations for the various districts are intended to be permissive in nature and none other than those specifically listed shall be construed as being allowable uses. Some land uses may be allowed through ~~conditional use district~~ conditional district and approval of the permit or by issuance of a special use permit only upon findings that certain conditions exist or should be applied and is requested and agreed to by the property owner. The establishment of these uses shall be allowed only after review through appropriate measures and approval of plans.

Permitted uses in the various districts are indicated in the appropriate column of the following matrix. Special uses, with Board of Adjustment approval and issuance of the permit, and some conditional use districts, after Board of Commissioner approval and issuance of the permit, are also indicated in the matrix. All proposed uses in any planned district require site plan review and approval and shall be in compliance with the standards of this ordinance and Chapter 86.

### **Sec. 102A-402. Uses by right.**

All uses of property are prohibited except those that are permitted or otherwise allowed under the terms of this ordinance.

**Sec. 102A-403. Use matrix.**

The matrix on the following pages indicates permitted, special and some conditional uses.

102A-403. Use matrix.

| Hope Mills Zoning Ordinance<br>P = Permitted use<br>C = Conditional use (Board of Commissioners approval required)<br>S = Special use (Board of Adjustment approval required) |    | ZONING CLASSIFICATION |     |     |      |    |     |    |     |          |       |       |      |       |      |
|---|----|-----------------------|-----|-----|------|----|-----|----|-----|----------|-------|-------|------|-------|------|
| LAND USES   | CD | RR                    | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O & I(P) | C1(P) | C2(P) | C(P) | M1(P) | M(P) |
| Accessory uses incidental to any permitted use  | P  | P                     | P   | P   | P    | P  | P   | P  | P   | P        | P     | P     | P    | P     | P    |
| Addressing service  |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Agricultural or rural farm use  | P  | P                     | P   |     |      |    |     |    |     |          |       |       |      |       |      |
| Airport operations (minor)  |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Airport operations (major) (§102A-1002)   |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Alcoholic beverages, (control sales)  |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Apparel and accessory sales   |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Assemblies (including assembly hall, armory, stadium, coliseum, community center, fairground activities) (§102A-1015)   |    | S                     | S   | S   | S    | S  | S   | S  | S   | P        | P     | P     | P    |       |      |
| Auction sales (excluding livestock auctioning & motor vehicles)   |    |                       |     |     |      |    |     |    |     |          |       |       |      | P     | P    |
| Bakery production and wholesale sales   |    |                       |     |     |      |    |     |    |     |          |       |       |      | P     | P    |
| Baking, on-premises and retail only   |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Bank, savings and loan company and other financial activities   |    |                       |     |     |      |    |     |    |     | P        | P     | P     | P    |       |      |
| Bars & night clubs, not regulated by Sec. 102A-1023   |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Barbering and hairdressing services   |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Bed and breakfast (§102A-1003)  |    |                       |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Billboards (§102A-1407)   |    | P                     | P   | P   | P    | P  | P   | P  | P   |          |       |       |      | S     | P    |

c. 102A-403. Use matrix.

| Hope Mills Zoning Ordinance  |   | ZONING CLASSIFICATION |    |     |     |      |    |     |    |     |        |       |       |      |                |                |
|--|---|-----------------------|----|-----|-----|------|----|-----|----|-----|--------|-------|-------|------|----------------|----------------|
| P = Permitted use<br>C = Conditional use (Board of Commissioners approval required)<br>S = Special use (Board of Adjustment approval required) |   | CD                    | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O&I(P) | C1(P) | C2(P) | C(P) | M1(P)          | M(P)           |
| LAND USES  |   |                       |    |     |     |      |    |     |    |     |        |       |       |      |                |                |
| Bingo  |   |                       |    |     |     |      |    |     |    |     | P      |       |       | P    |                |                |
| Boats and accessories, retail sales and service  |   |                       |    |     |     |      |    |     |    |     |        |       |       | P    |                |                |
| Books & printed matter sales   |   |                       |    |     |     |      |    |     |    | P   | P      | P     |       | P    | P              | P              |
| Borrow source operations (§102A-1004)  |   |                       |    |     |     |      |    |     |    |     |        |       |       |      |                | S              |
| Bottled gas distributing, bulk storage   |   |                       |    |     |     |      |    |     |    |     |        |       |       |      | P              | P              |
| Bottling   |   |                       |    |     |     |      |    |     |    |     |        | P     |       | P    | P              | P              |
| Building supply  |   |                       |    |     |     |      |    |     |    |     |        |       |       |      |                |                |
| Bus station activities (storage terminal activities)   |   |                       |    |     |     |      |    |     |    |     |        |       |       | P    | P              | P              |
| Cabinet making and other woodworking   |   |                       |    |     |     |      |    |     |    |     |        |       |       |      | P              | P              |
| Call center  |   |                       |    |     |     |      |    |     |    |     |        |       |       |      |                |                |
| Carpet and rug cleaning  |   |                       |    |     |     |      |    |     |    |     |        |       |       | P    | P              | P              |
| Catalogue sales  |   |                       |    |     |     |      |    |     |    |     |        |       |       | P    |                |                |
| Cemetery, public (§102A-1015)  | S |                       |    |     |     |      |    |     |    | P   | P      | P     |       | P    |                |                |
| Club or lodge not regulated under Sec. 102A-1023 (§102A-1005)  | S |                       | S  | S   | S   | S    | S  | S   | S  | S   | S      | S     |       | P    | P              | P              |
| Convenience store (Amd. 04-19-10)  |   |                       |    |     |     |      |    |     |    |     |        |       |       |      |                |                |
| Crematorium  |   |                       |    |     |     |      |    |     |    |     |        |       |       |      |                |                |
| Day care facility (§102A-1006)   | S | S                     | S  | S   | S   | S    | S  | S   | S  | S   | S      | S     |       | P    | S <sup>1</sup> | S <sup>1</sup> |
| Delicatessen operations (including catering)   |   |                       |    |     |     |      |    |     |    |     |        |       |       |      |                |                |
| Dry cleaning/laundry, commercial   |   |                       |    |     |     |      |    |     |    |     |        |       |       | P    | P              | P              |

<sup>1</sup>Only in approved Industrial Parks

c. 102A-403. Use matrix.

| Hope Mills Zoning Ordinance<br>P = Permitted use<br>C = Conditional use (Board of Commissioners approval required)<br>S = Special use (Board of Adjustment approval required)   |    | ZONING CLASSIFICATION |                |                |      |    |     |    |     |                |                |                |                |       |      |
|---|----|-----------------------|----------------|----------------|------|----|-----|----|-----|----------------|----------------|----------------|----------------|-------|------|
| LAND USES   | CD | RR                    | R20            | R15            | R7.5 | R6 | R6A | R5 | R5A | O & I(P)       | C1(P)          | C2(P)          | C(P)           | M1(P) | M(P) |
| Dry cleaning/laundry, self service  |    |                       |                |                |      |    |     |    |     |                | P              |                | P              |       |      |
| Dry cleaning and laundry collection, no cleaning on premises except in conjunction with service counter, provided not more than 2,500 square feet is devoted to these processes |    |                       |                |                |      |    |     |    |     |                | P              |                | P              |       |      |
| Dwelling, multiple family   |    | C                     | C              | C              | C    | P  | P   | P  | P   | P <sup>2</sup> | P <sup>2</sup> | P <sup>2</sup> | P <sup>2</sup> |       |      |
| Dwelling, single family   |    | P                     | P              | P              | P    | P  | P   | P  | P   | P <sup>2</sup> | P <sup>2</sup> | P <sup>2</sup> | P <sup>2</sup> |       |      |
| Equestrian facilities   |    | S <sup>3</sup>        | S <sup>3</sup> | S <sup>3</sup> |      |    |     |    |     |                |                |                | P              | P     | P    |
| Exterminating service   |    |                       |                |                |      |    |     |    |     |                |                |                | S              | P     | P    |
| Farm machinery sales and servicing  |    |                       |                |                |      |    |     |    |     |                |                |                |                |       |      |
| Farm supplies merchandising (excluding farm machinery)  |    |                       |                |                |      |    |     |    |     |                |                |                | P              | P     | P    |
| Fire station operations/emergency service (§102A-1015)  |    | P                     | P              | P              | P    | P  | P   | P  | P   | P              | P              | P              | P              | P     | P    |
| Fish hatchery   | P  |                       |                |                |      |    |     |    |     |                |                |                |                |       |      |
| Florist   |    |                       |                |                |      |    |     |    |     |                | P              | P              | P              | P     | P    |
| Food processing   |    |                       |                |                |      |    |     |    |     |                |                |                |                |       |      |
| Food production, with on premises retail sales of product   |    |                       |                |                |      |    |     |    |     |                |                |                |                |       |      |

<sup>2</sup>Second floor and above only  
<sup>3</sup>Unless approved in conjunction w/ CUD

Hope Mills Zoning Ordinance  
 P = Permitted use  
 C = Conditional use (Board of Commissioners approval required)  
 S = Special use (Board of Adjustment approval required)

| LAND USES                                      | ZONING CLASSIFICATION |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
|--|-----------------------|----|-----|-----|------|----|-----|----|-----|--------|-------|-------|------|-------|------|
|  | CD                    | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O&I(P) | C1(P) | C2(P) | C(P) | M1(P) | M(P) |
| Food production/wholesale sales                |                       |    |     |     |      |    |     |    |     |        | P     | P     | P    | P     | P    |
| Food sales/grocery stores                      |                       |    |     |     |      |    |     |    |     |        | P     | P     | P    |       |      |
| Funeral home, including incidental crematorium |                       |    |     |     |      |    |     |    |     | P      | P     | P     | P    |       |      |
| Golf courses (§102A-1007)                      |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Group homes, six or less clients (§102A-1008)  |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Group quarters (§102A-1009)                    |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Hardware, paint, and garden supply sales       |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Home furnishing and appliance sales            |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Industrial operations not otherwise prohibited |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Industrial sale of equipment or repair service |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Industry, pilot operation                      |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Internet café/video gaming (Amd. 04-19-14)     |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Janitorial service                             |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Kennel (§102A-1010)                            |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Laboratory operations, medical or dental       |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Laboratory, research                           |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Library (§102A-1015)                           |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Locksmith, gunsmith                            |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Home occupation, incidental (§102A-1102)       |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Hotel/motel                                    |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |
| Machine tool manufacturing or welding          |                       |    |     |     |      |    |     |    |     |        |       |       |      |       |      |

<sup>2</sup>Second floor and above only

c. 102A-403. Use matrix.

Hope Mills Zoning Ordinance  
 P = Permitted use  
 C = Conditional use (Board of Commissioners approval required)  
 S = Special use (Board of Adjustment approval required)

| LAND USES   | ZONING CLASSIFICATION |    |     |     |      |    |     |    |     |          |       |       |      |       |      |
|---|-----------------------|----|-----|-----|------|----|-----|----|-----|----------|-------|-------|------|-------|------|
|   | CD                    | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O & I(P) | C1(P) | C2(P) | C(P) | M1(P) | M(P) |
| Manufactured home, Class A for residential occupancy  |                       | P  |     |     |      |    | P   |    |     |          |       |       |      |       |      |
| Manufactured home, Class B for residential occupancy  |                       | P  |     |     |      |    | P   |    |     |          |       |       |      |       |      |
| Manufactured home, Class C for residential occupancy (§102A-1011)                                       |                       |    |     |     |      |    | P   |    |     |          |       |       |      |       |      |
| Manufactured home park, excluding any manufactured homes sales (Chapter 86)                             |                       |    |     |     |      |    | P   |    |     |          |       |       |      | P     | P    |
| Manufactured home sales   |                       |    |     |     |      |    |     |    |     |          | P     | P     | P    |       |      |
| Massage & body works therapy  |                       |    |     |     |      |    |     |    |     |          |       |       |      | P     | P    |
| Milling or grinding grain and seed into food  |                       |    |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Mini-warehousing (self-storage facility) (no outside commercial storage of motor vehicles) (§102A-1012) |                       |    |     |     |      |    |     | S  | S   |          |       | P     | P    | P     | P    |
| Mini-warehousing (self-storage facility) (including outside commercial storage of motor vehicles)       |                       |    |     |     |      |    |     |    |     |          |       |       | P    | P     | P    |
| Monument sales  |                       |    |     |     |      |    |     |    |     |          |       |       | P    | P     | P    |
| Monument works  |                       |    |     |     |      |    |     |    |     |          |       |       |      |       | P    |
| Motor vehicle storage yard  |                       |    |     |     |      |    |     |    |     |          |       |       |      |       | P    |
| Motor vehicle parking lot, commercial   |                       |    |     |     |      |    |     |    | P   |          | P     | P     | P    | P     | P    |



c. 102A-403. Use matrix.

| Hope Mills Zoning Ordinance<br>P = Permitted use<br>C = Conditional use (Board of Commissioners approval required)<br>S = Special use (Board of Adjustment approval required) |   | ZONING CLASSIFICATION |    |     |     |      |    |     |    |     |          |           |      |       |      |
|---|---|-----------------------|----|-----|-----|------|----|-----|----|-----|----------|-----------|------|-------|------|
|   |   | CD                    | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O & I(P) | C1(P) (P) | C(P) | M1(P) | M(P) |
| LAND USES   |   |                       |    |     |     |      |    |     |    |     |          |           |      |       |      |
| Motor vehicle parts and accessories sales, contained within a building and with no outside storage  |   |                       |    |     |     |      |    |     |    |     | P        | P         |      |       |      |
| Motor vehicle repair and/or body work, excluding commercial wrecking/dismantling/storage of junked vehicles   |   |                       |    |     |     |      |    |     |    |     |          |           |      | P     | P    |
| Motor vehicle rentals   |   |                       |    |     |     |      |    |     |    |     |          | P         |      |       |      |
| Motor vehicle sales, new and used, including motor vehicle auctions   |   |                       |    |     |     |      |    |     |    |     |          |           |      | P     | P    |
| Motor vehicle service station operations  |   |                       |    |     |     |      |    |     |    |     | P        | P         |      | P     | P    |
| Motor vehicle washing   |   |                       |    |     |     |      |    |     |    |     |          |           |      |       |      |
| Motor vehicle wrecking yards and junkyards, including sales of parts (§102A-1014)   |   |                       |    |     |     |      |    |     |    |     |          |           |      |       | S    |
| Municipal building and activities   | P |                       |    |     |     |      |    |     |    | P   |          |           |      |       |      |
| Nursery operations/plant husbandry/greenhouses (§102A-1015)   | P | P                     |    |     |     |      |    |     |    |     |          |           |      | P     | P    |
| Nursing home/convalescent home/hospital/retirement home, etc. (§102A-1016)  |   | S                     | S  | S   | S   | S    | S  | S   | S  | P   | P        | P         | P    | P     |      |
| Office supplies and equipment sales and service/mailbox service   |   |                       |    |     |     |      |    |     |    |     |          |           |      | P     | P    |

c. 102A-403. Use matrix.

| LAND USES   |  | ZONING CLASSIFICATION |    |     |     |      |    |     |    |     |          |       |     |      |       |      |
|---|--|-----------------------|----|-----|-----|------|----|-----|----|-----|----------|-------|-----|------|-------|------|
|   |  | CD                    | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O & I(P) | C1(P) | (P) | C(P) | M1(P) | M(P) |
| Office use of a doctor, dentist, osteopath, chiropractor, optometrist, physiotherapist, or other medically oriented profession, clinic  |  |                       |    |     |     |      |    |     |    |     | P        | P     | P   | P    |       |      |
| Office use, with no on-premises stock of goods for sale to the general public and the operations and services of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material |  |                       |    |     |     |      |    |     |    |     | P        | P     | P   | P    |       |      |
| Pet sales, excluding kennel activities or outside storage of animals  |  |                       |    |     |     |      |    |     |    |     |          |       | P   | P    |       |      |
| Photography studio  |  |                       |    |     |     |      |    |     |    |     |          |       |     | P    |       |      |
| Post office   |  |                       |    |     |     |      |    |     |    |     |          |       |     | P    |       |      |
| Printing and reproduction small scale, <4000 sq. ft.  |  |                       |    |     |     |      |    |     |    |     |          |       |     | P    |       |      |
| Printing and reproduction large scale, =>4000 sq. ft.   |  |                       |    |     |     |      |    |     |    |     |          |       |     | P    |       |      |
| Public utility stations or substations (§102A-1015)   |  |                       | S  | S   | S   | S    | S  | S   | S  | S   | S        | S     | S   | S    | P     | P    |
| Public utility works, shops or storage yards (§102A-1017)   |  |                       |    |     |     |      |    |     |    |     |          |       |     |      | P     | P    |
| Publishing  |  |                       |    |     |     |      |    |     |    |     |          |       |     |      | P     | P    |
| Quarry operations (§102A-1018)  |  |                       |    |     |     |      |    |     |    |     |          |       |     |      |       | C    |
| Radio or television studio activities only  |  |                       |    |     |     |      |    |     |    | P   | P        | P     | P   | P    |       |      |
| Radio or television transmitting  |  |                       |    |     |     |      |    |     |    | S   | S        | S     | S   | S    |       | P    |

c. 102A-403. Use matrix.

Hope Mills Zoning Ordinance  
 P = Permitted use  
 C = Conditional use (Board of Commissioners approval required)  
 S = Special uses (Board of Adjustment approval required)

| LAND USES   | ZONING CLASSIFICATION |    |     |     |      |    |     |    |     |          |       |       |      |       |      |
|---|-----------------------|----|-----|-----|------|----|-----|----|-----|----------|-------|-------|------|-------|------|
|   | CD                    | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O & I(P) | C1(P) | C2(P) | C(P) | M1(P) | M(P) |
| Railroad yard operations  |                       |    |     |     |      |    |     |    |     |          |       |       |      |       | P    |
| Recreation/amusement indoor (conducted inside building for profit, not otherwise listed & not regulated) (§102A-1019)   |                       |    |     |     |      |    |     |    |     |          |       | P     | P    |       |      |
| Recreation/amusement outdoor (conducted outside building for profit, not otherwise listed & not regulated) (§102A-1019)   |                       | S  |     |     |      |    |     |    |     |          |       | S     | P    |       |      |
| Recreation/amusement outdoor (with mechanized vehicle operations) (Amd. 06-15-09)   |                       |    |     |     |      |    |     |    |     |          |       |       | P    |       |      |
| Recreation/amusement public/private (not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., & not otherwise listed) (§102A-1019) | C                     | C  | C   | C   | C    | C  | C   | C  | C   | C        | C     | C     | C    | C     | C    |
| Recreation vehicle park and/or campgrounds (§102A-1020)   | S                     | S  |     |     |      |    |     |    |     |          |       | P     | P    |       |      |
| Religious worship activities (§102A-1015)   |                       | P  | P   | P   | P    | P  | P   | P  | P   | P        | P     | P     | P    |       |      |
| Repair, rental, or servicing of any product the retail sale of which is a use by right in the same district   |                       |    |     |     |      |    |     |    |     |          | P     | P     | P    |       | P    |
| Residential habitation support facilities (§102A-1021)  |                       | S  |     |     |      |    |     |    |     | S        | S     | S     | S    |       |      |
| Restaurant, operated as commercial enterprise, drive-ins excluded and except as regulated by Sec 102A-1023  |                       |    |     |     |      |    |     |    |     |          | P     | P     | P    |       | P    |

c. 102A-403. Use matrix.

**Hope Mills Zoning Ordinance**  
**P = Permitted use**  
**C = Conditional use (Board of Commissioners approval required)**  
**S = Special use (Board of Adjustment approval required)**

| LAND USES  | ZONING CLASSIFICATION |    |     |     |      |    |     |    |     |          |           |      |       |      |
|--|-----------------------|----|-----|-----|------|----|-----|----|-----|----------|-----------|------|-------|------|
|  | CD                    | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O & I(P) | C1(P) (P) | C(P) | M1(P) | M(P) |
| Restaurant, operated as commercial enterprise, drive-ins included, except as regulated by Sec 102A-1023                            |                       |    |     |     |      |    |     |    |     |          |           | P    |       |      |
| Retailing or servicing with operations conducted and merchandise stored entirely within a building and not otherwise listed herein |                       |    |     |     |      |    |     |    |     |          |           | P    |       |      |
| Sanitarium   |                       |    |     |     |      |    |     |    |     |          |           | S    |       | P    |
| Sawmill or planing activities  |                       |    |     |     |      |    |     |    |     |          |           |      |       |      |
| School, business and commercial for nurses or other medically oriented professions, trade, vocational & fine arts                  |                       |    |     |     |      |    |     |    |     | P        | P         | P    |       |      |
| Schools, public, private, elementary or secondary (§102A-1015)   |                       | P  | P   | P   | P    | P  | P   | P  | P   | P        | P         | P    |       |      |
| Seasonal sales establishments [§102A-1101(f)]  |                       |    |     |     |      |    |     |    |     |          |           |      |       |      |
| Second hand, pawn and flea market (§102A-1022)   |                       |    |     |     |      |    |     |    |     |          |           |      |       |      |
| Sexually oriented businesses (§102A-1023)  |                       |    |     |     |      |    |     |    |     |          |           |      |       | P    |
| Solid waste disposal facilities (§102A-1024)   |                       |    |     |     |      |    |     |    |     |          |           |      |       | S    |
| Special informational signs [§102A-1404(g)]  | S                     | S  | S   | S   | S    | S  | S   | S  | S   | S        | S         | S    | S     | S    |
| Storage, flammable   |                       |    |     |     |      |    |     |    |     |          |           |      |       | P    |
| Storage, open  |                       |    |     |     |      |    |     |    |     |          |           |      |       | P    |
| Storage, warehouse   |                       |    |     |     |      |    |     |    |     |          |           |      |       | P    |

c. 102A-403. Use matrix.

Hope Mills Zoning Ordinance  
P = Permitted use  
C = Conditional use (Board of Commissioners approval required)  
S = Special use (Board of Adjustment approval required)

| LAND USES   | ZONING CLASSIFICATION |    |     |     |      |    |     |    |     |          |           |      |       |      |
|---|-----------------------|----|-----|-----|------|----|-----|----|-----|----------|-----------|------|-------|------|
|   | CD                    | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O & I(P) | C1(P) (P) | C(P) | M1(P) | M(P) |
| Swimming pools, incidental to a principal use [§102A-1102(c)]   | P                     | P  | P   | P   | P    | P  | P   | P  | P   | P        | P         | P    | P     | P    |
| Tailoring   |                       |    |     |     |      |    |     |    |     |          |           |      |       |      |
| Taxicab stand operations  |                       |    |     |     |      |    |     |    |     |          |           |      |       |      |
| Telephone switching/booster station (§102A-1015)  | P                     | P  | P   | P   | P    | P  | P   | P  | P   | P        | P         | P    | P     | P    |
| Theater productions, indoor, which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Sec. §102A-1023               |                       |    |     |     |      |    |     |    |     | P        | P         | P    |       |      |
| Theater productions, outdoor, which show only films previously submitted to & rated by the Motion Picture Association of America & not including theaters regulated by Sec. §102A-1023 (§102A-1025) |                       | S  |     |     |      |    |     |    |     |          | S         | P    |       |      |
| Tire recapping  |                       |    |     |     |      |    |     |    |     |          |           |      |       | P    |
| Tobacco processing & sales warehouse  |                       |    |     |     |      |    |     |    |     |          |           |      |       | P    |
| Towers (§102A-1026)   | S                     | S  | S   | S   | S    | S  | S   | S  | S   | S        | S         | P    | P     | P    |
| Trades contractor activities excluding outside storage of equipment or supplies   |                       |    |     |     |      |    |     |    |     |          |           | P    | P     | P    |
| Trades contractor activities with outside storage of equipment or supplies  |                       |    |     |     |      |    |     |    |     |          |           |      | P     | P    |

c. 102A-403. Use matrix.

Hope Mills Zoning Ordinance  
 P = Permitted use  
 C = Conditional use (Board of Commissioners approval required)  
 S = Special use (Board of Adjustment approval required)

ZONING CLASSIFICATION

| LAND USES  | CD | RR | R20 | R15 | R7.5 | R6 | R6A | R5 | R5A | O & I(P) | C1(P) | C2(P) | C(P) | M1(P) | M(P) |
|--|----|----|-----|-----|------|----|-----|----|-----|----------|-------|-------|------|-------|------|
| Trailer rentals, including terminal activities, hauling and/or storage, incidental to same, but excluding mini-warehousing as defined herein |    |    |     |     |      |    |     |    |     |          |       |       | P    | P     | P    |
| Truck terminal activities repair and hauling or storage  |    |    |     |     |      |    |     |    |     |          |       |       | S    | P     | P    |
| Upholstering or furniture refinishing  |    |    |     |     |      |    |     |    |     |          | P     | P     | P    |       |      |
| Variety, gift and hobby supply sales   |    |    |     |     |      |    |     |    |     |          | P     | P     | P    |       |      |
| Vending machines operations outdoor  |    |    |     |     |      |    |     |    |     |          |       |       | P    | P     | P    |
| Vending machine rental   |    |    |     |     |      |    |     |    |     |          | P     | P     | P    |       |      |
| Veterinarian   |    |    |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Wholesale sales with operations conducted and merchandise stored entirely within a building  |    |    |     |     |      |    |     |    |     |          |       |       |      | P     | P    |
| and not otherwise herein   |    |    |     |     |      |    |     |    |     |          |       |       |      |       |      |
| Wireless communications & accessory sales  |    |    |     |     |      |    |     |    |     | P        |       | P     | P    |       |      |

**ARTICLE V**  
**COMPANION DISTRICTS – CONDITIONAL ZONING DISTRICTS**  
*(Amd. 05-05-14)*

**Sec. 102A-501. General.**

The conditional zoning districts set forth herein are authorized by N.C. GEN. STAT. § ~~160D-502, 605(b), 703, 909~~ and are intended to modify the use to which the general zoning district is restricted. Generally, an applicant, by seeking to rezone property to a conditional zoning district, will propose to restrict or eliminate permitted, conditional or special uses. Request for conditional zoning district rezoning shall be processed administratively in the same manner as for amendments to this ordinance as established in Article XVI.

Conditional zoning districts are floating districts that parallel general zoning districts. Conditional zoning districts are identical to their corresponding general zoning districts in all respects except that a permit is required as a prerequisite to any use (permitted, conditional or special) or development within them.

Parallel conditional zoning districts are provided as a voluntary alternative method of petitioning the Board of Commissioners for a zoning map or classification change. The owner may submit conditions that restrict the uses that would otherwise be allowed in the zoning district and only those uses specifically requested in the application shall be considered.

*(Amd. 05-05-14)*

**Sec. 102A-502. Restrictions on filing of applications.**

A request for a conditional zoning district rezoning shall be initiated only by an application [petition] signed by all current record owners of the affected property.

*(Amd. 05-05-14)*

**Sec. 102A-503. Content of applications and conditions.**

The conditional zoning district application shall provide the minimum information requirements set forth below; however, additional information may be required by the staff, Zoning Board or the Board of Commissioners when requested if any of the aforementioned deem it necessary in order to be able to make a recommendation on, or decision regarding the application. Such requests may include a requirement for a more detailed site plan or one modified in accordance with additional or revised conditions and other performance criteria.

(a) *Proposed uses.* Proposed uses shall be set forth in detail, including the compatibility with the uses in the neighboring districts. Any limitations or conditions to be



placed on the proposed uses to enhance compatibility with and benefit to surrounding areas shall also be set forth.

(b) *Dimensional requirements.* The application shall show that the uses comply with dimensional requirements for the district requested. If the applicant proposes to vary the dimensional requirements for the district requested, it shall be demonstrated that the public purposes to be accomplished by any such dimensional requirement are met to an equal or greater degree.

(c) *Sign requirements.* The application shall indicate the location of freestanding signs in accordance with Article XIV. If the applicant proposes to vary the sign provisions for the district requested, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.

(d) *Off-street parking requirements.* The application shall indicate the location of all off-street parking and internal drive areas in accordance with Article XIII. If the applicant proposes to vary the off-street parking provisions of this ordinance for the use requested, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.

(e) *Miscellaneous provisions.* The application may also set forth other conditions and performance criteria, such as days and hours of operation, numbers of employees, exterior lighting, and noise, odor and smoke emission controls or other environmental conditions, which might be proposed to make the use of the property compatible with surrounding areas and uses allowed therein.

(f) *Site plan requirement.* The application shall include a site plan drawn to the specifications of Sec. 102A-1502. If the proposed uses involve development subject to the town's subdivision ordinance, the required site plan may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to the town's subdivision ordinance, the site plan shall be of sufficient detail to allow the staff, the Zoning Board, and the Board of Commissioners to analyze the proposed uses and arrangement of uses on the site. It shall also include the footprints of all buildings to be placed on the site, the proposed number of stories, and the location and number of off-street parking and loading spaces. The site plan shall show proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences shall be included on the site plan.

(Amd. 05-05-14)

#### **Sec. 102A-504. Action by the Zoning Board.**

The Zoning Board may hold a public hearing during which the applicant may voluntarily make modifications to the request. The Zoning Board shall advise and comment on whether the proposed amendment is consistent with any comprehensive plan that has



been adopted and any other officially adopted plan that is applicable. The Zoning Board shall provide a written recommendation to the Board of Commissioners that addresses plan consistency and other matters as deemed appropriate by the Zoning Board, but a comment by the Zoning Board that a proposed amendment is inconsistent with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the Board of Commissioners. The Zoning Board shall review the request for a conditional zoning district rezoning and make a recommendation to the Board of Commissioners. When favorably recommending approval of the conditional zoning district, the Zoning Board shall issue a statement addressing the reasonableness of the proposed rezoning, in addition to addressing the request's consistency with the current land use plan.

*(Amd. 05-05-14)*

### **Sec. 102A-505. Action by the Board of Commissioners.**

The Board of Commissioners shall hold a public hearing to consider the conditional zoning district rezoning and shall review the application, recommendation from the Zoning Board, suggested conditions, and other information presented at the public hearing. When adopting or rejecting any rezoning application, the Board of Commissioners shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan for the area in which the subject property is located and any other officially adopted plan that is applicable, and briefly explaining why the board considers the action taken to be reasonable and in the public interest.

In approving the application, the Board of Commissioners, with the mutual agreement of the property owner(s), may attach such reasonable conditions as are needed (1) to address the conformance of the development and use of the site to town ordinances and any officially adopted comprehensive or other plan for the area in which the subject property is located and (2) to address the impacts reasonably expected to be generated by the development or use of the site. The conditions may include, but shall not be limited to:

- (a) The location of the proposed use on the property;
- (b) The number and location of structures;
- (c) The location and extent of accessory and support facilities, such as parking lots, driveways, fences and access streets;
- (d) The location and extent of buffer areas and other special purpose areas on the property;
- (e) The height of any structure;
- (f) The phasing of development;

(g) Other restrictions on the use of the property that adhere to the purposes of this ordinance and maintain the public health, safety and welfare; and

(h) Such other matters as the applicant shall propose.

Written consent from applicant or landowner will be obtained regarding conditions to a conditional zoning approval. The record shall reflect that the property owner(s) voluntarily agree to all conditions proposed.  
(Amd. 05-05-14)

### **Sec. 102A-506. Modification to approved conditional zoning districts.**

All modifications, including changes in use and/or increase in density, to approved conditional zoning districts and permits, other than those listed below, shall be reviewed in the same manner as a new project.

The following minor modifications to the approved conditional zoning district may be approved by the County Planning staff with the agreement of the town staff without reconsideration by the Board of Commissioners, provided no variance is required, the use does not change, the intent and layout of the approved plan is generally followed, density is not increased, conditions of approval are not violated, and such changes do not cause a significant adverse impact:

(a) Slight variations in the building dimensions that do not depart from the general approved layout and not exceeding ten percent of the original approved dimensions;

(b) Minor changes in parking lot or traffic lane dimensions;

(c) Minor dimensional changes to individual lots;

(d) Minor site modifications due to necessary engineering requirements;

(e) Change of location of elements included on the site plan that generally maintains relative alignment and orientation to the approved site plan; and

(f) Other similar insignificant changes.

In reviewing such changes, the County Planning staff and/or the town staff may require that the modification be handled in the same manner as a new application.  
(Amd. 05-05-14)

### **Sec. 102A-507. Time limit.**

Once the conditional zoning district rezoning is approved, all conditions attached thereto shall be binding upon the property and all subsequent development and use of the property shall be in accordance with the approved application and conditions. Since the intent of this type of district is to provide for workable alternative uses of property, it is intended that land will be zoned in accordance with firm plans to develop. Therefore, at the end of two years from the date of approval, the Zoning Board may examine progress made to determine if active efforts are proceeding. If the Zoning Board determines that active efforts to develop are not proceeding, it may institute proceedings to rezone the property to the previous zoning classification.

*(Amd. 05-05-14)*

### **Sec. 102A-508. Failure to comply.**

(a) *Conditional zoning districts.* If for any reason any condition imposed as part of a conditional zoning district is found to be illegal or invalid, or if the applicant should fail to accept any condition, the rezoning to a conditional zoning district shall be null and void and the zoning of the property at issue shall automatically revert to its previous zoning classification.

Compliance with all conditions of a conditional zoning district is an essential element of the conditional zoning district's continuing effectiveness. The town may use any all measures authorized by Sections 102A-1803 and 102A-1804 to enforce the conditions of a conditional zoning district. Moreover, if the property owner(s) fails to comply with all conditions of a conditional zoning district, the town, in its discretion, may rezone the property to its prior zoning district in accordance with the requirements of this ordinance, especially Article XVI.

(b) ~~Conditional use permits Conditional zoning.~~ If for any reason any condition imposed pursuant to a ~~conditional use permit conditional zoning~~ is found to be illegal or invalid, or if the applicant should fail to accept any condition, the authorization of such conditional permit shall be null and void and of no effect, and the property shall remain in, or revert to, its previous zoning classification.

Compliance with all conditions of a ~~conditional use permit conditional zoning~~ is an essential element of the ~~conditional use permits~~ conditional zoning continued validity and effectiveness. If the County Planning Director or the Town Manager determines that a developer has failed to comply with a condition of an approved ~~conditional use permit conditional zoning~~, the director and/or manager shall so notify the developer or the developer's successor in interest in writing and shall place the matter on the Board of Commissioners' agenda, after consideration by the Zoning Board and upon issuance of its recommendation, for the Board of Commissioners' hearing and decision whether or

not to revoke the ~~conditional use permit conditional zoning~~. Such hearing shall be on reasonable written notice to the developer or the developer's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Commissioners shall be a final decision, and a decision to revoke the ~~conditional use permit conditional zoning~~ may be appealed to the Superior Court of Cumberland County within 30 days after the developer or the developer's successor in interest has been served with written notice of the Board of Commissioners' decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the Board of Commissioners' approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the Board of Commissioners' decision hereunder." (Amd. 05-05-14)

**Sec. 102A-509. Validation of existing conditional use overlays and conditional use districts and permits.**

Nothing in this ordinance shall be interpreted to affect or impair any rights accrued pursuant to any conditional use overlay district and permit, under the Town Zoning Chapter of 1985, and subsequent amendments to said chapter, prior to the effective date of this amendment of the ordinance. In addition, nothing in this ordinance shall be interpreted to affect or impair any rights accrued pursuant to a ~~conditional use district~~ ~~conditional district~~ and permit approved prior to May 5, 2014. All valid and legally approved conditional use overlay districts or conditional use districts and the permits shall continue to be valid provided that terms of the permit are not substantially or materially altered or expanded in any manner, that all conditions and requirements of the permit are and continue to be complied with and that the use does not cease for a period of one calendar year. Failure to comply with the conditions of the permit for the conditional use overlays or a ~~conditional use district conditional district~~ will subject the property owner and/or developer to possible revocation and reversion pursuant to Sec. 102A-508 above. (Amd. 05-05-14)

**ARTICLE VI**  
**MIXED USE DEVELOPMENT – CONDITIONAL ZONING DISTRICT**  
(Amd. 05-05-14)

**Sec. 102A-601. General.**

This zoning district incorporates the provisions of Article V, Conditional Zoning Districts, in its entirety. In addition the restrictions and requirements set forth below shall be considered minimum standards and must be adhered to or exceeded.  
(Amd. 05-05-14)

**Sec. 102A-602. Minimum conditions for application.**

The following are the minimum conditions that must be met prior to submission of an application for this district:

- (a) The subject property must be served by public or community water and sewer;
- (b) The subject property must have permitted access to a public paved street that can support the development; and
- (c) The subject property must be at least ten acres.

**Sec. 102A-603. Uses allowed.**

The intent of this district is to allow for flexibility of development; however, unless a use not listed below is specifically requested by the applicant and receives a favorable recommendation from the Zoning Board and approved by the Board of Commissioners, all uses within the district shall be limited to the following:

- (a) Any residential use except manufactured homes and manufactured home parks;
- (b) Commercial and office uses in the C1(P) planned local business district and O&I(P) planned office and institutional district; and
- (c) Allowed uses from the C2(P) planned service and retail and C(P) planned commercial districts are as follows:
  - (1) Alcoholic beverage control sales;
  - (2) Bed & breakfast (except those regulated by Sec. 102A-1023);
  - (3) Food production (with on premises retail sales of product);
  - (4) Home furnishings and appliance sales;
  - (5) Janitorial service;
  - (6) Locksmith, gunsmith;
  - (7) Mini-warehousing with no outside storage of vehicles and if constructed in accordance with Sec. 102A-1012;
  - (8) Motor vehicle washing;
  - (9) Office supplies and equipment sales and service / mailbox service;

(10) Pet sales (excluding kennel operations, outside runs, and outside storage of animals);

(11) Recreation or amusement, indoor (conducted inside a building for profit, and not otherwise listed herein) and recreation/amusement outdoor (conducted outside building for profit, not otherwise listed or regulated;  
(Amd. 06-15-09)

(12) Recreation or amusement, public/private (not operated as a business for profit);

(13) Retailing or servicing with operations conducted and merchandise stored entirely within a building (Note: The remainder of this use, as listed in Sec. 102A-403, "and not otherwise listed herein" is not included in this section.); and

(14) Veterinarian.

Any combination of the above permitted uses shall not exceed 50% of the total land area within the district for non-residential development.

#### **Sec. 102A-604. Development performance standards.**

(a) *Calculation of area.* Prior to submission for approval, the developer shall ensure the following calculations for land uses are provided for and clearly shown on the site plan:

(1) Fifteen percent of the land area for the entire development shall be subtracted out of the overall acreage prior to any other calculations and shall be reserved as open space; and

(2) After deduction of open space is completed, all acreage devoted to vertical mixed use, provided only residential use occurs above the first floor, shall be subtracted out of the remainder; then

(3) The resultant acreage shall be the basis for calculation of the percentages for the fifty percent commercial and residential calculations.

(b) *Open space provisions.*

(1) Fifteen percent of the land area is to remain undeveloped (in its natural state), unless developed recreational facilities are specifically requested in the application and shown on the site plan and approved by the Board of Commissioners upon their consideration of the recommendation from the Zoning Board;

(2) The open space portion of the tract must be in one contiguous piece or if not, receive a favorable recommendation from the Zoning Board and approved by the Board of Commissioners; and

(3) The open space shall be secured by a recorded conservation easement and maintained as common area by an owners' association in the same manner as prescribed in Chapter 86 for common area in zero lot line developments, or owned by a public or non-profit organization (i.e., governmental entity, land trust, conservancy, etc.) provided that this manner of ownership is approved by the Board of Commissioners after their consideration of the Zoning Board's recommendation.

(c) *Development standards.*

(1) A site plan including all information required for detailed site plans enumerated in Sec. 102A-1502 shall be submitted with the application. In addition, the site plan shall include the street layout, all proposed means for pedestrian and vehicle movement, including any alleys, public/private access to open space, etc. The site plan must be detailed and strictly adhered to.

(2) Half of the proposed residential development, excluding vertical mixed use, shall have been issued a *certificate of occupancy* or a guarantee has been posted in the form of a bond or irrevocable letter of credit and approved by the town attorney, with the estimated cost of construction being approved by the town, in the same manner as required by the town's subdivision ordinance for "Guarantees of improvements," prior to the completion of the approved non-residential portion of the plan. In the event, the developer fails to complete the residential portion of the development, the funds from the guarantee shall be used toward recouping any legal cost associated with enforcement of the conditions of approval and toward construction of any improvement within the development reasonably necessary to provide for the safety, health, and welfare of the public.

(Amd. 05-05-14)

(3) All development within the district must meet any height restrictions imposed by airports and the Federal Aviation Administration.

(4) The district dimensional requirements, including minimum lot size, setbacks, and density restrictions, of Article XII shall not apply within the district; however, all periphery setbacks shall be that of any adjoining zoning district.

(5) Sidewalks shall be provided in accordance with the standards of Chapter 86.

(6) The site plan shall indicate the minimum number, size, and location of off-street parking spaces for all non-residential development and comply with the standards of Article XIII.

(7) All utilities except for high voltage electric lines (25kv or greater) shall be placed underground within the district.

(8) Streets and drives will comply with the Town or the N. C. Department of Transportation (NCDOT) standards, whichever is applicable and will be capable of carrying the projected traffic volumes.

(9) All signage within the district shall comply with the sign regulations in Article XIV.

(10) Buffering shall be provided in accordance with the standards of Sec. 102A-1202(g).

(11) Developments submitted for approval under this article are exempt from the parks, recreation, and open space provisions contained within Chapter 86.

(d) *Other applicable regulations.* In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:

(1) All provisions of the town code shall be complied with, where applicable;

(2) Compliance with the Highway Plan;

(3) The plans must be in harmony with the most current Land Use Plan and current adopted policies; and

(4) All other applicable Federal, State, and local regulations are complied with.

## **ARTICLE VII PLANNED NEIGHBORHOOD DEVELOPMENT -CONDITIONAL ZONING DISTRICT**

*(Amd. 05-05-14)*

### **Sec. 102A-701. Purpose.**

This district encourages the development of residential land in such a manner as to provide a more desirable living environment characterized by a variety of housing types in order to best meet the demand of all people, allow new methods by which land and facility costs can be reduced on a per unit basis so that more people can afford better living conditions, and may include limited non-residential facilities to meet the needs of surrounding residents.



**Sec. 102A-702. General.**

The developer is strongly encouraged to submit a preliminary sketch of the proposed Planned Neighborhood Development plan and to work closely with the town and County Planning Staff prior to submission of any application and site plan for rezoning to this conditional zoning district. This zoning district incorporates the provisions of Article V, Conditional Zoning Districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional zoning district and must be satisfied or surpassed.

*(Amd. 05-05-14)*

**Sec. 102A-703. Minimum conditions for application.**

The following are the minimum conditions that must be met prior to submission of an application for this district:

- (a) The subject property must be served by public or community water and sewer;
- (b) The subject property must have permitted access to a public paved street that can support the development; and
- (c) The subject property must contain at least 50 contiguous acres under one ownership or control. An area shall be deemed contiguous which is composed of one un-separated continuity of land; or is separated by street rights-of-way to which abutting property has direct access rights; or is separated by minor streams, creeks, other bodies of water or railroad rights-of-way across which vehicular crossings are feasible and practicable and which will be provided for in the Planned Neighborhood Development plan.

**Sec. 102A-704. Uses allowed.**

The following uses are permitted subject to restrictions placed on the Planned Neighborhood Development by the Zoning Board and/or Board of Commissioners, and as agreed to by the record property owner(s):

- (a) Any residential use permitted in the R7.5 zoning district, including a variety of single-family, multi-family, patio homes, townhouses, condominiums and zero lot line developments;
- (b) Commercial and office uses in the C1(P) planned local business district and O&I(P) planned office and institutional district; and

(c) Allowed uses from the C2(P) planned service and retail and the C(P) planned commercial districts are as follows:

- (1) Home furnishings and appliance sales;
- (2) Hotel/motel (except as regulated by Sec. 102A-1023);
- (3) Janitorial service;
- (4) Office supplies and equipment sales and service/mailbox service;
- (5) Motor vehicle washing;
- (6) Recreation/amusement, indoor (conducted inside a building for profit, not otherwise listed & not regulated by Section 102A-1023);
- (7) Recreation or amusement public/private (not operated as a business for profit including playgrounds, neighborhood center buildings, parks, museums, swimming pools, etc., and not regulated by Section 102A-1023);
- (8) Retailing or servicing (with operations conducted and merchandise stored entirely within a building and not otherwise listed herein); and
- (9) Veterinarian.

### **Sec. 102A-705 Development standards.**

#### *(a) Land use proportions.*

(1) *Non-residential uses.* A maximum of five percent of the gross land area of the development may be devoted to such convenience commercial uses as listed above, with no one tract to exceed ten acres.

If more than one tract of land is proposed for commercial uses, no one tract shall be less than two acres and all tracts shall be separated from each other by at least one-quarter mile measured in a straight line.

(2) *Residential uses.* The maximum density of residential units per acre of the gross land area shall be six except as provided below. In determining the maximum number of units, the acreage denoted to commercial uses shall not be included.

The commercial land area may be proportioned if the developer wishes, i.e., three and three quarters percent commercial and six and one-half units per acre of gross land area; two and one-half percent commercial and seven units per acre of gross land area; one and one-quarter percent commercial and seven and one-half units per acre of gross land

area. In lieu of all commercial development, a developer may increase the maximum residential density not to exceed eight units per acre of gross land area.

(b) *Open space and recreational facilities.* Where the town's Park and Recreation Master Plan or other comparable plan of the town adopted after the effective date of this amendment identifies land in the proposed Planned Neighborhood Development as a proposed recreation area, a minimum of 15 percent of the gross land area to be committed to a Planned Neighborhood Development shall either be placed in an owners' association, under the same provision and conditions as provided for in Chapter 86, or be dedicated to the town for use as parks, recreation areas, and open space. At least 50 percent of the area offered for dedication must be suitable for recreational use. The Board of Commissioners', after their consideration of the Zoning Board's recommendation, shall determine that the quality and location of the land to be dedicated is sufficient to serve the Planned Neighborhood Development.

The entire dedication may be made when the preliminary plan is presented to the Board of Commissioners; or, if the development is to be accomplished through a series of stages, the open spaces may be dedicated in parts proportionate to the number of units to be developed as approved in the Planned Neighborhood Development plan.

No parcel of land dedicated shall be less than one contiguous acre, which shape is acceptable to the Board of Commissioners and all such areas shall be physically a part of the Planned Neighborhood Development. Detached single-family dwelling units are exempt from any further open space dedication requirements of Chapter 86. Residential group developments must provide the recreation areas required by Chapter 86.

When according to adopted town plans, no land is required for recreation purposes, 15 percent of the land shall be either placed in an owners' association, under the same provision and conditions as provided for in Chapter 86; the land shall be dedicated to the Town for use as parks and recreation and open space; or a fee shall be paid to the Town for the acquisition of land for recreation purposes in accordance with the provisions of N.C. GEN. STAT. § ~~80D-804.804~~ and Chapter 86 of the town's Code of Ordinances. The Board of Commissioners shall decide which option is appropriate. If a fee is chosen, it shall be equivalent to 15 percent of the tax-assessed value of the land contained in the Planned Neighborhood Development. The entire dedication of land or fee may be made at the time the preliminary plan is presented for approval or may be made in proportion to the number of units to be developed of the total approved for the Planned Neighborhood Development. A fee in lieu does not entitle the Planned Neighborhood Development to additional residential units or commercial acreage.

(c) *Buffer requirement.* Buffers meeting the standards of Sec. 102A-1202(g) shall be provided. The Board of Commissioners' upon recommendation from the Zoning Board may require additional buffering, when the proposed non-residential area abuts land not included in the development plan and the required buffer would not protect the adjoining properties from the non-residential character of the uses.

(d) *Off-street parking and loading spaces.* Off-street parking and loading spaces shall be provided as required for the specific uses as listed in Article XIII.

(e) *Sign regulations.* All signage shall comply with the standards enumerated in Article XIV with non-residential uses not exceeding the signage standards for the C1(P) zoning district.

(f) *Dimensional provisions.* Residential uses shall meet or exceed the minimum standards for setbacks of the R7.5 residential district along all public streets and on the periphery of the development. All non-residential uses shall observe the yard regulations for the C1(P) zoning district along the public streets and on the periphery of the Planned Neighborhood Development.

(g) *Schedule of development.* Development of the commercial portion of a Planned Neighborhood Development shall not commence until the following schedule of the number of residential units approved for the Planned Neighborhood Development have been developed:

| <i>Size of Planned Neighborhood Development Units</i> | <i>Approved</i> |
|---|-----------------|
| 50 to 100 acres                                       | 50%             |
| Over 100 acres, up to 150 acres                       | 40%             |
| Over 150 acres, up to 200 acres                       | 30%             |
| Over 200 acres  | 25%             |

(h) *Development agreement.* As specified in N.C.G.S. 160D-1005, the Town may establish procedures and requirements to consider and enter into development agreements with developers. A development agreement must be approved by the governing board for the Town. The development agreement may, by ordinance, be incorporated, in whole or in part, into any development regulation adopted by the Town. The agreement may be considered concurrently with a zoning map or text amendment affecting the property and development subject to the development agreement. A development agreement may be concurrently considered with and incorporated by reference with a sketch plan or preliminary plat required under a subdivision regulation or a site plan or other development approval required under a zoning regulation. If incorporated into a conditional district, the provisions of the development agreement shall be treated as a development regulation in the event of the developer's bankruptcy.

Before entering into a development agreement, the Town shall conduct a legislative hearing on the proposed agreement. The notice provisions of N.C.G.S. 160D-602 applicable to zoning map amendments shall be followed for this hearing. The notice for the hearing must specify the location of the property subject to the development agreement, the development uses proposed on the

property, and must specify a place where a copy of the proposed development agreement can be obtained.

A development agreement shall, at a minimum, include the following:

1. A description of the property subject to the agreement and the names of its legal and equitable property owners.
2. The duration of the agreement. However, the parties are not precluded from entering into subsequent development agreements that may extend the original duration period.
3. The development uses permitted on the property, including population densities, and building types, intensities, placement on the site, and design.
4. A description of public facilities that will serve the development, including who provides the facilities, the date any new public facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development. In the event that the development agreement provides that the Town shall provide certain public facilities, the development agreement shall provide that the delivery date of such public facilities will be tied to successful performance by the developer in implementing the proposed development, such as meeting defined completion percentages or other performance standards.
5. A description, where appropriate, of any reservation or dedication of land for public purposes and any provisions agreed to by the developer that exceed existing laws related to protection of environmentally sensitive property.
6. A description, where appropriate, of any conditions, terms, restrictions, or other requirements for the protection of public health, safety, or welfare.

A description, where appropriate, of any provisions for the preservation and restoration of historic structures.

If required by ordinance or in the agreement, the development agreement shall provide a development schedule, including commencement dates and interim completion dates at no greater than five-year intervals; provided, however, the failure to meet a commencement or completion date does not, in and of itself, constitute a material breach of the development agreement pursuant to N.C.G.S. 160D-1008 but must be judged based upon the totality of the circumstances. The developer may request a modification in the dates as set forth in the agreement. If the Town and another local government is made party to an agreement, the agreement must specify which local government is responsible for the overall administration of the development agreement. A local or regional utility authority may also be made a party to the development agreement.



Consideration of a proposed major modification of the agreement shall follow the same procedures as required for initial approval of a development agreement. What changes constitute a major modification may be determined by ordinance adopted pursuant to N.C.G.S. 160D-1003 or as provided for in the development agreement. Any performance guarantees under the development agreement shall comply with N.C.G.S. 160D-804.1. Unless the development agreement specifically provides for the application of subsequently enacted laws, the laws applicable to development of the property subject to a development agreement are those in force at the time of execution of the agreement. In the event State or federal law is changed after a development agreement has been entered into and the change prevents or precludes compliance with one or more provisions of the development agreement, the Town may modify the affected provisions, upon a finding that the change in State or federal law has a fundamental effect on the development agreement.

Procedures established pursuant to N.C.G.S. 160D-1003 may include a provision requiring periodic review by the zoning administrator or other appropriate officer of the local government, at which time the developer shall demonstrate good-faith compliance with the terms of the development agreement. If the Town finds and determines that the developer has committed a material breach of the agreement, the Town shall notify the developer in writing setting forth with reasonable particularity the nature of the breach and the evidence supporting the finding and determination and providing the developer a reasonable time in which to cure the material breach. If the developer fails to cure the material breach within the time given, then the Town unilaterally may terminate or modify the development agreement, provided the notice of termination or modification may be appealed to the board of adjustment in the manner provided by N.C.G.S. 160D-405.

An ordinance adopted pursuant to N.C.G.S. 160D-1003 or the development agreement may specify other penalties for breach in lieu of termination, including, but not limited to, penalties allowed for violation of a development regulation. A development agreement shall be enforceable by any party to the agreement notwithstanding any changes in the development regulations made subsequent to the effective date of the development agreement. Any party to the agreement may file an action for injunctive relief to enforce the terms of a development agreement. Subject to the provisions of N.C.G.S. 160D-1006(e), a development agreement may be amended or terminated by mutual consent of the parties.

Any development agreement entered into by the Town before the effective date of a change of jurisdiction shall be valid for the duration of the agreement or eight years from the effective date of the change in jurisdiction, whichever is earlier. The Town and the parties included within the development agreement have the same rights and obligations with respect to each other regarding matters addressed in the development agreement as if the property had remained in the previous jurisdiction. The Town may modify or suspend the provisions of the development agreement if it determines that the failure of the Town to do so would place the residents of the territory subject to the development agreement or the residents of the local government, or both, in a condition dangerous to their health or safety, or both.

**Sec. 102A-706. Contents of application.**

In addition to the requirements of Sec. 102A-503, the application shall contain the following items:

(a) General site plan indicating the proposed land use areas including residential, commercial, open space and recreational, and other public facility areas to be developed for the entire site;

(b) The proposed density pattern for the entire area, and the housing type to be used in each area, i.e., multifamily, single-family attached, single-family detached;

(c) The primary and collector streets, including thoroughfares on the adopted Highway Plan and any other adopted plans of the town;

(d) The proposed uses for the non-residential area(s);

(e) Floodplain areas where applicable;

(f) Written statement or certification from appropriate public authorities that the Planned Neighborhood Development area will be served with public or community water and sewer systems;

(g) Legal description of boundary of Planned Neighborhood Development plan area and each proposed housing area in the Planned Neighborhood Development plan;

(h) The names and addresses of adjoining property owners.

**Sec. 102A-707. Site plan and subdivision approval.**

After approval of the Planned Neighborhood Development from the Board of Commissioners and prior to issuance of any zoning or building permit, the developer shall submit for preliminary and final approval of each segment of the plan, meeting conditions of the approved permit, in the same manner as for site plan and subdivision approvals in accordance with this ordinance and Chapter 86.

**Sec. 102A-708. Amendments.**

Amendments to an approved Planned Neighborhood Development plan shall be processed in the same manner as the original application. In considering the approval of an amendment to a permit, consideration shall be given to the effect the amendment may have on any other portion of the Planned Neighborhood Development.

**Sec. 102A-709. Abandonment of Planned Neighborhood Development Plan.**

In the event the developer abandons the Planned Neighborhood Development plan as approved, all undeveloped or un-platted land shall be used further only under the regulations of the R7.5 residential district unless a subsequent application is approved for the remaining land. Such subsequent plans must be based, however, on the overall residential density planned on the original tracts of land and may not include additional non-residential land except if a portion was not developed under the original plan.

**Sec. 102A-710. Validation of existing Planned Neighborhood Development plans.**

Planned Neighborhood Development plans approved prior to the effective date of this ordinance shall not be affected by this amendment; however, any amendment to any existing approved Planned Neighborhood Development plan after the effective date of this ordinance shall be processed under the amended approval process outlined in this article.

**ARTICLE VIII**  
**DENSITY DEVELOPMENT- CONDITIONAL ZONING DISTRICT**  
*(Amd. 05-05-14)*

**Sec. 102A-801. Purpose.**

Density development-conditional zoning districts are intended to promote the preservation of open space and areas within the Town developed at rural densities while at the same time providing for the residential development of land.  
*(Amd. 05-05-14)*

**Sec. 102A-802. General.**

The property owner is strongly encouraged to submit a preliminary sketch of the proposed development and to work closely with the County Planning Staff and the town staff prior to submission of any application and site plan for rezoning to this conditional zoning district. This zoning district incorporates the provisions of Article V, Conditional Zoning Districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional zoning permit and must be satisfied or surpassed.  
*(Amd. 05-05-14)*

**Sec. 102A-803. Development standards.**



(a) *Development area.* All building sites will be restricted to 60 percent of the total tract with the remaining 40 percent designated as open space. Fifty percent of the land designated as open space must not include wetlands, water bodies, or located within the floodway.

(b) *Density.* All developments approved under this article may provide for equal to or less than the density of the requested parallel general zoning district as allowed for in Sec. 102A-1204.

(c) *Building sites.* The building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of residential structure(s) and shall be sufficient in size to accommodate the structure(s) intended to be constructed thereon; any accessory structures; and provisions for utilities, whether public or private, including sufficient land area for wells, septic tanks and drain fields, if necessary.

(d) *Yard regulations.* The building sites shall be exempt from the yard regulations in Sec. 102A-1204, provided that all sites served by a public street shall provide for the minimum front yard setback and a minimum of a ten foot separation between structures shall be provided for all structures within the development. All periphery setbacks must be met along the perimeter of the development. Setbacks shall not include any of the open space and/or buffer areas as required by sub-sections (e) and (f) below.

(e) *Perimeter buffer.* The entire development shall be buffered with a minimum of six-foot in height and 20-foot in width vegetative strip of land, as described below, around the periphery and 40-foot in width along the frontage right-of-way. The buffer shall consist of natural topography and/or plantings, as necessary to preserve the rural appearance of the area surrounding the development and the right(s)-of-way fronting the development, provided that:

(1) The application and site plan shall clearly reflect the buffer area and the developer's intentions regarding the buffer, including the location of and type of plant material proposed and assurance that any proposed plantings will be three feet in height at time of planting, to reach a height of six feet within three years, with sufficient plantings along any right-of-way to accomplish complete opacity within three years from time of planting. A berm or combination berm and plantings may also be used provided an initial height of three feet is achieved with a total height of six feet within three years;

(2) Unless expressly agreed upon in advance and approved by the Board of Commissioners after consideration of the recommendation from the Zoning Board, the developer shall not develop or alter the natural topography of the land within the buffer area. There shall be no cutting, removal of trees, or the disturbance of other natural features except as stated herein:

a. As incidental to boundary marking, fencing, signage, installation of utilities, construction and maintenance of nature trails and public access allowed hereunder;

b. Selective cutting as allowed by Section 102A-1202(o) or clearing of vegetation and the application of usual and customary pesticides for fire containment and protection, disease control, restoration of hydrology, wetlands enhancement and/or control of non-native plants; or

c. The developer chooses to use a berm or combination berm and plantings.

(3) The land area containing the perimeter buffer shall be permitted to count toward the 40 percent open space requirement but shall not be considered as any portion of any required yard area;

(4) The perimeter buffer may be reduced in width if adjacent to an existing and properly approved density development provided the combined buffers satisfy the intent of this ordinance and is found to be sufficient by the Zoning Board and the Board of Commissioners;

(5) The final approval of the sufficiency of the perimeter buffer shall rest with the Board of Commissioners after their consideration of the recommendation from the Zoning Board; and

(6) The perimeter buffer shall be in place prior to submission for final plat approval of any lot within the development or the developer may elect to post a guarantee, such as a letter of credit, performance bond or other surety in the same manner as allowed for in Chapter 86 equal to 1.25 times the tax assessed raw land value of the area within the development plus 100 percent of the amount of any improvements proposed to satisfy the buffer requirement.

(f) *Open space.*

(1) The developer shall not develop or alter the natural topography of the designated open space unless improvements are clearly indicated on the application and site plan and approved by the Board of Commissioners after their consideration of a recommendation from the Zoning Board.

(2) The open space land area shall adjoin the largest practical number of lots within the development and may, if proposed to be maintained by the developer or by an owners' association, restrict access to only the residents of the development.

(3) The open space land area shall be interconnected wherever possible to provide for a continuous network with such lands in adjacent developments.

(4) All open space shall be permanently restricted from future subdivision and other forms of development through a perpetual open space or conservation easement running with and appurtenant to title of lots in the development, and recorded in the County Register of Deeds, except where otherwise provided herein. The location of the easement shall be shown on the recorded plat and clearly depicted on the site plan. The

conservation easement shall expressly provide that the Town of Hope Mills shall be an intended third-party beneficiary and shall have standing to both enforce any restrictions and to recover the costs of remedying any violation from any party(s) breaching the easement.

(5) Open space shall be preserved and used only for natural scenic, passive recreational, agricultural, pasture and/or meadow, forestry, wetlands, or horticultural uses.

(6) A property owners' association shall be created to maintain the open space and any common areas in the development, unless an alternative method of maintenance is approved by the Board of Commissioners upon recommendation of the Zoning Board (such as, for instance, if the open space is conveyed by a perpetual conservation easement to a recognized non-profit conservancy organization or other non-profit organization established for ecological and/or environmental preservation). Membership in the property owners' association shall be mandatory for all property owners in the development. The property owners' association shall have the authority and duty to levy assessments, which shall be liens upon and run with the title to every lot within the development, to provide for maintenance of the open space and any other common areas in the development. The documents creating the property owners' association shall provide that they may not be amended except upon a vote of the owners representing at least three-quarters of the lots in the development. The Town Attorney shall approve the property owner's association documents, to include any articles of incorporation, bylaws, and/or declaration of restrictive covenants. The property owners' association documents may provide or include mechanisms to allow the developer and/or seller of the property actively to use the open space for pasture or agricultural uses.

(7) The developer's intentions regarding the open space, e.g., whether to remain in its natural state, provide developed recreation facilities, timber harvesting, farmed, etc., shall be clearly reflected in the application and on the site plan upon formal submission of the application.

(g) *Parks, recreation, and open space exemption.* Developments submitted for approval under this article are exempt from the parks, recreation, and open space provisions contained within Chapter 86.

(h) *Subdivision regulations – compliance required.* All pertinent portions of Chapter 86 shall be complied with.

(i) *Other applicable regulations.* In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:

- (1) All provisions of the Town Code shall be complied with, where applicable;
- (2) Compliance with the Highway Plan;

(3) The plans must be in harmony with the most current Land Use Plan and current adopted policies;

(4) All other applicable Federal, State, and local regulations are complied with.

## **ARTICLE IX OVERLAY DISTRICTS**

### **Sec. 102A-901. General provisions.**

(a) *Establishment of overlay districts.* The Board of Commissioners may from time to time designate, amend or repeal an overlay district; however, no district shall be recommended for designation unless it is deemed to be of special significance to the purpose of the overlay district requested. Also, no overlay district shall be designated, amended or repealed until the specific committee, commission, etc. (for example: *Historic Advisory Committee*) and the Zoning Board have considered the matter and issued a recommendation regarding the designation, amendment, or repealing of the overlay district in question in the same manner as for zoning amendments established by this ordinance.

(b) *Designated overlay district boundaries.* The boundaries of the overlay district(s) as classified in Section 102A-302(g) of this ordinance are hereby established as shown on a map, whether digital or hard copy with the specific overlay district identifier being labeled thereon, which has been officially adopted by the Board of Commissioners and including any subsequent amendments thereto. These maps are incorporated herewith and are declared to be a part of this ordinance. The official copy of any overlay district map shall be that copy on file with the Town Clerk; however, copies of overlay district map(s) shall also be kept on file with the County Planning Department.

(c) *Effect of overlay district designation; limitations.* Any overlay district established in accordance with the terms of this ordinance shall be in addition to those zoning districts already established for the affected property. Property shall not be zoned exclusively to any overlay district.

### **Sec. 102A-902. Airport overlay district.**

(a) *Applicability.* The provision of this section shall apply to all new development within the area established on the zoning map layer as the airport overlay district (AOD) and any addition, remodeling, relocation or construction requiring a zoning or building permit. These provisions shall also apply to all trees located within the boundary of the AOD.

(b) *Airport overlay district map.* The boundary of the AOD is established as a layer on the *Official Zoning Map, Town of Hope Mills* in digital format and is hereby adopted and made a part of the provisions of this section as if the map itself were contained herein.

(c) *Land uses.* The land uses allowed under the terms of this section shall continue to be allowed in the same manner as established by this ordinance; however, upon the consideration of any petition for the rezoning of property within the AOD, the County Planning and Town Staff, the Zoning Board, and the Board of Commissioners shall give considerable weight to the following factors when formulating their recommendation/ruling:

(1) All allowed uses within the district being requested should be compatible with the continued operation of the airport and consistent with the *2023 Off-Airport Land Use Plan*, or subsequent amendments to said plan, upon the subsequent amendments have been officially adopted by the Board of Commissioners;

(2) Any petition for rezoning of properties located within the *Airport Impact Zones*, a map of which is on file with the Town Clerk and the County Planning Department, should not be favorably considered except where such request is consistent with the following recommended land uses and densities:

a. *Airport Impact Zones 1, 2 and 5* are zones where the recommended land uses should prohibit residential development and allow low impact (less than five people per acre) non-residential development.

b. *Airport Impact Zones 3 and 4* should allow zero to low density residential development or non-residential development ranging from 25 to 40 people per acre.

c. *Airport Impact Zone 6* should generally allow low density residential development and non-residential development accommodating fewer than 100 people per acre.

(3) Any district that would allow a use incompatible with the airport operations should not be favorably considered without a favorable recommendation for the Fayetteville Regional Airport Director, this includes uses that would cause the following:

a. A high concentration of residential dwelling units, specifically at a density of more than two dwelling units per net acre;

b. A use that would cause a high concentration of people, such as: indoor recreation, schools, medical facilities and the like;

c. Release into the air any substance that would impair aircraft visibility or otherwise interfere with its operation;

d. Produce light emissions, either direct or reflective, that would interfere with pilot vision, result in glare in the eyes of pilots using the airport or diminish the ability of pilots to distinguish between airport lights and other lights;

- e. Create electrical interference with navigational signals or radio communication between the airport and aircraft;
- f. Construct tall smokestacks, television, telecommunication and/or radio transmission towers, garbage and
- g. Attract birds or water fowl in such numbers as would create a hazard and interfere with the landing, takeoff, or maneuvering of aircraft intending to use the airport.

(d) *Height limitations.* Structures shall not be erected, altered, or maintained, and no tree shall be allowed to grow in to a height in excess of the applicable height limits established and regulated by the Federal Aviation Administration (FAA), and prior to application for any building/zoning permit, the developer shall provide to the Chief Building Inspector a copy of the FAA's acknowledgement of receipt of FAA Form 7460-1, *Notice of Proposed Construction or Alteration*, as required by Part 77 of the Federal Aviation Regulations (14 C.F.R. Part 77). In the event, the FAA's acknowledgement indicates the proposed development would provide an obstruction and/or a hazard to air navigation, the developer must provide either written consent from the Airport Director as related to the proposed development or seek a variance under the provisions of this ordinance. Notwithstanding the provisions of this section, height limitations shall not apply to any structure or any vegetation that is 35 feet or less in height, except when such tree or structure, because of terrain, land contour, or topographic features, would extend above the height limits of the FAA. The FAA height limitations generally include the following:

- (1) *Approach zone.* Height limitations for approach zones shall be determined by measuring outward and upward at a 50:1 slope for Runway 4/22 and a slope of 50:1 for Runway 10/28. This measurement is commenced from the end of and at the same elevation as the end of the respective runway centerline to the prescribed horizontal distance.
- (2) *Transitional zone.* Height limitations for the transitional zone shall be determined by measuring outward and upward at a 7:1 slope from the sides of and at the same elevation as the approach surface, and extending to the point of intersection with a horizontal surface or conical surface.
- (3) *Conical zone.* Height limitations in the conical zone are established by measuring from the periphery of the horizontal zone and at 150 feet above elevation outward and upward at a 20:1 slope to a height of 350 feet above airport elevation.
- (4) *Horizontal zone.* Height limitations in the horizontal zone are established at 150 feet above airport elevation (190 msl).

(e) *Notice and disclosure of noise impact.* Any site plan, preliminary or final plat for property located within the AOD that is submitted for review and approval under the terms of this ordinance and/or Chapter 86 shall contain the following notice:

*Property shown on this plan/plat is within the Town of Hope Mills Airport Overlay District and all or a portion of the property described hereon is within an area that is subject to an average noise level near to or exceeding 65 dnl.*

(f). *Lighting/markings.*

1. Any allowed use, subdivision, or other development located within the AOD shall not have outdoor lighting or illumination arranged and/or operated in such a manner as to be misleading or pose a danger to aircraft operations and in no case shall lighting be in contradiction to the provisions of Section 102A-1202(m) of this ordinance.

2. The owner of any existing structure or vegetation that is currently penetrating any referenced surface within the AOD shall permit the installation, operation, and maintenance thereon of whatever markers and lights deemed necessary by the Federal Aviation Administration or by the Director of the Fayetteville Regional Airport to indicate to the operators of aircraft in the vicinity of the airport the presence of an airport obstruction. These markers and lights shall be installed, operated, and maintained at the expense of the Fayetteville Regional Airport Director.

(g) *Avigation easement.* Property owners and residents of properties in which is encumbered by the avigation easement, recorded in Deed Book 520, page 186, at the County Register of Deeds, shall not restrict the access of the Fayetteville Regional Airport Director or the director's designee to enter said properties for purposes of carrying out the provisions of the easement.

(h) *Nonconformities.* The regulations prescribed in this section shall not be construed to require the removal, lowering or other change or alteration of any existing structure that is found to be nonconforming to the provisions of this section as of the effective date of this section, or otherwise interfere with the continuance of an existing use. Nothing contained herein shall require any change in the construction, alteration, or intended use of any structure, the construction or alternation of which valid permits have been issued prior to the effective date of this section, and is diligently exercised. The provisions of this sub-section do not apply to any tree, which may be trimmed in the event the tree is found to be encroaching into the airspace zones established in sub-section (d) above.

Whenever it is determined that a nonconforming tree or structure has been abandoned or more than 50% percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations within the AOD.

(i) *Conflicting regulations.* Where the provisions of this section conflict with the remaining provisions of this ordinance and any other provision of the Town Code of Ordinances or other Federal, State or local regulation, the more restrictive regulation shall apply.

**Sec. 102A-903. Reserved for future use.**

**Sec. 102A-904. Historic overlay district.**

(a) *Purpose and intent.* The historic overlay district is created for the purpose of promoting the general welfare, education, economic prosperity, and recreational pleasure of the public, through the identification, preservation, and enhancement of those buildings, structures, neighborhoods, landscapes, places and areas that have special historical significance and which have been officially designated by the Board of Commissioners. The regulations herein are intended to protect against destruction of or encroachment upon such areas, structures, and premises; to encourage uses which will lead to their continuance, conservation and improvement; and to promote the upkeep and rehabilitation of significant older structures and encourage appropriate land use planning and development that will enhance both the economic viability and historic character of the district.

(b) *Designated district area.* The provisions of this section shall apply within the area designated by the Board of Commissioners after their determination of the area that is intended to be preserved due to the area's historical significance and as may be amended from time to time, is hereby officially adopted, as shown on a map entitled: *Hope Mills Historic Overlay District*, and is incorporated herewith.

(c) *Allowed uses.* All uses, including signs, allowed in the underlying zoning district under the provisions of this ordinance and in the district as shown on the officially adopted zoning map are allowed uses within the historic overlay district; however, before any exterior structural changes, modifications, additions or demolitions are made to any property within this overlay district or a new structure is built, a *Certificate of Appropriateness* issued through the auspices of the Town's Historic Advisory Committee must first be obtained signifying that the proposed exterior structural changes, modifications, additions or demolitions and/or new construction is consistent with the provisions of the *Hope Mills Heritage Preservation Plan* (September, 1995) or subsequent comparable document, specifically the provisions of the ordinance entitled *Rehabilitation Guidelines for Properties in the Historic District*. In the event, the proposed development requires approval from the Board of Commissioners, the *Certificate of Appropriateness* must be obtained prior to presentation of the plan for the Commissioners' consideration.

(d) *Dimensional requirements and exceptions.* In addition to the provisions of the *Hope Mills Heritage Preservation Plan*, or subsequent comparable amendment, development shall comply with the regulations of the underlying zoning district, except as follows:

(1) Structures erected in the historic overlay district shall use the prevailing setback of structures in the same underlying zoning district on the same side of the street;

(2) All applicable zoning regulations shall apply to property within a historic overlay district unless a variance is approved by the Board of Adjustment. The said variance shall



be granted only if the request complies with the intent of the architectural and historic guidelines of the historic overlay district, if the request first receives a favorable recommendation from the Historic Advisory Committee and the request is not for a use of the property.

(e) *Certain Changes Not Prohibited.* The provisions of this section shall not be construed to prevent the following:

(1) The ordinary maintenance or repair of any exterior architectural feature in a historic district which does not involve a change in design, material, or outer appearance thereof;

(2) The construction, reconstruction, alteration, restoration, moving or demolition of any such feature which the Chief Building Inspector or the inspector's designee shall certify in writing to the committee is required to protect the public safety because of unsafe or dangerous conditions; and

(3) The ordinary maintenance or repair of streets, sidewalks, pavement markings, utility service lines, street signs, traffic signs and/or replacement of street light fixtures in the event of equipment failure, accidental damage or natural occurrences such as electrical storms tornadoes, ice storms, and the like.

(f) *Appeal of Historic Advisory Committee decision.* In any action granting or denying a *Certificate of Appropriateness*, an appeal by an aggrieved party may be taken to the Board of Adjustment. Written notice of the intent to appeal and the reasons therefore must be delivered to the County Planning Department and the appeal shall be scheduled for the next available Board of Adjustment meeting. The appeal process shall be the same as for an appeal of an administrative officer's decision as established in this ordinance. **The appeal must be filed within 30 days after the decision is effective or written notice is provided.**

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## ARTICLE X INDIVIDUAL USES

### **Sec. 102A-1001. Development standards for individual uses.**

The development standards of this article are additional to other requirements in this ordinance. If there is a conflict with another section of this ordinance or any other Federal, State or local regulation, the most restrictive requirement shall apply. These development standards are use-specific and apply as minimum development standards for the use regardless of the type of approval or permit otherwise required by this ordinance. All non-residential uses listed within this article require site plan review and approval in accordance with Article XV unless the use specifically requires approval of a special use permit or ~~conditional use permit conditional zoning~~. Those uses requiring approval as a special use permit (Section 102A-1706) or a ~~conditional use permit conditional zoning~~ (Article V) shall also be subject to these standards and any additional standards or conditions required by the permit.

In addition to the specific criteria listed for each use, the following are to be considered as minimum criteria for every non-residential use:

- (a) All parking and loading areas shall comply with the minimum provisions established in this ordinance, Article XIII, Off-Street Parking and Loading;
- (b) All lighting shall be directed internally and shall comply with Section 102A-1202(m);
- (c) Noise generated by any use shall not substantially or detrimentally affect the ability of surrounding property owners to reasonably enjoy the use of their properties and shall not contradict those standards of Chapter 34, Town of Hope Mills Code of Ordinances, Article II, entitled: "Noise" (also referred to as the 'Noise Ordinance');
- (d) When any non-residential use is adjacent to property zoned for residential, a buffer shall be provided in accordance with Section 102A-1202(g);
- (e) Unless otherwise specified within these individual sections, all signage shall be in compliance with this ordinance (Article XIV, Sign Regulations) for the specific district in which the subject property is located;
- (f) All new non-residential development shall comply with the landscaping provisions of Section 102A-1202(n); and
- (g) Compliance with all applicable Federal, State, and local regulations, including Chapter 86, is mandatory.

**Sec. 102A-1002. Airport operations (minor).**

- (a) Airport size and layout shall conform to current Federal Aviation Administration (FAA) design standards, if applicable.
- (b) There shall be a minimum of 300 feet between any runway or taxiway to the nearest property used or zoned for residential purposes, except that a residence may be located on the property of a small private airfield.
- (c) Hangars, storage buildings, terminals, loading docks and parking lots, when located within 100 feet of the property line or street right-of-way and abutting property used or zoned for residential uses, shall be screened with a vegetative buffer.
- (d) The site plan shall include the location and size of landing strips and the location of landing lights (if applicable).
- (e) A map of all property within 500 feet of the proposed airfield or airstrip property lines and within 1,500 feet of each end of the runway, including names and addresses of property owners, as given in the tax listings and existing land use for each property shall be submitted as part of the application.
- (f) A map depicting the location, type and height of any structure, including towers, over 200 feet in height and within a five-mile radius shall be submitted as part of the application.
- (g) In order to grant approval of the use, additional conditions that the Zoning Board or staff deem appropriate and reasonably necessary for the protection and safety of nearby property may be required.

**Sec. 102A-1003. Bed and breakfast.**

- (a) The use must be located in a structure originally constructed for use as a single family dwelling.
- (b) The operation may consist of a maximum of nine guestrooms.
- (c) Each room must have access to a hall or exterior door.
- (d) One non-illuminated sign shall be permitted, which shall have maximum dimensions of two feet high by three feet wide, and not be more than 3 ½ feet tall at its highest point above ground level.
- (e) There shall be no less than one bathroom, consisting of a bath or shower and lavatory, for each two guestrooms.
- (f) Guestrooms shall not be equipped with cooking facilities.

- (g) There shall be no other bed and breakfast within 400 feet of the property.
- (h) Parking shall be provided at the rate of one space for each room to be rented and one space for each employee/owner. No off-street parking shall be permitted any closer to the right-of-way than the principal structure.
- (i) A fire protection plan approved by the Town Fire Marshal must be submitted at the time of permit application.
- (j) The required site plan shall depict neighboring properties and buildings within 200 feet of all property lines.
- (k) Meals served on the premises to guests shall be limited to breakfast and no meals shall be served to the general public.
- (l) All State requirements shall be complied with and all required State permits are to be acquired and maintained.

**Sec. 102A-1004. Borrow source operations.**

- (a) The applicant shall provide a list of all property owners within 1,000 feet of the exterior boundaries of the lot of record to the site of the borrow source operation. This information shall be provided from the current Tax Administrator's property tax listing of property according to the tax administration office.
- (b) Applicants shall identify the size and location of operating, or permitted, borrow source operations within a 1 ½-mile radius as measured from the centroid of the parcel within which the borrow pit is located. The scope and density of these operations within a 1 ½-mile radius shall be considered in making the final determination.
- (c) While in transit, trucks are to use appropriate load covers, and water trucks or other means that may be necessary shall be utilized to prevent dust from leaving the borrow source operation.
- (d) Existing vegetation, or stabilized, vegetated earthen berms to serve as buffers and to prevent soil erosion, shall be maintained between the borrow source operation and adjacent residences and public thoroughfares to screen the operation from the public.
- (e) Hours of operation shall be sunrise to sunset, Monday through Saturday, unless otherwise stated in the permit.
- (f) The applicant shall provide to the County Planning Staff, at the time the application is submitted, documentation from the N. C. Department of Transportation (NCDOT) and/or from the Town Street Department that the public thoroughfare to which the borrow source

operation has access, has sufficient load carrying capacity to support the proposed traffic generated by the borrow source operation or that load limits are acceptable.

(g) The applicant shall provide to the County Planning Staff, at the time the application is submitted, proof of legal access, for the Town Attorney's approval, from the borrow source operation to a public thoroughfare if the subject property does not have direct access to a public thoroughfare.

**Sec. 102A-1005. Club or lodge (not regulated by Section 102A-1023).**

(a) The intensity of the use shall not have a significant adverse impact on adjacent properties due to traffic, parking, noise, refuse, or similar factors.

(b) Additional setbacks and buffering may be required in the case of facilities for outdoor functions, such as outdoor arenas, if reasonably necessary to protect adjacent properties from noise, light, and glare.

(c) Parking, loading and outdoor activity areas, such as outdoor exhibition areas, picnic areas, amphitheaters and outdoor stages and seating areas, must be buffered from view from adjacent properties. These buffers must meet the requirements of this ordinance.

(d) The site plan shall indicate the style and location of all outdoor lighting.

(e) There shall be no outdoor loudspeakers or public address system other than in an outdoor arena.

**Sec. 102A-1006. Day care facilities.**

(a) For day care facilities located within any residential zoning district, the following provisions must be complied with:

(1) Minimum lot size shall be 20,000 square feet.

(2) The required minimum setbacks shall be as follows:

a. Front yard: 30 feet from any public or private street;

b. Rear yard setback: 35 feet;

c. Side yard setbacks: 20 feet; and

d. Corner lots: a minimum of 30 feet from each street.

(3) Subject property must abut and have direct access to a major or minor thoroughfare or higher street classification, as identified in the Highway Plan, for all day care facilities located in residential districts.

(b) Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district.

(c) Minimum of two off-street parking spaces, plus one off-street parking space for each employee, shall be provided. Off-street parking shall be provided in accordance with the standards of Article XIII of this ordinance.

(d) There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any off-street parking area.

(e) All children's outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not adjacent to a street. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the N.C. BLDG. CODE § R312.2 (2006) or subsequent amendments thereto.

#### **Sec. 102A-1007. Golf courses.**

(a) The following setbacks include any permanent or temporary structure such as, but not limited to, clubhouse, equipment storage, green house, swimming pool, tennis courts and restaurant:

(1) Front yard setback from any public street: 100 feet;

(2) Rear yard setback: 200 feet;

(3) Side yard setback: 200 feet; and

(4) Corner lot setback from side street lot lines: 200 feet.

(b) Minimum off-street parking spaces: four per hole, plus one per 200 square feet of restaurant and/or retail space, and one space per employee.

(c) Incidental uses to a golf course may include pro shop, eating establishment, drinking establishment when in conjunction with an eating establishment (not including those operating under Section 102A-1023 of this ordinance), tennis courts, swimming pools, and practice area. Permitted incidental uses may continue only as long as the golf course is in operation and open.

(d) Signs as permitted in the C1(P) planned local business district are allowed.

**Sec. 102A-1008. Group homes.**

A group home may not be located within a one-half mile radius of an approved or existing group home or approved or existing residential habilitation support facility, regardless of the jurisdiction of the approved or existing home or facility. A group home for not more than six resident handicapped persons any one of whom may be dangerous to others as defined in N.C. GEN. STAT. §122C-3(11)(b) is not a permitted use in any residential district.

**Sec. 102A-1009. Group quarters.**

(a) Each room must have access to a hall or exterior door.

(b) One non-illuminated sign shall be permitted, which shall have maximum dimensions of two feet high by three feet wide, and not be more than 3 ½ feet tall at its highest point above ground level.

(c) There shall be no less than one bathroom, consisting of a bath or shower, and lavatory, for each two guestrooms.

(d) Guestrooms shall not be equipped with cooking facilities.

(e) Parking shall be provided at the rate of one space for each room to be utilized and one space for each employee/owner. Parking shall not be permitted in any front yard.

(f) A fire protection plan approved by the Town Fire Marshal must be submitted at the time of permit application.

(g) The required site plan shall depict neighboring properties and buildings within 200 feet of property lines.

(h) The site shall have direct vehicular access to a public street or an approved private street.

**Sec. 102A-1009.1. Internet café/video gaming.**

The following standards apply regardless whether the internet café or video gaming facility is operated as a principal use, accessory use or incidental use:

(a) The detailed site plan accompanying the application shall comply with the provisions of Article XV and when the internet café/video gaming facility is to be located



on a lot with other existing uses, all existing uses on the same lot must be labeled on the appropriate building footprint as shown on the detailed site plan;

(b) The provisions of Chapter 18 of the Town Code shall be complied with;

(c) Each such establishment shall be located no closer than 2,500 feet from another internet café/video gaming facility, regardless of the jurisdiction in which the facility is located;

(d) Each such establishment shall not be located within 500 feet of any area zoned for residential use, properties containing residential unit(s), religious worship activity, nursery school, day care facility, educational facilities, any public or non-profit recreation or amusement and any public or private school regardless of the zoning district in which located and shall be measured from the property line(s) containing such regulated use;

(e) In the event there is a change in the operational characteristics of the facility in which the internet café/video gaming operation is located, re-submittal of an updated complete application for the Special Use Permit must be submitted for re-consideration by the Board of Adjustment prior to enacting the proposed change;

(f) This establishment shall not be located within the same facility as a commercial entity in the business of providing open alcoholic beverages (to include: liquor, fortified wine, unfortified wine and beer), for sale or otherwise provided and alcohol sales within the establishment shall not be permitted;

(g) No establishment shall contain any computer, computer program or gaming machine that has been declared to be banned in the State of North Carolina;

(h) Off-street parking shall be provided at the ratio of one space for each machine for 75% of the machines that are permitted. This is independent of the off-street parking required for all/any other use on the same property;

(i) Each such establishment shall ensure functional and working security cameras are in operation and oriented toward the computers or gaming machines, the recording media shall be kept secure and available for inspection for a period not less than six months by the Town upon request of an authorized Town employee;

(j) Signage shall be as regulated in Article XIV; and

(k) All internet café/video gaming facilities in operation at the time of official adoption of the provisions of this section shall be exempt from the foregoing provisions; however, any expansion in the number of machines within an existing facility shall require staff site plan approval for the additional machines specifically to ensure adequate off-street parking is available.

*(Amd. 04-16-12)*

### **Sec. 102A-1010. Kennel operations.**

- (a) The site plan for kennel operations shall include information as to any outside pen area, shelters, fencing, runs, etc. pertaining to the kennel operations.
- (b) Shelters, runs, and pen areas shall not be located any closer than fifteen feet to any property line for kennels located in residentially-zoned districts.
- (c) The required shelter shall be fully enclosed on three sides, roofed, and have a solid floor.
- (d) A vegetative buffer shall be required along the side and rear property lines and must comply with the provisions of Section 102A-1202(g). In addition, a privacy fence may be required if it is determined the fence would alleviate any detrimental effects on neighboring properties.
- (e) Kennel operations shall not be allowed in residential districts if the minimum lot size required by the zoning district of the subject tract has been compromised or otherwise reduced in area as required by the zoning district, i.e., zero lot line developments.
- (f) Kennel operations including all pens, shelters, etc., are required to meet the setbacks as required by the zoning district.

### **Sec. 102A-1011. Manufactured homes.**

Manufactured homes placed, erected or located on any parcel or lot, must have been constructed after July 1, 1976 (Class A or B manufactured homes) and meet or exceed the construction standards promulgated by the U.S. Department of Housing and Urban Development that were in effect at the time of construction in order to qualify for any permits under the terms of this ordinance and all other provisions of the Town Code of Ordinances, to include Chapter 50, Housing, and Chapter 86, Subdivisions. A pre-1976 manufactured home is further defined in this ordinance as a Class C manufactured home.

This section shall not apply to "properly set up", pre-1976 manufactured homes requiring relocation when a manufactured home park owner or a government agency, such as the County Public Health Department, has mandated the closure of a previously approved or pre-existing nonconforming manufactured home park provided that the pre-1976 manufactured home is owner-occupied and shall only be relocated to an approved manufactured home park or a pre-existing nonconforming manufactured home park.

The Town may not adopt or enforce zoning regulations or other provisions that have the effect of excluding manufactured homes from the entire zoning jurisdiction or that exclude manufactured homes based on the age of the home.

For purposes of this section, "properly set up" means:

(a) In actual use for residential purposes;

(b) Lawfully connected to electricity, water and sewer or septic service;

(c) In compliance with Chapter 50 of the Town Code of Ordinances; and

(d) Listed for property taxes and having property taxes paid as of the most recent listing period and the previous five calendar years.

### **Sec. 102A-1012. Mini-warehousing in residential districts.**

For all mini-warehousing units constructed in residential districts, the following standards shall apply:

(a) The units shall only be constructed in conjunction with multi-family housing units and the number of individual storage units shall not exceed the number of multi-family dwelling units within the development;

(b) The façade of the mini-warehousing site shall be constructed with decorative and permanent material, such as brick, stone, etc., and be of the same type of material as the exterior of the multi-family units; and

(c) The sides and rear perimeter of the mini-warehousing site shall be buffered and landscaped in such a manner as to blend in with the surrounding development and to not be visible to adjacent residential areas.

### **Sec. 102A-1013. Mixed use building.**

(a) Mixed use buildings are allowed uses in the O&I(P) planned office and institutional, C1(P) planned local business, C2(P) planned service and retail, and C(P) planned commercial districts with the non-residential use determining the method of approval required, as specified in Section 102A-403, for the entire structure (i.e., site plan review, special use permit or ~~conditional use district conditional district~~ and permit).

(b) Residential uses within a mixed use building shall not exceed 40 percent of the total floor area, with a minimum of 60 percent of the floor area of all structures devoted to the non-residential use(s) as within the specific zoning district of the property.

(c) All "for sale" residential units are subject to the provisions governing unit ownership developments (condominium developments) in the Town Subdivision Ordinance.

(d) The development must be served by public or community water and sewer.

(e) The subject property must have direct vehicular access to a paved public right-of-way.

(f) Off-street parking shall be provided in accordance with Article XIII for the non-residential use, and one and one-half off-street parking spaces for each residential unit. Shared parking shall be encouraged and permitted when it can be substantiated that the hours of operation of the non-residential use are restricted to daylight hours and will not adversely affect the residential parking needs.

(g) The minimum lot area per residential unit shall be 1,000 square feet not including the lot area utilized by the non-residential use. The site plan must provide the calculations indicating compliance with this provision.

(h) Sidewalks are required in accordance with the standards of the Town Subdivision Ordinance.

(i) A fee in lieu of dedication of on-site parks, recreation, and open space is mandatory for each new residential unit. This fee is to be calculated in the same manner as established in the provisions governing parks, recreation and open space in the Town Subdivision Ordinance.

(j) Except where the structure to be used as a mixed use building is of historical significance, the façade of the buildings approved for mixed use in a non-residential district shall be of a commercial design.

(k) There shall be no ancillary, accessory or incidental residential use of the property within view of a public street.

*(Amd. 08-15-11)*

#### **Sec. 102A-1014. Motor vehicle wrecking yards and junkyards.**

(a) All fluids from vehicles, transmission, brake fluid, gasoline, etc. shall be drained from any vehicle before the vehicle is stored. The fluids shall be drained into approved containers and be disposed of according to approved environmental procedures and Environmental Protection Agency (EPA) regulations.

(b) A cement pad shall be installed for fluid drainage to prevent soil pollution or contamination.

(c) If at any inspection, fluids are determined to have been placed or drained in the ground/soil, the permit shall be revoked immediately.

(d) Unless specifically approved otherwise, vehicles shall not be stacked.

(e) If stacking is specifically approved, the stacked vehicles are to be shielded in such a manner that they cannot be seen from any adjacent residentially zoned or residentially-used properties.

(f) The vehicle storage area shall be contained entirely within a six-foot high solid fence with a vegetative buffer planted along the outside of the fence along the entire perimeter of the property.

(g) The maximum number of vehicles stored on the site at any one time may be restricted to a specific number.

(h) The vehicle storage area shall not exceed more than 50 percent of the property.

(i) Appropriate insect and rodent control procedures shall be adopted that comply with County Public Health Department procedures.

**Sec. 102A- 1015. Non-residential use as a permitted use in a residential or conservancy district (and not otherwise listed within this article).**

(a) Site plan review and approval in accordance with Article XV of this ordinance and providing for the specific information required by this section.

(b) The minimum yard requirements shall meet or exceed those required in the C1(P) zoning district.

(c) Required parking shall be paved if otherwise required to be paved by this ordinance. In these circumstances, paved parking shall be provided with all parking areas and internal drives being clearly marked. In addition, no parking shall be permitted in the required front yard.

(d) Buffering and/or landscaping for the use shall be provided and maintained in such a manner as to comply with the standards of this ordinance (Section 102A-1202) and is dependent upon the zoning and nature of the surrounding area. The site must provide ample area and adequate open space on all sides of the structure so that the character of the neighborhood is preserved.

(e) The subject property shall have direct access to a public right-of-way. Also, the plan shall include proposed points of access, ingress, and egress and the pattern of internal circulation. Points of ingress and egress shall be located so as to minimize traffic hazards, inconvenience and congestion. The existing access streets must be able to handle the anticipated increase in traffic volume, or the developer shall cover the costs of upgrading the streets; such as, but not limited to, the addition of a turning lane.

(f) Signage for the development shall not exceed the standards allowed by Article XIV of this ordinance for the C1(P) district.

(g) Noise levels shall not exceed 60 dB(A) between the hours of 10:00 p.m. and 7:00 a.m. In any case, the noise level, regardless of the time of day, shall not become a nuisance to neighboring properties and strict compliance with the Town's aforementioned "Noise Ordinance" is required. (Note: dB(A) refers to the sound pressure level in decibels as measured on a sound level meter using the A weighting network.)

**Sec. 102A-1016. Nursing home/convalescent home/ hospital/sanitarium/ retirement home, etc.**

- (a) The facility shall not cover more than 50 percent of the tract.
- (b) Must meet all requirements for licensing by the State of North Carolina.
- (c) In addition to basic requirements for site plans as required in Article XV, the plan shall include proposed points of access, ingress and egress, the pattern of internal circulation, and the layout of parking spaces.
- (d) All facilities shall be solely for the use of residents and their guests.
- (e) Facilities for administrative services and limited medical services for the exclusive use of the residents may be located on the site.

**Sec. 102A-1017. Public utility works, shops or storage yards.**

- (a) All structures shall be designed and landscaped in a way as to blend in with the surrounding area.
- (b) A chain link fence shall enclose all dangerous apparatuses and shall be at least eight feet in height.
- (c) All motor vehicle parking shall be located within the area circumscribed by the buffered/screened area.
- (d) Such facilities shall be located on a public street or an approved private street.

**Sec. 102A-1018. Quarry operations.**

- (a) No minimum lot area is required but, the lot shall be adequate to provide the yard space required for the M(P) planned industrial district and meet the standards of this section.
- (b) The temporary erection and operation of plants and equipment necessary for crushing, polishing, dressing or otherwise physically or chemically processing the material

extracted on the site shall comply with the district dimensional requirements of the M(P) zoning district.

(c) All equipment used for excavation, quarrying and permitted processing shall be constructed, maintained and operated in such a manner as to eliminate, as far as practicable, noise, vibration, or dust which would injure or annoy persons living or working in the vicinity.

(d) Access ways or drives within the premises shall be maintained in a dust-free condition through surfacing or such other treatment as may be necessary.

(e) No excavation shall be made closer than 200 feet from the banks of any river, stream, creek or waterway except by documentation, signed and sealed by a certified and registered professional engineer, that such excavation or quarrying shall not impair the existing lateral support needed for permanence of the water body.

(f) All excavations shall be made either to a depth of five feet below a water producing level, or graded or back-filled with non-noxious and non-flammable solids to assure that the excavated area will not collect and retain stagnant water or that the graded or back-filled surface will create a gentle rolling topography to minimize erosion by wind or rain and substantially conform with the contour of the surrounding area.

(g) Whenever the floor of a quarry is five feet or more below the grade of adjacent land, the property containing the quarry shall be completely enclosed by a barrier either consisting of a mound of earth not less than six feet high located at least 25 feet from any street right-of-way and planted with a double row of quick growing vegetative landscaping, or shall be enclosed with a chain link fence or its equivalent in strength and protective character to a height of six feet along the property line.

(h) An excavation shall be located 100 feet or more and back-filled to 150 feet from a street right-of-way line. Quarrying operations shall be located 50 feet or more from a street right-of-way line and to any property boundary line. With approval by the Town Board of Commissioners, such excavation or quarrying may be permitted inside these limits in order to reduce the ground elevation to the established street grade.

(i) More intensive buffering than the normal standard may be required when the development is near or adjacent to residentially-zoned areas.

(j) A reclamation plan shall be submitted along with the site plan and the application. All such reclamation plans shall include the following:

(1) A grading plan showing existing contours in the area to be extracted and proposed future contours showing the topography of the area after completion. Such plans shall include the surrounding area within 500 feet of the property boundary line, drawn to an appropriate scale with contour lines at intervals of five feet or less;

(2) Existing and proposed drainage of the area; and

(3) Details of re-grading and re-vegetation of the site during and at conclusion of the operation. The following are the minimum requirements to be met at the conclusion of the operation:

a. The banks of all extraction, when not back-filled, shall be sloped at a grade of not less than two feet horizontal to one foot vertical. This slope shall be maintained 20 feet beyond the water line if such exists;

b. Spoil banks shall be graded to a level suiting the existing terrain; and

c. All banks and extracted areas shall be surfaced with at least six inches of suitable soil, except exposed rock surfaces, and shall be planted or seeded with trees, shrubs, legumes or grasses and maintained until the soil is stabilized and approved by the Chief Building Inspector.

(k) When any extraction has been completed, such area shall either be left as a permanent spring-fed lake or the floor thereof shall be leveled in such manner as to prevent the collection and stagnation of water and to provide proper drainage without excessive soil erosion.

(l) All equipment and structures shall be removed within three months of the completion of the extraction of materials.

(m) The facility must be permitted by the N. C. Department of Environment and Natural Resources (NCDENR) and/or other applicable Federal, State, and local agencies.

**Sec. 102A-1019. Recreation or amusement, public/private and indoor/ outdoor.**

(a) One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) zoning district.

(b) The site shall have direct vehicular access to a major or minor thoroughfare or higher-level street.

(c) *Repealed.*  
(Amd. 08-15-11)

(d) All outdoor lighting shall comply with the standards of Section 102A-1202(m).

(e) If the facility is of such a use that would be conducted on dirt (i.e., ball fields, go cart tracks, etc.) measures shall be taken to minimize the creation of dust.



(f) Fencing, netting, or other control measures shall be provided around the perimeter of any areas used for hitting, flying, or throwing of objects to prevent the object from leaving the designated area.

**Sec. 102A-1020. Recreation vehicle park and/or campground.**

(a) Recreation vehicle parks/campgrounds shall be used only by travel trailers, pickup, coaches, motor homes, camping trailers, other vehicular accommodations and tents suitable for temporary habitation and used for travel, vacation and recreation purposes.

(b) The area of the park/campground shall be at least three acres. Each recreation vehicle/camp site, excluding sites used solely for tents, shall be a minimum of 1,200 square feet in area with a maximum of 20 sites per acre. Each site shall contain a stabilized vehicular parking pad of packed gravel, paving or other suitable material.

(c) All yard setback requirements shall be in accordance with the dimensional requirements of the zoning district in which the park or campground is located and no structure, recreational vehicle site or camping site shall be located within the required yard area.

(d) Individual recreation vehicle spaces within a recreation vehicle park/campground shall not directly access a public road. Access to all recreation vehicle spaces and accessory structures within the park/campground shall be from internal streets. A driveway permit must be obtained from the N. C. Department of Transportation (NCDOT) for connection to a public street.

(e) The recreation vehicle park/campground shall not allow for permanent occupancy on the same site by the same occupant for any continuous period of time exceeding 90 days.

(f) Each park shall have at least one telephone available for public use. Management headquarters, manager's residence, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, stores and the uses and structures customarily incidental to operations of a recreation vehicle park/campground are permitted as accessory uses to the park, subject to the following restrictions:

(1) Such establishments (excluding recreational facilities) and the parking areas primarily related to their operations shall not occupy more than 10% of the gross area of the park/campground.

(2) The structures housing such facilities shall not be located closer than 100 feet to any public street and shall not be directly accessible from any public street but shall be accessible only from an internal drive within the park/campground.

(3) Such structures containing toilets, bathhouses and other plumbing fixtures shall comply with the requirements of the N. C. Building Code.

(g) Adequate off-street parking and maneuvering space shall be provided on site. No public street, sidewalk or right-of-way or any other private grounds not a part of the recreational vehicle parking area shall be used to park or maneuver vehicles.

(h) Internal drives shall be constructed to a minimum of 18 feet in width if providing two way streets and 12 feet in width for one way streets and contain a minimum depth of six inches of stone gravel base with proper ditching, drainage, and seeding of slopes. Permanent dead-end streets shall have a cul-de-sac constructed 40 feet in diameter.

(i) Recreational vehicle parks and campgrounds shall be enclosed by a fence, wall, landscape screening, earthen mounds or by other measures from all contiguous residential areas in a manner that complements the landscape and assures compatibility with the adjacent environment, and complies with the buffering requirements for non-residential uses adjacent to residential uses and/or districts.

(j) In addition to the requirements required to be shown on the site plan as required by the Article XV of this ordinance, the site plan shall include the name and address of the applicant, the location and dimensions of each recreation vehicle/camping site, the location and use of all service and recreational facilities, all interior access ways, drives, and parking. All site plans subject to this section shall also require approval from the County Public Health Department.

(k) When permitted, recreation vehicle parks/campgrounds within the CD conservancy district shall be subject to the following requirements:

(1) No individual recreation vehicle/camping site shall have individual on-site septic systems; and

(2) Each recreational vehicle must be equipped with a holding tank and each park/campground must have an approved dumping station or pump-out facilities on the premises.

(l) All Federal, State and other local regulations shall be complied with.

### **Sec. 102A-1021. Residential habilitation support facility.**

(a) Minimum lot size: 20,000 square feet.

(b) The structure must pass all health and fire inspections.

(c) The property must be at least a one-half-mile radius of distance separation from an existing or approved residential habilitation support facility or an existing or approved group home, regardless of the jurisdiction of the existing or approved facility or home.

(d) The following setbacks shall be minimum yard requirements, except where the zoning district in which the facility is located has greater dimensional requirements the zoning district setbacks apply:

(1) Front yard: 50 feet from any public or private street;

(2) Rear yard: 35 feet; and

(3) Side yard: 25 feet.

(e) Paved off-street parking shall, at a minimum, be provided at the rate of two spaces plus one space for each caregiver.

(f) The facility shall have direct access to a paved public street meeting Town and/or N. C. Department of Transportation (NCDOT) standards, whichever is applicable.

(g) The facility shall provide a minimum of 100 square feet of living area per person, not counting the caregivers.

#### **Sec. 102A-1022. Second hand, pawn and flea market.**

(a) Outside storage of goods, equipment and material shall be prohibited; however, outside display of merchandise in conducting the commercial operation is permitted during the hours when the commercial operation is open for business. No storage or display shall be permitted within a public right-of-way.

(b) Vehicle parking shall be provided entirely on site. Traffic generated by the business shall not impede the normal flow of traffic on any public right-of-way.

#### **Sec. 102A-1023. Sexually oriented business.**

Sexually oriented businesses are some of the uses which, because of their very nature, may have serious objectionable characteristics, particularly when several of them are concentrated in one area, thereby having a deleterious effect upon adjacent areas, or when the uses are proposed to be located in or near sensitive areas or land uses. Special regulation of sexually oriented businesses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations and applicable criteria are contained in this section.

Sexually oriented businesses shall be allowed in the C(P) planned commercial district subject to the following:

(a) Sexually oriented businesses shall not be located within 2,500 feet of another sexually oriented business. The measurement shall be taken from the exterior walls of the building(s) containing such regulated use.

(b) Sexually oriented business shall not be located within 1,500 feet of any area zoned for residential use or from the property line of residential unit(s), religious worship activity, nursery school, day care facility, any recreation and amusement not regulated herein, and any public or private school regardless of the zoning district, and shall be measured from the property line(s) containing such regulated use.

(c) Buffering, complying with the standards of Section 102A-1202(g), shall be placed around the entire perimeter, including road frontage but excluding the entrance drive, for all sexually oriented businesses.

(d) Nude or semi-nude service or entertainment of any kind shall not be allowed outside the building of such use.

(e) The provisions of this article shall not apply to "massage and bodyworks therapy" as defined in Article II and to the extent regulated by N.C. GEN. STAT., Chapter 90.

#### **Sec. 102A-1024. Solid waste disposal facility.**

(a) Such facility shall not be located within 2,500 feet of an existing residential structure or of residentially-zoned property.

(b) Material shall not be stored outside of appropriate waste containers, and all such containers shall be located on a solid impervious surface such as concrete pads.

(c) All structures on the site shall comply with the dimensional requirements for the zoning district.

(d) The site shall be maintained to prevent odors, rodents and any other nuisances.

(e) The site shall have direct access to a paved public street.

(f) Access roads leading to any part of the operation shall be constructed in such a manner as to not impede traffic on any public or private street and shall be paved or constructed with gravel or crushed stone surface and maintained in a dust-free manner.

(g) All environmental health rules and regulations, including Federal and State laws, shall be complied with.

(h) One identification sign, as defined in Section 102A-1402, shall be permitted in accordance with Article XIV.

**Sec. 102A-1025. Theater productions, outdoor.**

- (a) One sign shall be permitted and shall not exceed the standards for those allowed in the C1(P) planned local business district.
- (b) The site shall have direct vehicular access to a minor or major thoroughfare or higher-level classification of street.
- (c) In residential districts, hours of operation shall be between sunrise and sunset. Noise levels shall not pose a nuisance to neighboring properties.
- (d) All outdoor lighting shall be turned off between 11:00 p.m. and sunrise, except lighting used for walkways, roads, parking lots and security. In these cases, fully shielded lights must be used.

**Sec. 102A-1026. Towers.**

- (a) A communication tower and associated equipment totally concealed within a building or structure so as to be architecturally indiscernible shall not be regulated as a tower under this section.
- (b) The applicant, owner, or developer of a tower that is to be at least 75 feet in height shall submit a site plan with the application for permits to authorize construction or erection of the tower. The site plan shall include:
  - (1) Identity of the proposed or intended user(s) of the tower;
  - (2) The certification of a registered engineer that the tower has the structural integrity and/or capacity to support or to accommodate more than one use or user;
  - (3) The statement and supporting information and documentation by the applicant, owner, or developer that no structures or facilities suitable for collocation are available within the coverage area;
  - (4) The statement of the owner indicating the intent and willingness to permit shared use of the tower and the potential for or limitations on the number of other users that the proposed tower can accommodate; and
  - (5) Elements and design that meet all requirements of this ordinance and Chapter 86.
- (c) Setbacks:

(1) *Residential/Conservancy zones.* Any tower in the residential and/or conservancy zoning districts shall be set back from all adjacent property lines and/or lease lines a distance not less than the height of the tower.

(2) *Commercial/Industrial zones.* Any tower shall be set back from property and/or lease lines a minimum of 50 feet or one foot of setback for each two feet of tower height, whichever is greater.

(d) Structures located near towers shall not encroach upon the setbacks of the towers, unless such towers are of monopole design and construction, in which case buildings and structures may be located within the setback distances.

(e) A chain link fence at least ten feet in height and located at least ten feet from the base of the tower shall enclose the tower base.

(f) A buffer area at least 25 feet in width shall surround the tower compound. The buffer shall shield the compound area from the entire tract. No structures, including guyed wires or anchors, may be constructed or located within the buffer. The buffer area shall be planted with vegetation that shall have an initial height of at least three feet and an expected attainment of six feet in height within four years of planting. The vegetation shall be planted with such type and in such number so as to constitute a complete shield or visual blockage of the tower compound area year round. If the Chief Building Inspector determines that a natural buffer already exists on site that substantially complies with the purpose and intent of this performance standard to an equal or greater degree, such an alternative natural buffer shall be considered adequate. If an alternative natural buffer is used, the user shall be responsible to ensure that the buffer remains compliant for as long as the tower remains. If a buffer is altered to an extent where it no longer serves to shield or obscure the compound from view, the applicant or tower user(s) shall install buffers as required by this section.

(g) The applicant, owner or developer shall certify that the proposed tower will be constructed and operated in accordance with all applicable Federal, State and local laws and ordinances, including but not limited to all Federal Communication Commission (FCC) and Federal Aviation Administration (FAA) rules and guidelines.

(h) Prior to the issuance of a building permit for a tower, the applicant, owner or developer shall submit drawings sealed by a licensed engineer and a certification letter from the licensed engineer who prepared the plans that the tower will meet all applicable Federal, State and local building codes and structural standards.

(i) The tower's height shall not exceed 450 feet. When a tower is located on a building or structure, the combined height of the building or structure and the tower shall not exceed 450 feet

(j) The exterior appearance of any building or structure associated with a tower and located in a residential zone shall maintain a residential architectural quality including, without limitation, a pitched roof and frame or brick veneer construction.

(k) Buildings or structures associated with a tower and located in a residential zone may not be used as a work site for any worker. However, periodic maintenance, inspection and renovation of the facility shall be permitted.

(l) Each applicant, owner or developer shall demonstrate that the use will not be detrimental or injurious to the property values of the surrounding neighborhood. In zoning districts where the tower is a use by right, the applicant, owner or developer may satisfy the requirement by submitting a statement signed by a licensed appraiser or real estate broker which expresses an opinion that the use will not be detrimental or injurious to the property values of the surrounding neighborhood.

(m) To protect the public from unnecessary exposure to electromagnetic radiation, the applicant, developer, owner or operator of the tower shall document that the power density levels do not exceed federally approved levels or American National Standards Institute (ANSI) standards, whichever is stricter.

(n) If lighting is required by the FAA, it shall meet or exceed the FAA standards. To the extent allowed by FAA regulations and standards, strobes shall not be used for nighttime lighting. To the extent permitted by Federal statutes, regulations and standards, the lights shall be oriented so as not to project directly onto surrounding residential property. Prior to issuance of a building permit, the applicant, developer or owner shall submit documentation from the FAA that the proposed lighting is the minimum lighting required by the FAA.

(o) A tower not used for a period of at least six months shall be determined to be abandoned and shall be removed. The owner of the tower shall remove any abandoned, unused or structurally unsound tower within 90 days of receiving notice requiring removal. The Chief Building Inspector may establish a shorter period of time for the removal of a tower that is structurally unsound.

(p) The owner or operator of a tower shall submit a statement signed and sealed by a licensed engineer that the tower will be structurally sound.

(q) If the Chief Building Inspector determines a tower is not structurally sound, the owner or operator of the tower shall, within 60 days or a shorter time period if required by the inspector, complete repairs to restore the structural soundness of the tower.

(r) The owner, applicant, or developer shall camouflage the tower so that it blends into the surrounding area. Methods of camouflage include paint, architectural design or structure, and other means.

(s) Outside storage on the site of the tower shall not be permitted.

(t) All tower sites shall comply with the provisions of Chapter 86.

## ARTICLE XI OTHER USES

### **Sec. 102A-1101. Temporary uses.**

The Chief Building Inspector may issue a temporary *Certificate of Occupancy* for the following uses in accordance with the provisions of this section. In cases where the desirability of permitting the use is questionable and the application for the temporary *Certificate of Occupancy* is denied, the matter shall be appealed to the Board of Adjustment for a decision in accordance with Article XVII.

(a) *Temporary events.* A temporary occupancy permit may be issued for bazaars, carnivals, religious revivals, sports events, circuses, festivals and similar uses for a limited fixed period of time not to exceed 30 days in any one calendar year, and subject to limitations as the Chief Building Inspector may impose based on the character of the district affected.

(b) *Temporary construction offices.* A temporary occupancy permit may be issued for construction offices in any district at any site where erection, addition, relocations and/or structural alterations are taking place, provided that such construction office shall be removed immediately upon completion of the project.

(c) *Temporary office and exhibition.* A temporary occupancy permit may be issued for non-residential mobile or modular structures used solely as offices or for purposes of exhibition in any district for a fixed period of time not to exceed six months and only upon satisfactory evidence that the use of such mobile or modular structure shall not violate any code or regulation or the intent of this ordinance. The temporary permit may be renewed upon similar evidence of use of such mobile structure.

(d) *Mobile storage units.* Temporary self-contained storage units shall be permitted to be located between a principal structure and the street for a period of time not to exceed 14 calendar days.

(e) *Seasonal sales establishment.* Establishments that sell fireworks, pumpkins and Christmas trees may be permitted as a temporary use on a lot subject to the following requirements:



(1) A seasonal sales establishment may be permitted in the specified commercial zoning districts but shall not be permitted in any conservancy, residential, office, or industrial zoning district.

(2) A seasonal sale establishment shall observe all minimum required yards when such yards abut a residential lot. No merchandise or business activity may be permitted in the required yard area.

(3) No operations or display shall occur in any street right-of-way. All activities shall take place on the lot.

(4) Sufficient off-street parking shall be provided in order to accommodate the sales establishment.

(5) One travel trailer, for temporary living and security purposes in association with the seasonal sales establishment, may be permitted provided the travel trailer satisfies any public service corporation, public utility and/or Town requirements for proper connection to water, sewer, electrical and other utility service connections, if applicable.

(f) *Yard sales.* A permit is required under the provisions of Section 74-26, Town Code of Ordinances. The person conducting the yard sale (tenant or property owner) shall be responsible for the prevention of any negative effects on neighboring properties and prevention of impeding the normal flow of traffic on public rights-of-way. Also, the person conducting the sale shall ensure that all property being sold is personal property, as defined in Article II, and that any residual items at the conclusion of the sale are not stored outside the residential dwelling in a permanent or semi-permanent manner.

### **Sec. 102A- 1102. Incidental uses.**

(a) *Home occupations.* A home occupation shall be permitted as an accessory use to any dwelling unit and may be conducted in the principal structure or an accessory structure provided that:

(1) The principal person or persons providing the business or service resides in the dwelling on the premises and such dwelling is the primary residence of the person or persons providing the business or service;

(2) The area used for the business or service does not exceed 25 percent of the combined floor area of the structure(s) or 500 square feet, whichever is less;

(3) All work associated with the home occupation is conducted inside the designated structure(s), except that which would normally being carried on in an outdoor setting in a residential district, such as gardening, provided that sub-section (5) below is complied with;

- (4) An attached sign not exceeding two square feet in area is allowed;
- (5) The property contains no outdoor display or storage of goods or services associated with the home occupation;
- (6) The home occupation causes no change in the external appearance of the existing building and structures on the property;
- (7) One additional parking space is allowed;
- (8) Wholesale sales of goods do not occur on the premises;
- (9) The home occupation employs no more than one person who does not reside on the premises;
- (10) The home occupation does not create any parking congestion, noise, vibration, odor, glare, fumes or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;
- (11) One vehicle, no heavier than  $\frac{3}{4}$  ton, used in connection with the home occupation is permitted and shall be located on the premises in such a manner, so as not to disrupt the quiet nature and visual quality of the neighborhood;
- (12) A small home day care shall be permitted as incidental to any dwelling unit, provided that all provisions of this section are complied with in addition to the following:
- a. If an outdoor play area is provided, it must be located in the side and/or rear yard of the property, provided that the yard area is not adjacent to any street, and the outdoor play area is fenced with a solid (opaque) fence; and
  - b. No more than five children who are unrelated to the operator can be cared for during any 24-hour period.
- (13) All Federal, State, and local regulations, including the County Public Health regulations are complied with in the conduct of the home occupation.
- (b) *Outside storage and display.* Outside storage of goods, equipment and material shall be prohibited in any O&I(P), C1(P), C2(P) or C(P) district unless otherwise specifically authorized in Section 102A-403. Outside display of merchandise which is typical in conducting the commercial operation is permitted in any of the above named districts except the O&I(P) district
- (c) *Swimming pools.* Every swimming pool, public and private, as defined by this ordinance is permitted as an incidental use and shall be regulated as follows:

(1) The minimum setback for a swimming pool from any side and/or rear lot line shall be ten feet.

(2) A fence shall be erected to a minimum height of four feet to completely enclose the portion of yard containing the pool and shall include a gate with a locking device that can be securely closed and fastened. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the N.C. BLDG CODE § R312.2 (2006) or subsequent amendments thereto. The required fence shall be constructed of such materials and erected in such a manner so that small children and domestic pets and animals shall be unable to enter the enclosed area without the assistance of an adult.

(3) All mechanical equipment shall be located a minimum of five feet from any property line.

(4) All floodlights shall be shielded from adjacent properties to reduce offensive glare.

(5) All electrical wiring shall be in conformance with the National Electrical Code.

(6) A water discharge plan for the proposed use shall be submitted showing the location of buildings, yard dimensions and other pertinent data. This plan shall also stipulate the type of system used for disposal of de-chlorinated waste water (only) from the site and shall be in compliance with Chapter 67 of the Town Code of Ordinances. A permit shall not be issued until the Chief Building Inspector determines that the water discharge plan is adequate and meets one or more of the following criteria:

a. The discharge system shall drain directly into the street storm drainage system, other public storm drainage systems or natural stream; or

b. Adequate hose is made available to discharge such water into one of the above public ways; or

c. The water discharge can be accomplished on the lot on which the swimming pool is located without threat of discharge onto adjacent lots.

(7) In any zoning district, a swimming pool may not be located in a required front yard, including residential corner lots subject to Section 102A-1201(g).

(8) The owner of any property on which a swimming pool is located or on which the swimming pool already exists upon the effective date of this sub-section, shall be required to comply with the provisions of this sub-section within 60 calendar days after the effective date of this sub-section or within 60 calendar days of being made subject to the terms of this ordinance.

(d) *Accessory retail uses.* Accessory retail uses include shops incidental to a hospital or clinic, variety, book, cafeterias, soda bars, coffee shops, beauty shops, and barbershops

incidental to institutional or professional office buildings or manufacturing facilities. Accessory retail uses shall be conducted solely for the convenience of the employees, patients, patrons, students or visitors and not the general public. Such retail use, which is conducted wholly within the principal building without access thereto other than from within the building, without exterior advertising display, shall be permitted.

(e) *Accessory structures.* The following provisions apply to all accessory structures:

(1) Accessory structures shall not be rented or occupied for gain or inhabited by other than employees performing services on the premises of the owner, lessee, or tenant of the premises.

(2) Accessory buildings to be used for living quarters shall not be constructed or placed upon a lot until the construction of the principal building has commenced.

(3) Manufactured homes intended for residential occupancy shall not be classified as accessory or used as a storage structure, regardless of the zoning district.

(4) Accessory structures shall not be constructed or placed within any required front or side yard or within 20 feet of any side street line, or within five feet of any lot line not a street line, or within five feet of any other principal or accessory building or other structure. In no case, however, shall an accessory building be placed closer to a street than the minimum setback requirements for a principal structure. Any accessory structure greater than 700 square feet in floor area must be located inside the building envelope of the lot for the zoning district in which the lot is located.

### **Sec. 102A-1103. Nonconforming uses.**

(a) *General provisions.* Any structure or use of land, existing at the time of the enactment of this ordinance, or any amendment thereto, used for a purpose not permitted in the zoning district in which it is located shall be considered a nonconforming use and shall be regulated as provided in this section.

(b). *Discontinuance/buffering of open-air outside uses.* All nonconforming uses not carried on within a structure, except those which are incidental and necessary to activities within a structure, shall be discontinued within three calendar years from the effective date of this ordinance or any amendment thereto unless they can be adequately buffered so that the nonconforming use is not visible to the surrounding properties and any public street, and these such uses shall be buffered in accordance with Section 102A-1202(g) within two calendar years from the effective date of this ordinance. Uses to be discontinued or buffered under this section shall include outdoor sales areas, motor vehicle parking lots not immediately adjacent to and used in conjunction with a structure that the parking lot serves, storage yards, signs, billboards and similar uses. Where nonconforming use status applies to structure(s) and premises in combination, if the structure(s)/building(s) are removed or destroyed, the nonconforming use of the land shall cease and any

subsequent use of the land structure(s) or building(s) placed thereon shall conform with the provisions of this ordinance.

(c) *Continuance of nonconforming uses.* A nonconforming use may not be changed, expanded or resumed to any other nonconforming use, unless the Board of Adjustment finds that such use is no more detrimental to the neighborhood than the initial nonconforming use of the property in question. A change of title or possession or right to possession of property with a nonconforming use shall not be construed to prevent the continuance of such nonconforming use.

(d) *Continuance of nonconforming structures.* A structure that is nonconforming due to noncompliance with dimensional requirements, and which is a permitted use in the district, may continue, provided that its nonconformity is not increased. Structural changes which decrease or do not affect the degree of nonconformity, regardless of cost and/or increase in value, shall be permitted. Routine repairs, maintenance, rehabilitation and renovations, regardless of value, shall be permitted.

(e) *Reconstruction prohibited.* Any nonconforming structure or any structure containing a nonconforming use, which has been damaged by fire or other causes, may be reconstructed and its use resumed if that occurs within one year of such damage, unless such structures have been determined by the building inspector to have been damaged to an extent exceeding 50 percent of its then reproducible value or its bulk, exclusive of foundations, in which case any repair, reconstruction or use shall conform with the provisions of this ordinance.

(f) *Resumption of nonconforming use prohibited.* Resumption of a nonconforming use of a structure shall not be permitted if such nonconforming use is discontinued or ceases, regardless of intent, for a continuous period of one calendar year.

#### **Sec. 102A-1104. Nonconforming manufactured home lots and parks.**

Notwithstanding any other provisions of this section to the contrary, the continuance of the use of land and structures for individual manufactured home or manufactured home park purposes in zoning districts in which individual manufactured homes or manufactured home parks are not a permitted use shall be regulated as follows:

(a) *Individual nonconforming manufactured home uses.* Individual lots in districts not zoned for manufactured home use on which there is located a preexisting (i.e., thereon at the time of such zoning) nonconforming manufactured home may continue to be used as an individual manufactured home lot, subject to the following conditions:

(1) In the event that the use of the nonconforming individual lot as a site for a preexisting individual manufactured home is discontinued for a period of one calendar year or more, such use of the lot shall not be resumed, and only the uses permitted for the zoning district in which the lot is located shall be allowed.

(2) A manufactured home that was located on a nonconforming individual manufactured home lot at the time the district in which the lot is located was zoned shall not be replaced except in accordance with the provisions of sub-section (c) below.

(b) *Continuance of pre-existing nonconforming manufactured home park uses.* Tracts or parcels of land in districts not zoned for manufactured home park use on which there is located a preexisting nonconforming manufactured home park may continue to be used as a manufactured home park, subject to the following conditions:

(1) In the event that the use of a tract or parcel of land, or part thereof, as a manufactured home park is discontinued for a period of one calendar year or more, such use of the land, or part thereof, shall not be resumed, and only the uses permitted for the zoning district in which the land is located shall be allowed.

(2) A manufactured home that was located in a pre-existing nonconforming manufactured home park at the time the district in which the park is located was zoned shall not be replaced except in accordance with the provisions of sub-section (d) below.

(c) *Replacement of pre-existing manufactured homes on individual nonconforming lots.* A pre-existing manufactured home on an individual nonconforming manufactured home lot may be replaced by another manufactured home during the period in which the pre-existing nonconforming use of the lot is allowed to continue, provided that the replacement structure, as newly positioned on the lot, conforms to the following requirements:

(1) The replacement structure in any residentially zoned district shall be a Class A manufactured home, and the replacement structure in any of the following non-residential zoning districts: O&I(P) planned office and institutional, C1(P) planned local business, C2(P) planned service and retail, C(P) planned commercial, M1(P) planned light industrial, and M(P) planned industrial shall be a Class A or Class B manufactured home as defined in this ordinance, provided that such replacement structures are used exclusively for residential purposes.

(2) The replacement structure shall meet the minimum dimensional requirements and other applicable provisions of this ordinance for the zoning district in which the lot is located.

(3) The replacement structure shall meet the current County Public Health Department regulations pertaining to sewage and water systems; the current requirements of the Town's Fire Prevention and Protection regulations; and the current requirements of the Town's Housing regulations.

(4) In the event of conflict among the requirements set forth above, the replacement structure must meet the stricter of the conflicting requirements.

(d) *Replacement of pre-existing manufactured homes in nonconforming manufactured home parks.* A pre-existing manufactured home in a nonconforming manufactured home park may be replaced by another manufactured home during the period in which the pre-existing nonconforming use of the land on which the park is located is allowed to continue, provided that the replacement structure, as newly positioned in the park, conforms to the following requirements:

(1) The replacement structures shall be placed in the manufactured home park so that the structure in place is set back from the external boundaries of the park a distance that meets the dimensional requirements and other applicable provisions of this ordinance for the zoning district in which the park is located, as though the park were a single lot or tract within such district. For the purposes of this section, front yard setback requirements shall be measured from a public street constituting an external boundary of the park, if any. Other setback requirements shall be treated as rear and side yard setbacks, as appropriate, and be measured from the boundary of the park other than a public street.

(2) The replacement structure and the manufactured home space on which it is placed shall meet the current internal dimensional requirements for a manufactured home park as defined and set forth in Chapter 86, to include without limitation: lot area, density and yard space requirements.

(3) The replacement structure shall meet the current requirements of the County Public Health regulations pertaining to manufactured homes and manufactured home parks; current requirements of the Town's Fire Prevention and Protection regulations; and the current requirements of the Town's Housing regulations.

(4) The replacement structure shall be a Class A or Class B manufactured home and shall otherwise meet the current construction and other standards for manufactured homes established by applicable Federal, State, and local regulations.

(5) In the event of conflict among the requirements set forth above, the replacement structure must meet the stricter of the conflicting requirements.

(e) *Map of pre-existing nonconforming manufactured home lot or park.* Every owner of land on which a pre-existing nonconforming manufactured home lot or park is located shall file with the Chief Building Inspector and the County Planning Department, a map or site plan of the land area of such lot or park showing the dimensions to scale of the area at the time of the zoning of the land on which the lot or park is located, showing the location and external dimensions to scale of each manufactured home existing therein at such time, and showing such other pertinent information as the staff may and require.

(f) *Zoning permit required.* Replacement of a pre-existing nonconforming manufactured home hereunder shall not be permitted unless the owner of such replacement unit has made application to the Chief Building Inspector for a zoning permit for such replacement, and the permit has been issued. The application shall describe the proposed replacement manufactured home by manufacturer's name, model and serial

number, year of manufacture and dimensions and shall show the proposed manufactured home space for the replacement on a copy of the map of the manufactured home lot or park on file with the staff as required by sub-section (e) above. The inspector shall issue a zoning permit for the replacement only upon a determination that the replacement and its location meet the requirements for replacing a pre-existing nonconforming manufactured home set forth above. The inspector may require any additional information reasonably necessary to make such determination and may deny a permit if such information is not submitted. No provision herein shall waive or release other requirements for a permit pertaining to the replacement or lot or park in which the manufactured home is to be located that may be set forth in this ordinance, Chapter 86 or other Federal, State, or local laws.

## ARTICLE XII LOT AND YARD REGULATIONS

### **Sec. 102A-1201. Lot regulation.**

Unless otherwise established elsewhere within this ordinance or in Chapter 86, the general lot regulations shall apply as herein set forth.

(a) *One principal structure per lot.* Every principal structure hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one main residential building and its accessory buildings on one lot of record unless otherwise provided for in this ordinance and Chapter 86. Uses that are considered accessory to the principal bona fide farming use are not limited in number when associated with the farm use as exempted by Section 102A-109

(b) *Street access.* No structure shall be erected on a lot, subject to regulation under Chapter 86, which does not abut a public street or approved private street (see Chapter 86 for private street provisions) for at least 35 feet, such frontage (abutting) to be continuous from the property line to the front yard building setback line. Those lots or tracts, not regulated by Chapter 86 shall provide, at a minimum proof of a 35-foot deeded access easement, which has been properly and legally recorded with the County Register of Deeds, to serve the said lot or tract.

(c) *Reduction of lot size prohibited.* No lot shall be reduced in area so that lot and/or yard areas below the minimum required under this ordinance shall result. Lots 50 feet or more in width may be treated as recorded lots less than minimum requirement.

(d) *Recorded lots less than minimum requirement.* Where any lot of record on the effective date of this ordinance or amendment thereto for the zoning area in a district which allows residential uses does not contain sufficient land to permit conformance to



the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence, provided that the lot area and yard dimensions are not reduced below the minimums specified in this ordinance by more than 17 percent.

(e) *Lots without community water or sewer.* Any lot that is not served by public or community water and/or sewer, in addition to the regulations of the district in which said lot is located, must be certified by the County Public Health Department to be large enough to meet all applicable regulations regarding water supply and/or sewage disposal prior to application for a zoning permit.

(f) *Building lines on irregularly shaped lots.* The Chief Building Inspector shall determine locations of front, side, and rear building lines on irregularly shaped lots. Such determinations shall be based on the spirit and intent of the district regulations to achieve spacing and location of buildings or groups of buildings on individual lots. Unless specifically allowed otherwise within this ordinance, setback lines shall not be measured from any part of any tract that does not meet the minimum width requirement for the individual district as listed in Section 102A-1204.

(g) *Corner lots.* Principal structures on corner lots shall observe the front yard requirements on each of the intersecting streets if the principal structure is constructed and located within developments recorded after the effective date of this ordinance, or any amendment thereto. Except for lots located within the R6A residential district, principal structures on corner lots in residential districts that observe the front yard requirements from the two intersecting streets may reduce the required rear yard by 20 feet.

(h) *Lot area exception in conservancy districts.* In the CD conservancy district, the area may be used as part of any contiguous zoning district for calculating density of an entire development and satisfying setback requirements for lots within the development. That portion of such lots within the development falling within the CD district shall only be used for open space uses, and no principal or accessory structures shall be permitted, except boat landing piers when permitted by applicable Federal, State, or local regulations.

#### **Sec. 102A-1202. Yard regulation.**

(a) *Projection into yard space.* Every part of a required yard shall be open from its lowest point (grade level) to the sky, unobstructed except for the ordinary projections of sills, belt courses, buttresses, cornices, ornamental features, sundecks, balconies, open porches, and eaves; provided that none of the above projections shall project into a required yard more than four feet. Canopies, eaves, and marquees may extend into a required yard in a commercial or industrial district provided that no more than ten percent of the square footage within the required yard is covered by such canopies, eaves, and marquees, and provided further that supports for such canopies, eaves, and marquees shall not be solid and shall not interfere with the free movement of traffic, the required off street parking, and the sight view of adjacent properties.

Open fire escapes, outside stairways, open wheelchair ramps, the ordinary projections of chimneys and flues, swimming pools, flag poles, decorative fountains, and other similar items may be erected in required yards when placed so as not to obstruct light and ventilation necessary for the structure. To minimize encroachment of wheelchair ramps into the required yard, turning platforms are encouraged.

(b) *Determination of front yard setback.* The front yard requirements of this ordinance shall not apply on lots where the average depth of existing front yards on developed lots, located within 100 feet on each side of a lot, within the same block and zoning district as such lot, is greater or lesser than the minimum required front lot depth. In such cases, the depth of the front yard on such lot shall not be less than the average front yard depth on such developed lots. This provision shall not require a structure to set back from the street or road a greater distance than that distance set forth in this ordinance or the setback line observed by the closer of the two existing principal structures on immediately adjoining lots. In no case, however, shall any residential structure be placed closer than 50 feet from the centerline of a street on which it faces or within 40 feet from the centerline of a side street. The location of a residential structure with respect to the street line in any commercial or industrial district shall not be used as a factor in determining the required setback from the street line for any new structure to be erected in such districts.

(c) *Fences and walls.* The setback requirements of this ordinance shall not apply to any retaining wall. Open fences and walls may be erected to any height. Solid fences and walls shall be limited to three feet in height when projecting into or enclosing a minimum front yard and shall be limited to seven feet in height when projecting into or enclosing a minimum side yard or rear yard. When a corner lot follows two front yard setbacks, as determined by the Chief Building Inspector, a solid fence or wall greater than three feet in height, but not exceeding seven feet in height, may not be erected within 20 feet of the right-of-way on the street deemed the secondary front yard by the Chief Building Inspector. Solid fences enclosing a rear or side yard of a corner or through lot that are constructed of wood slats shall not construct the wood fence so that any horizontal supports used for vertical wood slats are located on the exterior (street) side of the solid fence. All fences shall be installed and maintained in a safe condition and kept in good repair. The street on which the house is addressed is usually considered the primary street on which the house must follow the full front yard setback unless otherwise determined by the Chief Building Inspector. Exceptions to location criteria are as follows:

- (1) Fences or walls that are within or enclose the minimum side and/or rear yard of a subdivision lot which is situated on a peripheral boundary of a subdivision in which it is a part;
- (2) Rear yards on through lots may have a privacy fence erected up to the rear property line, as determined by a platted "no access easement" or up to 15 feet from that line in the absence of a "no access easement";

(3) Fences erected in conjunction with a buffer, as required by sub-section (g) below, shall be set back a sufficient width from the property line to allow for the proper maintenance and upkeep of any required on-site vegetation; and

(4) When a principal structure is permitted closer than 25 feet to a public right-of-way line, the fence or wall will be permitted no closer to the road right-of-way than the permitted location of the principal structure.

(d) *Corner visibility.* In all districts, no fence, wall, shrubbery, sign, or other obstruction to vision between the heights of three feet and 15 feet shall be permitted within 20 feet of the intersection of two streets.

(e) *Rear yards on through lots.* The depth of rear yards on through lots shall be at least equal to the minimum required front yards for the district in which it is located and no accessory buildings shall be located in the rear yard on through lots.

(f) *No other building in required yard space.* No part of a yard or other open space required about any structure for the purpose of complying with the provisions of this ordinance shall be included as part of a yard or other open space required under this ordinance for another structure. When two or more uses occupy the same building, sufficient parking areas, yard widths, lot area, open space, and such, must be provided so that the dimensional requirements pertaining to each of the uses will be met in full.

(g) *Buffer requirements.*

(1) A solid buffer shall be installed when:

a. A non-residential use abuts a residential or conservancy zoned property along the side and/or rear property lines;

b. Any commercial off-street parking or loading space abuts a residential or agricultural district along the side or rear property lines;

c. Any use permitted in a residential or conservancy district other than a single- or multi-family dwelling abuts a residential or conservancy district along the side or rear property lines;

d. Any multi-family development of more than three residential units abuts a residential district or an existing single-family dwelling along the side or rear property lines;

e. Any outside storage of materials, equipment or products is visible and/or abutting any residential district and/or public street; and

f. Any off-street parking facility serving a non-residential use abuts a residential district.

(2) Governmental uses as defined herein and including public and private elementary, junior high/middle, and high schools, accredited by the State of North Carolina, shall be exempt from the buffer requirements of this ordinance.

(3) All uses existing at the time of the adoption of this ordinance and classified under "a – e" above shall provide and maintain a solid buffer completely surrounding the development within two calendar years of said use being subject to this ordinance in accordance with the standards of this sub-section or Chapter 86.

(4) When required by this ordinance and/or Chapter 86, the following standards shall apply:

a. A vegetative buffer shall be a minimum of three feet at time of planting to reach a height of six feet within three calendar years;

b. Solid non-vegetative fencing shall have a minimum height of six feet;

c. Buffer vegetation shall be located between any fence and the common property line.

d. Chain link fencing shall not be permitted as a screening alternative, regardless of type of modifications made to the chain link fence.

(h) *Reserved for future use.*

(i) *Building height.* Multiple-family dwellings and office, commercial, and industrial buildings shall not be limited to height except that for each one foot of height greater than 35 feet, the side and rear yard setbacks shall be increased by one foot. In any district, if the structure is a combination of a one-story portion and multi-story portion, the side yard setbacks for the structure shall be determined by the number of stories in the structure closest to the side yard.

(j) *Side yard exception.* In the C1(P) planned local business district, the C2(P) planned service and retail district and the C(P) planned commercial district, where the lot has a width of 150 feet or less at the front yard setback line, the minimum side yard width requirements shall apply only to one side if the opposite side is also zoned for commercial or industrial uses.

(k) *Rear yard exception for manufactured homes in a R6A residential district.* In a R6A residential district where a single manufactured home, as herein defined, is to be placed on an individual lot and no other principal structure exists, and the lot adjacent to the subject lot is also zoned R6A, the rear yard requirement may be reduced to five feet as long as such manufactured home shall be at least 25 feet from any other manufactured home located on an adjoining lot to the rear of the subject lot.

(l) *Reserved for future use.*

(m) *Outdoor lighting.* The purpose of this section is to reduce glare, to reduce light trespass, to decrease the expense of lighting, to decrease light pollution, and to improve the aesthetics of the Town while still providing adequate nighttime safety and security. The following standards are applicable to all properties:

1. All lights shall be shielded in such a way as to direct all light toward the earth's surface and away from reflective surfaces;
2. Light fixtures or lamps shall be shielded/shaded in such a manner as to direct incident rays away from all adjacent property and any light on a pole, stand, or mounted on a building must have a shield, and adjustable reflector and non-protruding diffuser;
3. Any facilities, which may require floodlighting, may not arrange the light in such a way that it will shine toward roadways, onto adjacent residential property or residentially-zoned property or into the night sky;
4. Any interior lighted signs may not be lit at night when any face of the sign is removed or damaged in such a way that the light may distract pedestrians or drivers or become a nuisance to adjacent or nearby residences;
5. Any light fixture must be located in such a manner that no light-emitting surface is visible from any residential area or public/private roadway, walkway, trail or other public way when viewed at ground level.

(n) *Landscaping.* All requirements as set forth herein shall be applied to non-residential and mixed use developments requiring site plan approval prior to zoning permit application for which a zoning permit is issued on or after the adoption date of this amendment.

(1) *Purpose and intent.* The purpose and intent of this sub-section is to:

- a. Enhance the community appearance and improve air quality within the Town.
- b. Conserve energy and retard stormwater runoff while aiding in noise, glare and heat abatement;
- c. Safeguard and enhance property value and to protect public and private investment through the protection of significant existing trees;
- d. Provide visual buffering and enhance Town beautification through new landscaping standards; and
- e. Prevent the indiscriminate removal of trees and facilitate their replacement on public and private property for new and existing developments.

(2) *Minimum criteria.* The detailed site plan shall include the following upon submission for preliminary review and approval:

a. *Streetscape provisions.* All developments abutting a public street shall provide within the front yard setback area a minimum of one large shade tree, ten feet in height at time of planting, or three flowering or ornamental trees per each 50 linear feet of street frontage or fraction thereof. The classes of trees shall be as specified by the latest edition of *American Standard for Nursery Stock* published by the American Association of Nurserymen. Existing trees within the front yard setback area can be credited toward compliance with this provision provided the caliper of the existing tree(s) is a minimum of two inches. Trees shall be planted within the front yard setback, not within the right-of-way, and may be clustered.

b. *Yard space.* Landscaping shall be installed for all non-residential and mixed use development building areas where the lot is adjacent to a public street, regardless of whether or not access to the public street is permitted. At a minimum, one ornamental tree for every 50 linear feet of building length and/or width and two shrubs for every ten linear feet of building length and/or width. The measurement is to be taken from the side of the building facing toward any public street. The required plant materials must be located between the structure and the required setback line and contained within the buildable envelope, excluding the parking areas addressed below. The development must have a yard space sufficient in size to accommodate the required plantings and to allow room for flexibility in the landscape design.

c. *Off-street parking areas.* Trees and shrubbery planted pursuant to this section shall provide at least one tree a minimum of eight feet in height and six shrubs at least 18 inches in height at time of planting for every 15 off-street spaces or fraction thereof. All plantings shall be evenly distributed throughout the parking facility; curbed or otherwise physically protected from motor vehicles; and landscape peninsulas, a minimum of 100 square feet in area, shall be located no more than 15 spaces apart.

(3) *Maintenance.* Responsibility for maintenance and upkeep of the required plant materials shall be the burden of by the property owner, including replacing dead or unhealthy trees and shrubs. All yard and planting areas shall be maintained in a neat, orderly, and presentable manner and kept free of weeds and debris.

(o) *Tree preservation.*

(1) *Preservation of existing trees.* Preserving trees can improve the aesthetic quality of the site and improve property values, provide environmental benefits, mitigate the impacts of development on the community, and help minimize opposition to the proposed development. It is recommended that groups of trees be preserved, as well as individual trees. Existing preserved trees may be credited towards required streetscape, yard and parking area trees required in sub-section (n) above.

(2) *Pre-clearing inspection required.* The property owner/developer must schedule with the Chief Building Inspector an inspection of any site to be developed prior to the clearing and grading of the site. At the time of the inspection, all trees intended for preservation must be marked or identified in such a manner so that it is clear which trees are to be preserved.

(3) *Failure to obtain pre-clearing inspection.* In the event, a site intended for development or sale is cleared of existing trees, upon submission for development approval and subsequent issuance of permits, the site must be developed with, at a minimum, double the number of trees required by sub-section (n) above, in addition to any fine that may be imposed. In the event the site is intended for residential development and has been pre-cleared of existing trees without approval from the Chief Building Inspector and in addition to any fine that may be imposed the developer must plant or assure for plantings in the same manner as for other improvements under the provisions of Chapter 86, one tree for each lot proposed. Trees planted as satisfying this sub-section shall be a minimum of two inch caliper and a minimum of eight feet in height at the time of planting.

(4) *Credits for preservation of existing trees.* In order to receive credit, preserved vegetation must be in good health and condition. Trees designated to be preserved must be indicated on the site/landscape plans in accordance with the site plan requirements of this ordinance. Preserved trees may be credited at the rate of:

|                         |   |         |
|-------------------------|---|---------|
| 2" to 6" caliper tree   | = | 1 tree  |
| 7" to 12" caliper tree  | = | 2 trees |
| 13" to 18" caliper tree | = | 3 trees |
| 19" to 24" caliper tree | = | 4 trees |
| 25" and up caliper tree | = | 5 trees |

(5) *Protection of preserved trees during construction.* Grading or other land-disturbing activities shall not occur on a site with existing trees which are designated to be preserved in order to meet the landscaping requirements until protective barriers are installed by the developer and approved by the Town inspector. Trees designated for preservation which are credited toward the landscape provisions must be protected by barriers, while other trees intended to be preserved which do not count toward the landscape requirements are encouraged to be protected by barriers. The barriers shall be placed around the critical root zone of any preserved tree located within 50 feet of any grading or construction activity.

### **Sec. 102A-1203. Special developments.**

Special developments governed elsewhere in this ordinance and those governed by the Chapter 86 may be exempt from the lot and yard requirements of this article, provided the development conforms with the special provisions of this ordinance and the Chapter 86 and the overall dwelling unit density is maintained for the district in which it is located except where specifically exempted elsewhere. This section shall include, but not be

limited to, Article VI, Mixed Use Developments-~~Conditional Use Districts Conditional Districts~~ and Article VIII, Density Development-~~Conditional Use Districts Conditional Districts~~, contained within this ordinance, and zero lot line developments, unit ownership developments (condominiums and townhouses), and manufactured home parks, which are regulated in Chapter 86.

**Sec. 102A-1204. District dimensional provisions.**

The provisions on the following pages shall be complied with except where specifically exempted by Section 102A-1203. This section is in "chart" format and begins on the next page.



**Sec. 102A-1204 (continued). District dimensional provisions<sup>1</sup>**  
 Except for the special provisions as previously noted in this article and any special provisions provided for elsewhere with this ordinance, the following district dimensional requirements shall be compiled with:

| District | Density <sup>2</sup> |   |                 | Minimum Yard Setback Regulations <sup>2</sup> |                             |         |  |                 |
|----------|----------------------|---|-----------------|---|-----------------------------|---------|--|-----------------|
|          | Minimum Lot Size     | Square Feet per Dwelling Unit for Condos & Group Developments | Width (in feet) | Front Yard Setback (in feet)                  | Side Yard Setback (in feet) |         | Rear Yard Setback (in feet)                    |                 |
|          |                      |   |                 |   | 1 Story                     | 2 Story | For each additional story greater than 2, add: |                 |
| RR       | 20,000               | 20,000  | 100             | 30  | 15                          | 15      | 10 ft/story                                    | 35              |
| R20      | 20,000               | 20,000  | 100             | 30  | 15                          | 15      | 10 ft/story                                    | 35              |
| R15      | 15,000               | 15,000  | 75              | 30  | 10                          | 15      | 10 ft/story                                    | 35              |
| R7.5     | 7,500                | 7,500   | 75              | 30  | 10                          | 15      | 10 ft/story                                    | 35              |
| R6       | 6,000                | 6,000   | 60              | 25  | 10                          | 12      | 6 ft/story                                     | 30              |
| R6A      | 6,000                | 6,000   | 60              | 25  | 10                          | 12      | 6 ft/story                                     | 30 <sup>3</sup> |
| R5A      | 5,000                | 5,000   | 60              | 25  | 10                          | 12      | 4 ft/story                                     | 30              |
| R5       | 5,000                | 5,000   | 60              | 25  | 10                          | 10      | 4 ft/story                                     | 30              |

<sup>1</sup>All signs are regulated by Article XIV.

<sup>2</sup>Exceptions: See Section 102A-1203 for special exceptions to this chart.

<sup>3</sup>See Section 102A-1202(k) for rear yard exception for manufactured homes in the R6A district.

**Sec. 102A-1204 (continued). District dimensional provisions<sup>1</sup>**

| District | Minimum Yard Regulations <sup>2</sup>                  |                                    |                        |                            |
|----------|--|------------------------------------|------------------------|----------------------------|
|          | Front Yard Setback in feet<br>Measured from<br>RW Line | Measured from<br>Street Centerline | Side Yard Width (feet) | Rear Yard Depth<br>In Feet |
| CD       | 50   | 80                                 | 50                     | 50                         |
| O&I(P)   | 35   | 65                                 | 15                     | 20                         |
| C1(P)    | 45   | 75                                 | 15                     | 20                         |
| C2(P)    | 50   | 80                                 | 30                     | 30                         |
| C(P)     | 50   | 80                                 | 30                     | 30                         |
| M1(P)    | 50   | 80                                 | 30                     | 30                         |
| M(P)     | 100  | 130                                | 50                     | 50                         |

<sup>1</sup> All signs are regulated by Article XIV.

<sup>2</sup> See § 102A-1203 for special exceptions to this chart.

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## ARTICLE XIII OFF-STREET PARKING AND LOADING

### Sec. 102A-1301. Minimum standards.

All uses of land and building shall be provided with adequate off-street parking and loading space to meet the minimum standards in accordance with the provisions of this section.

(a) *Plan approval.* Each application for a zoning permit, conditional use permit, special use permit, or certificate of occupancy shall include information as to the location and dimensions of off-street parking and loading space and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the Chief Building Inspector to determine whether or not the requirements of this article are met.

(b) *Certificate of Occupancy.* The *Certificate of Occupancy* for the use of any building, structure, or land where off-street parking space is required shall be withheld by the Chief Building Inspector until the provisions of this article are fully complied with. If at any time such compliance ceases, any certificate of occupancy previously issued for the use of the property shall immediately become void and further use of the premises shall cease until the property is brought into compliance with this article.

(c) *Permanency.* The off-street parking and loading space required by this article shall be permanent spaces and shall not be used for any other purpose unless other spaces are provided which will fully meet the requirements of this ordinance. Except for businesses where vehicle sales is either permitted or incidental, including but not limited to sales lots, repair establishments, personal residences, and financial institutions parking a vehicle for the purpose of display for sale shall be prohibited. Nothing in this section shall be construed as preventing an employee or proprietor or patron of a business establishment from displaying one private motor vehicle for sale during normal working hours or in the course of conducting personal business or shopping.

(d) *Permissive parking and loading facilities.* Off-street parking or loading facilities which serve any existing non-residential use of land or buildings are permitted in any commercial or industrial district provided that all regulations herein governing the location, design and operation of such facilities are adhered to and provided further that whenever a parking facility serving a non-residential use abuts a residential district, a vegetative buffer at least six feet in height shall be established between the parking facility and the residential district.

(e) *Increased intensity of existing use.* When the intensity of use of any building or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, or other units specified herein for the computation of required parking and loading facilities, parking and loading facilities shall be provided for such increase in intensity of use.

(f) *Change of existing use.* Whenever the existing use of a structure shall hereafter be changed to a new use, parking and loading facilities shall be provided as required for such new use. However, if the structure was erected prior to the effective date of this ordinance, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use shall exceed those for the existing use.

**Sec. 102A-1302. Off-street parking.**

(a) *Minimum requirements.* Off-street parking spaces shall be provided and permanently maintained by the owners or occupants of the following types of property uses on the basis indicated:

|                                   | <i>Required Parking</i>   |
|-----------------------------------|---|
| Dwellings                         | One space for each dwelling unit, except one and one-half space for each dwelling unit in multi-family complex located in R6, R5A and R5 districts. |
| Art galleries, libraries, museums | One space for each 400 square feet of net floor area  |
| Offices                           | One space for each 200 square feet of net floor area, plus one space for each two employees   |
| Commercial amusement              | One space for each four persons in design capacity  |
| Restoration facilities            | One space for every three beds, up to 50 beds; one space for every five beds above 50 beds  |
| Funeral homes                     | One space for each four seats in chapel   |
| Furniture stores                  | One space for each 500 square feet of net floor area  |

*Uses (continued)*

*Required Parking (continued)*

|  |   |
|--|---|
| Hospitals                                  | One space for each two beds intended for patient use, plus one space for each employee on the largest shift |
| Clubs, fraternal, and social organizations | One space for each 300 square feet of net floor area  |

Manufacturing, processing, fabrication, assembly, construction, contracting and building trades  
 One space for each vehicle used directly in the conduct of the use, plus two additional spaces for each three employees on the largest shift

Manufactured home and travel trailer sales lot  
 One space for each employee & one space for each 3,000 square feet of display area

Medical clinics, doctors' and dentists' offices  
 One space for each doctor practicing on the premises

Motel, hotel, tourist home  
 One space for each room or unit to be rented as one space for each three employees; plus one space for each 100 square feet of floor area utilized for meeting rooms

Motor vehicle gas stations  
 One space

Motor vehicle repair and/or sales garage  
 One space for each 200 square feet of net floor area

Nursery, kindergarten, elementary, and junior high/ middle schools  
 One space for each employee

Nursing homes, convalescent and senior citizens homes  
 One space for each four beds intended for resident use, plus one parking space for each employee on the largest shift

Religious worship facility  
 One space for each five seats

*Uses (continued)*

*Required Parking (continued)*

Retail stores, service shops, food & beverage establishments including planned shopping centers  
 One space for each 200 square feet of net floor area

Rooming or boarding house  
 One space for each bedroom

Senior high schools  
 Four spaces for each classroom and administrative office

Veterinary clinics  
 Four spaces for each veterinarian

Vocational and business schools  
 One space for each 300 square feet of gross floor area

wholesale establishments

one space for 900 square feet of gross floor area

(b) *Computation.* When determination of the number of off-street parking spaces required by this section results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.

(c) *Size.* All required off-street parking spaces shall be at least nine feet in width and at least 20 feet in length measured at right angles to the axis of the vehicle exclusive of access drives, aisles, or ramps. Such space shall have a vertical clearance of at least six feet, six inches. For parallel parking, the length of the parking space shall be increased to 23 feet. Compact parking spaces, measuring seven and one-half feet wide and 16 feet in length, are permitted provided that the compact spaces do not exceed more than 25 percent of the total required parking.

(d) *Design.* All off-street parking areas, except for single family group developments and unless otherwise regulated by another Federal, State or local ordinance, shall be surfaced with a permanent material such as asphalt or concrete up to the required paved driveway or entrance to the property and the individual parking spaces shall be clearly marked or striped.

(e) *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or an alley in a manner that least interferes with traffic movement. All commercial and industrial off-street parking areas and all off-street parking lots for residential use where three or more spaces are required shall be so arranged that egress from the parking space is by forward motion of the vehicle.

(f) *Lighting.* Any lighting used to illuminate off-street parking areas shall be subject to the same standards as listed in Sec. 102A-1202(m).

(g) *Public area.* No portion of any street right-of-way or public parking facility shall be considered as fulfilling or partially fulfilling area requirements for off-street parking space required by the provisions of this article.

(h) *Combination and shared parking.* The required parking space for any number of separate uses may be combined in one lot as long as the minimum number of spaces for each separate use is provided, except that the required space assigned to one use within a shopping center may be assigned to another use provided that the hours of operation for each use do not coincide or overlap and one-half of the parking spaces required for churches, theaters or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.

(i) *Remote parking space.* If the off-street parking space required by this article for non-residential uses cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main pedestrian entrance to such principal use, provided such land is in the same ownership, by deed or long term, recorded lease, and that such land is zoned for commercial or industrial uses. In such cases, the applicant for a permit for the principal use shall submit with his application an instrument duly executed and acknowledged, which subjects said land to parking use in connection with the principal use.

(j) *Existing parking facilities.* Accessory off-street parking facilities in existence on the effective date of this ordinance and located on the same lot as the use served shall not hereafter be reduced below the minimum requirements of this article.

(k) *Residential parking limitation.* Where parking for more than five cars is permitted or required in residential districts, the lot may be used only for parking and not for any type of loading, sales, repair work, dismantling, servicing, or long-term storage, either of merchandise or vehicles.

(l) *Handicap parking.* Handicap parking shall be provided in accordance with the standards of the North Carolina Building Code and any other applicable Federal and/or State

**Sec. 102A-1303. Off-street loading.**

Off-street loading spaces accessory to uses permitted in any district shall be provided in accordance with the following regulations. The Chief Building Inspector shall determine the sufficiency of loading spaces permitted or required by this section.

(a) *Minimum requirements.* Off-street loading spaces shall be provided and permanently maintained by the owners or occupants of the following types of land uses on the basis indicated:

| <i>Use</i>  | <i>Required Space</i>   |
|---|---|
| <p>mail operations with a gross floor area of less than 20,000 square feet, and all wholesale and light industrial operations with a gross floor area of less than 10,000 square feet</p> | <p>one loading space</p>  |
| <p>mail operations, (including restaurant and dining facilities in hotels and office buildings) with a total usable floor area of 10,000 square feet or more devoted to such purposes</p> | <p>one loading berth for every 1,000 square feet of floor area requiring not more than ten spaces</p> |



ice buildings and hotels with a total usable floor area of 100,000 square feet or more devoted to such purposes shall have one loading space for every 100,000 square feet of floor area.

Industrial and wholesale operations with a gross floor area of 100,000 square feet or over and as follows:

|                                       |                              |
|---------------------------------------|------------------------------|
| 10,000 to 40,000 square feet          | one loading space            |
| above 40,000 to 100,000 square feet   | two loading spaces           |
| above 100,000 to 160,000 square feet  | three loading spaces         |
| above 160,000 to 240,000 square feet  | four loading spaces          |
| above 240,000 to 320,000 square feet  | five loading spaces          |
| above 320,000 to 400,000 square feet  | six loading spaces           |
| each 90,000 above 400,000 square feet | one additional loading space |

(b) *Location.* One or more loading berths or other space shall be provided for standing, loading, and unloading operations either inside or outside a building and on the same or adjoining premises with every structure erected after the enactment of this ordinance.

(c) *Screening.* All motor vehicle loading spaces abutting any residential district shall be completely screened.

(d) *Size.* A loading berth shall have minimum plan dimensions of 12 feet by 25 feet and 14 feet overhead clearance. A loading berth shall be sufficient to allow normal loading operations of a kind and magnitude appropriate to the use served thereby.

(e) *Access.* Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley, without hindering the movement of vehicles over a street or alley, and of pedestrians over a sidewalk.

(f) *Utilization.* Space allocated to any off-street loading space shall not, while so allocated, be used to satisfy the space requirements for any off-street parking spaces or access drives or aisles.

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## ARTICLE XIV SIGNS

### **Sec. 102A-1401. Purpose.**

The purpose of this article is to minimize any detrimental effects of signs on adjacent land uses, and to ensure that permitted signs do not become a public nuisance or hazard. All signs erected, altered, relocated, or maintained shall be in accordance with the provisions of this article. Where there is conflict between the provisions of this article and the provisions for signs elsewhere within the Town's Code of Ordinances, the more restrictive standard shall apply.

### **Sec. 102A-1402. Sign definitions.**

For purposes of interpreting this article, the following words and terms are herein defined:

(a) *Attached sign*: A sign connected to or painted on a wall and including signs connected to or otherwise displayed on or through a façade window. The following are not attached signs: wall identification signs and commemorative plaques not more than two square feet in area, memorial cornerstones or tablets providing information on building erection or commemorating a person or event, or unit identification signs.

(b) *Billboard*: A sign which directs attention to a business, industry, profession, commodity, service, or entertainment not conducted, sold, produced, or offered upon the premises upon which such sign is located.

(c) *Bulletin board*: A sign used to announce meetings, programs, occupants, purposes, operating hours, and other such information on the premises of churches, schools, auditoriums, libraries, recreation areas, and other such non-residential uses permitted in residential districts and on the premises of uses when located within the O&I(P) district.

(d) *Business sign*: A sign that directs attention to a business, industry, profession, commodity, service, or entertainment sold, produced, or offered upon the premises where such sign is located or to which it is attached.

(e) *Flashing sign*: Any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this article, any moving, illuminated sign shall be considered a "flashing sign." Such signs shall not be deemed to include time and temperature signs or public message displays using electronic switching, provided the message remains displayed for a minimum of eight seconds.

(f) *Freestanding sign*: Any sign supported wholly or in part by some structure other than the building or buildings housing the business to which the sign pertains. For purposes of this article, this definition shall not include "billboard" which is defined above.

(g) *Governmental sign*: Any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

(h) *Ground sign*: A freestanding sign suspended or supported by one or more uprights or braces anchored in the ground with no more than 30 inches clearance from the bottom of the sign to the ground below.

(i) *Identification sign*: A sign used to display only the name, address, crest or trademark of the business, individual, family, organization or enterprise occupying the premises; the profession of the occupant, the name of the building on which the sign is displayed, or the name of the owner(s) or developer(s). A directory sign is an identification sign with information on multiple occupants.

(j) *Informational sign*: Any on-premises sign containing no other commercial message, copy, announcement or decoration other than instruction or direction to the public. Such signs include, but are not limited to, the following: identifying restrooms, public telephones, automated teller machines, for lease, for sale, self-service, walkways, entrances and exits, freight entrances, traffic direction and prices.

(k) *Mechanical/Digital sign*: Any sign with changeable copy and the message changes in increments of at least eight seconds shall be allowed as a "sign" under the provisions of this article.

(l) *Obscene matter*: Any item with a context of a sexual nature depicting, describing or related to anatomical areas and sexual activities.

(m) *Pole sign*: A freestanding sign that is mounted on a pole or other support and does not meet the definition of "ground sign" above.

(n) *Portable sign*: Any sign not permanently attached to the ground or to a building or other structure and which, because of its relatively light-weight is meant to be transported from place to place. Such sign may or may not have changeable copy, may or may not be wired for lighting and may or may not have wheels. "Sandwich boards" are considered as portable signs.

(o) *Public information sign*: A sign usually erected on public property or right-of-way and maintained by a public agency that provides the public with information and in no way relates to a commercial activity including, but not limited to, speed limit signs, city limit signs, street name signs and directional signs.

(p) *Roof sign*: A sign displayed on and above the eaves of a building.

(q) *Sign*: Any words, lettering, parts of letters, figures, numerals, phrases, sentences, devices, designs, trade names, or trademarks by which anything is made known, such as the designation of any individual, business, commodity, product, service, or entertainment, which are visible from any public way and used to attract attention. The word sign does not include official notices posted by any public officer in performance of a public duty, or by any person in giving legal notice; nor does it include directional, warning, traffic, or informational structures required by or authorized by law, or by Federal, State or local authority.

(r) *Sign area*: The area of a sign mounted on a board or within a frame or box shall be the area of the board, frame or box. The area of a sign mounted directly on the wall of a building shall be the area within the outline of the actual shape of the sign. For individual letters or logos mounted on the wall of a building, the sum of the areas of each letter, measured from the exterior edges of the letter, will be the sign area. Sign area does not include support structures unless the coloration, lighting, etc. is designed to attract attention.

(s) *Sign height*: The vertical distance measured from the mean curb level to the level of the highest point of the sign, unless defined differently within this ordinance. In the case of a sign not adjoining a street or highway, the "height of a sign" is the vertical distance of the average elevation of the ground immediately adjoining the sign to the level of the highest point of the sign.

(t) *Special information sign*: A device used to give direction, without elaboration or advertising to a business or public use not located on the same premises as such use.

### **Sec. 102A-1403. Exempt signs.**

The following signs are exempt from regulation under this ordinance, except that lighted signs require an electrical permit:

(a) Governmental signs;

(b) Lights and decorations with no commercial message temporarily displayed on traditionally-accepted civic, patriotic or religious holidays;

(c) Signs located on the interior of buildings, courts, lobbies, stadiums or other structures which are not intended to be seen from the exterior of such buildings or structures;

(d) Signs affixed to motor vehicles and trailers used in the normal transport of goods or persons where the sign is incidental and accessory to the primary use of the vehicle or trailer;

- (e) Signs affixed to windows of vehicles displaying information on the terms of sale for such vehicles;
- (f) Signs not legible from a public or private street;
- (g) Flags of the governmental jurisdictions of the United States of America or the State of North Carolina, local governmental jurisdictions, foreign nations having diplomatic relations with the United States, and any other flags adopted or sanctioned by the Town Board of Commissioners, subject to U.S. Congressional protocol; and
- (h) Public information signs.

**Sec. 102A-1404. Signs permitted in any district.**

The following types of signs are permitted in all zoning districts subject to any specific requirement or prohibition provided herein for any particular zoning district.

(a) *Temporary real estate sales sign.* For the purpose of advertising a specific lot, building, or premises for sale, lease, or rent, temporary real estate sale signs, are permitted not exceeding eight square feet in area and provided only one such sign shall be displayed for each street abutting the lot, building or premise and set back at least five feet from any property line.

(b) *Temporary off-site real estate directional sign.* For the purpose of giving direction to property offered for sale, lease or rent that is located on a dead end street or cul-de-sac, a temporary directional real estate sign not exceeding two square feet in area is permitted after the real estate agent or property owner selling, leasing or renting his property obtains a permit for posting such sign. Only one double-faced directional real estate sign shall be permitted at the nearest intersection of the dead end street or cul-de-sac with a through street and such sign shall be set back at least five feet from the street right-of-way. The permit shall specify the address of the real estate offered for sale, lease or rent and shall expire 30 days after the date the permit is issued. A permit may be renewed for an additional 30 days at the discretion of the Chief Building Inspector provided that the renewal request is received by the Chief Building Inspector prior to the expiration of the initial permit and that the permit shall be renewed only once. Failure to obtain a permit prior to posting a directional real estate sign or failure to remove such sign as specified on the permit may be grounds for the denial of a permit or future permits under this provision. Signs permitted under this provision shall be subject to all other applicable provisions of this ordinance.

(c) *Temporary signs advertising real estate subdivisions.* For the purpose of advertising real estate subdivisions for which a plat has been officially approved and recorded, one sign is permitted at each main entrance to the development named on the sign, such sign not to exceed 32 square feet in area.

(d) *Temporary signs pertaining to construction.* For the purpose of identifying the firm or company involved in construction taking place on the lot, temporary signs are permitted for the duration of such construction, limited to one sign for each firm, company, or use, not exceeding 20 square feet for each sign and set back at least five feet from any property line.

(e) *Traffic control signs.* Signs which only regulate traffic on private property are permitted.

(f) *Transportation facilities signs.* For the purpose of identifying public transportation facilities, signs are permitted provided that such signs shall not contain advertising or related messages.

(g) *Special information signs.* For the purpose of giving directions and information, on-site signs pertaining to special uses where not otherwise permitted, and off-premises signs may be approved by the Board of Adjustment subject to a special use permit specifying the size, location, lighting, materials to be used, design, and display in accordance with Section 102A-1706. Such signs shall be limited to those which are necessary to inform the public as to location and information concerning facilities, institutions, business districts, fraternal orders and service clubs, or such other activity as the Board of Adjustment may judge to be beneficial to the total community.

(h) *Temporary political signs.* Temporary signs for political campaigns may be permitted in any district subject to the following conditions:

(1) No political campaign sign shall exceed 32 square feet in area and no freestanding sign shall exceed eight feet in height.

(2) Except for municipal campaign signs, no political campaign sign shall be erected for more than 75 days prior to the nomination, election or referendum which they purport to advertise. No municipal campaign sign shall be erected for more than 30 days prior to these same events.

(3) All political campaign signs shall be removed within seven days after the nomination, election or referendum.

(4) Nothing in this provision shall be construed to authorize the posting of political campaign signs upon trees, utility poles, traffic-control or street name signposts, lights or devices, or in any place or manner prohibited by the provisions of Section 102A-1408 or other provision of this ordinance.

(5) Political campaign signs shall not be erected on Town owned or other public property except as authorized by sub-section (6) below.

(6) Political campaign signs erected on Election Day at officially designated polling places other than those polling places designated as "One Stop Voting" polling places are

permitted for a period not to exceed 24 hours provided the signs are located in accordance with regulations of the Board of Elections. For the "One Stop Voting" polling places, campaign signs are permitted during the entire voting period and shall be removed within 24 hours of the close of the election for which the sign purports to advertise.

(7) All political campaign signs shall be located no closer than 15 feet from edge of pavement of any right-of-way.

(i) *Temporary sign; failure to comply.* If the Chief Building Inspector shall find that any temporary sign as authorized by this section, is in violation of this section, the Chief Building Inspector, or the inspector's designee, shall give written notice of such violation to the owner of the sign. If, upon receipt of same notice, the owner of such sign fails to remove or alter the sign so as to comply with the required standards within ten days of said notice, such sign may be removed by the Chief Building Inspector, or the inspector's designee, at the expense of the owner of the sign. The Chief Building Inspector may cause any sign or other advertising structure which creates an immediate risk of peril to persons or property to be promptly removed.

(j) *Special gate signs.* A permanent sign is permitted as an integral part of a gate or entrance structure which identifies a subdivision, group development or other special development approved under the provisions of this ordinance or Chapter 86, estate, farm, or other residential entity, provided there are not more than two signs for each main entrance, with a total sign area for each such entrance not to exceed 32 square feet. Under this provision, if such a special gate sign is utilized no other main entrance identification sign is permitted.

#### **Sec. 102A-1405. General site and sign specifications.**

(a) *Zoning permit required.* No sign requiring a permit shall hereafter be erected or attached to, suspended from or supported on a structure nor shall any existing sign be enlarged, replaced, or relocated until a zoning permit has been issued by the Chief Building Inspector.

(b) *Measurement of sign area.* The measurable area of the sign mounted on a board or within a frame box shall be the area of the board, frame or box. The measurable area of a sign mounted directly on the wall of a building shall be the area within the outline of the actual shape of the sign. For individual letters or logos mounted on the wall of a building, the sum of the areas of each letter, measured from the exterior edges of the letter is the measurable sign area. Signs that employ moving or extending parts shall be measured when moved or extended to form the largest possible silhouette. The total sign area for a double-faced or "V" type sign shall be measured on the largest face of the sign; however, advertising matter may be posted on both sides of such permitted signs, provided that any "V" type sign with a "V" angle of greater than 45 degrees shall be subject to



measurement of sign area on both sides. Sign area does not include support structures unless the coloration, lighting, etc. is designed to attract attention.

(c) *Freestanding sign location – all districts (excluding billboards).* Freestanding signs shall be set back from the existing road right-of-way (normally the front property line) or proposed future road right-of-way, whichever is the greater distance, according to the tables below. Freestanding signs shall be set back from all other property lines a minimum distance of five feet. In no instance shall a sign between the heights of three and 15 feet be permitted within 20 feet of the right-of-way line at the intersection of two streets. Freestanding signs may be placed on the same or separate support structures.

(1) *Ground signs.* The following table establishes the minimum setback requirements for ground signs provided that all other requirements of this article are complied with:

| Sign Height                            | Minimum Setback from R/W Line                                 |
|--|---|
| 15 feet                                | 5 feet  |
| Greater than 15 feet and up to 30 feet | 5 feet  |
| Greater than 30 feet                   | 5 feet, plus 1 foot for each foot of height exceeding 30 feet |

(2) *Pole signs.* Pole signs, in addition to all other requirements of this article, shall be setback a minimum of five feet from the existing or proposed right-of-way line provided that no portion of the sign projects any closer than two feet, measured in horizontal distance, from the proposed or existing right-of-way line. Also, pole signs shall maintain a minimum clearance of nine feet over any pedestrian areas and 14 feet over any vehicular paths. Pole signs shall not exceed a maximum sign height of 30 feet unless specifically otherwise allowed within this article. Pole signs more than 100 feet in height shall be set back from any property line a distance of one foot for each foot of height above ground level when otherwise allowed within this article.

(d) *Maintenance and appearance.* All signs together with braces, guys, and supports shall at all times be maintained in a safe condition and kept in good repair, free from excessive rust, corrosion, peeling paint, or other surface deterioration.

(e) *Signs facing residential districts.* Illuminated signs shall be so placed as not to be a nuisance to residents of neighboring residential property.

(f) *On-site interference.* The location and structural design of freestanding signs shall be such as to not interfere with the safe and efficient use of off-street parking and loading areas including aisle ways and access driveways.

(g) *Unsafe and unlawful signs.* If the Chief Building Inspector shall find that any sign is unsafe or is a menace to the public or has been constructed, erected or is being maintained in violation of this ordinance, the inspector shall give written notice of such violation to the owner of the sign or the owner of the property where the sign is located.

If the owner of the sign, or the property owner, fails to remove or alter the structure so as to comply with the required standards within 30 days after such notice, such sign may be removed or altered to comply by the inspector at the expense of the owner of the sign or the property owner. The Chief Building Inspector may cause any sign or other advertising structure which is an immediate peril to persons or property to be promptly removed by the sign owner or the property owner.

(h) *Cessation of purpose and removal.* Any sign now or hereafter existing which no longer advertises any bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent, or person having the beneficial use of the building or land or structure upon which such sign may be found. Such sign shall be removed within 30 days after written notification from the Chief Building Inspector except that temporary activities sign posting shall be removed by the permittee within seven days following the date of termination of such events. Upon failure to comply with any notice within the time specified the zoning inspector is authorized to cause removal of such sign, and any expense incident thereto shall be paid by the owner of the sign or the property owner of the land on which the sign is located.

(i) *Signs permitted in conjunction with legal nonconforming uses.* Any legal nonconforming use in any district may maintain such business signs as would be allowed for such use in the most restrictive district in which the use would be permitted, or such signs as are existing at the time the use becomes nonconforming, whichever is the most restrictive with regard to sign size.

#### **Sec. 102A-1406. Signs permitted by district.**

In addition to the aforementioned signs the following are also permitted:

(a) *Residential and conservancy districts.*

(1) *Dwelling identification sign.* One identification sign not exceeding two square feet in area is permitted for each residential dwelling unit. For one- and two-family dwelling units identification signs shall be at least five feet from any street or property line. For multi-family dwelling units, identification signs shall be mounted flat to the main wall of the building. Identification signs may be illuminated but non-flashing and motionless.

(2) *Large scale residential development signs.* A permanent sign is permitted as an integral part of an entrance structure which identifies a subdivision, group development or other special development, estate, farm or other residential entity, provided there are not more than two signs for each main entrance, with a total sign area for each such entrance not to exceed 32 square feet in area. Such signs may be lighted, but non-flashing and motionless and located according to the criteria in Section 102A-1405, but not less than five feet from any street right-of-way line.

(3) *Agricultural product signs.* In the zoning districts that allow agriculture or rural farm use, signs advertising agricultural products produced on the premises are permitted, provided there are no more than two such signs, each of which shall not exceed 12 square feet in area. In any instance where the products sold are seasonal or temporary, such signs shall be removed within 30 days of cessation of the activity advertised. This section shall not apply to any property exempt under the bona fide farm provisions of Section 102A-109.

(4) *Institutional, commercial and industrial signs located in residential and conservancy districts.* Any institutional, commercial or industrial use, which is a permitted, special or conditional use in a residential or conservancy district, may erect and maintain signs as follows:

a. One freestanding sign not to exceed 100 square feet in area shall be permitted. If more than one principal use is conducted on the same site, or in the same building, each additional principal use shall be permitted one freestanding sign not to exceed 50 square feet in area.

b. Freestanding signs shall be located in accordance with the criteria found in Section 102A-1405.

c. Attached signs for all principal uses on the site shall not exceed 50 square feet in area. If there is more than one principal use, the property owner will determine the allocation of attached sign area.

(b) *Professional, commercial and industrial districts.*

(1) Signs for uses permitted in the O&I(P) district shall be regulated as follows:

a. One freestanding sign not to exceed 50 square feet in area will be allowed per building. Freestanding signs shall be located in accordance with the criteria found in Section 102A-1405.

b. One attached sign not to exceed 20 square feet in area will be allowed per building. Attached signs may be placed on any side of the building.

(2) *C1(P) planned local business district.* Signs in the C1(P) district shall be regulated as follows:

a. One freestanding sign not exceeding 100 square feet in area is allowed for sites with a maximum of five occupants. Sites with more than five occupants may have an additional 10 square feet maximum area for each occupant over five, with a total maximum freestanding sign area not to exceed 200 square feet. Freestanding signs shall be located in accordance with the criteria found in Section 102A-1405.

b. One attached sign per occupant is allowed. Attached signs shall not exceed one square foot in area for each front foot of structure the occupant occupies. Attached signs may be placed on any side of the building.

(3) *C2(P) planned retail and service district and C(P) planned commercial district.* Except for billboards (off-premises) signs which are regulated by Section 102A-1407, signs in the C2(P) and C(P) districts shall be regulated as follows:

a. Sites with no more than two occupants may have one freestanding sign. This sign shall have a maximum size of 100 square feet in area. Sites with more than two occupants but less than ten occupants may have two freestanding signs. Each sign shall have a maximum size of 100 square feet in area. Sites with more than ten occupants may have two freestanding signs, each with a maximum size of 100 square feet in area; or one freestanding sign with a maximum size of 200 square feet in area. Sites with more than ten occupants may have an additional ten square feet of freestanding sign area for each occupant over ten, with a total maximum freestanding sign area not to exceed 400 square feet. On corner lots, one additional freestanding sign is allowed on the side street frontage, not to exceed 100 square feet in area. Freestanding signs shall be located in accordance with the criteria found in Section 102A-1405.

b. One attached sign is allowed per occupant, not to exceed two square feet in area for each front foot of structure that the occupant occupies. In the event a strip shopping center is designed in such a manner that the end unit or end units front the right-of-way and the store front faces an internal parking lot, the end unit or end units may place one additional attached sign on the side facing the right-of-way, provided that the overall combined square footage of the attached signs do not exceed two square feet in area for each front foot of the structure that the occupant occupies. On sites where a canopy exceeds the building size, the canopy size may be used to determine the permitted attached sign area. Attached signs may be placed on any side of the building.

c. Detached business signs with no height limitation are allowed when located within 1,500 feet of an interstate (I-95) and when said signs are in excess of 100 feet in height these signs shall not be limited in area when located within 1,500 feet of an interstate (I-95) exit ramp, measured at the ramp's outer intersection with a town or state road.

(4) *M1(P) planned light industrial district.* Signs in the M1(P) district shall follow the same dimensional and setback criteria as for signs being located in the C(P) planned commercial district.

(5) *M(P) planned industrial district.* Except for billboards (off-premises signs) which are regulated by Section 102A-1407, signs in the M(P) district shall be regulated as follows:

a. One freestanding sign is allowed at each main entrance to the site. The total entrance signage shall not exceed a maximum sign area of 500 square feet with each individual entrance sign not exceeding a maximum sign area of 300 square feet. On corner lots, one additional freestanding sign is allowed on the side street frontage, not to exceed 100

square feet in area. Freestanding signs shall be located in accordance with the criteria found in Section 120A-1405.

b. One attached sign is allowed per occupant, not to exceed two square feet in area for each front foot of structure that the occupant occupies. On sites where a canopy exceeds the building size, the canopy size may be used to determine the permitted attached sign area. Attached signs may be placed on any side of the building.

### **Sec. 102A-1407. Billboards (off-premises signs).**

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

#### *a. General provisions.*

1. Billboards shall be allowed only along rights-of-way with full-control or limited control of access, such as freeways and major thoroughfares;
2. Billboards shall not face or be oriented toward any adjoining or abutting residentially-zoned or residentially-used property and shall not be located within 200 feet of a residential zoning district boundary line;
3. Billboards shall not exceed a sign height of 35 feet;
4. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C(P) planned commercial district, upon approval of a special use permit (Section 102A-1706), and M(P) planned industrial district, upon approval of the site plan (Article XV) as a permitted use, provided that the dimensional criteria outlined below is complied with; and
5. All Federal, State, and other local regulations shall be complied with.

#### *b. Dimensional criteria by district.*

1. *C(P) planned commercial districts.* Billboards constructed and located in this zoning district shall have a maximum sign area of 500 square feet and shall be located at least 50 feet from a street right-of-way line; five feet from any property line not a right-of-way line; 50 feet from any other freestanding sign, building or structure on the same lot; and be a minimum of 500 feet from another billboard.
2. *M(P) planned industrial district.* Billboards constructed and located in this zoning district shall have a maximum sign area of 700 square feet and shall be located at least 50 feet from a street right-of-way line; five feet from a property line, not a of-way line; 50 feet from any other freestanding sign, building or structure on the same lot; and be a minimum of 500 feet from another billboard.

**Sec. 102A-1408. Signs prohibited.**

Erection or maintenance of signs having any of the following characteristics is prohibited:

a. *Signs not to constitute traffic hazards.* No sign or advertising structure shall be erected or maintained at the intersection of any street or road so as to obstruct free and clear vision; or at any location where, by reason of the position, illumination, shape or color, it may impair, obstruct the view or be confused with any authorized traffic sign, signal or device; or that makes use of the words "stop," "look," "drive-in," "danger" or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic. In any case, signs shall be prohibited within 20 feet of a street intersection measured to the intersection of the two nearest street lines.

b. *Signs erected on public streets.*

1. No sign shall be erected or maintained within any public street right-of-way nor be allowed to extend into any public street.

2. This section shall not apply to public signs necessary in the performance of a governmental function or required to be posted by law.

3. This section shall not apply to large scale residential signs approved by the Board of Commissioners pursuant to this subsection.

(a) The Board of Commissioners may, but is not required to, approve the location of up to two such signs per subdivision entrance, provided that the Board makes the following findings of fact:

(1) The primary or final plat for the subdivision in which the sign(s) will be located was approved prior to the effective date of this ordinance;

(2) The sign(s) will be located upon a public right-of-way median(s) that is owned, maintained or otherwise controlled by the Town;

(3) The sign(s) will comply with the requirements of Sec. 102A-1406(a)(2);

(4) The propose sign location(s) is [are] outside the line of sight for vehicles on the road; and

(5) The proposed sign location(s) will not otherwise impair the safety of the general travelling public.

(b) Signs approved pursuant to this subsection shall comply, to the extent reasonably possible, with all setback requirements for public rights-of-way and other applicable setbacks.

(c) Unless other arrangements are made by the Board of Commissioners, any sign approved pursuant to this subdivision shall be maintained in good condition by the person, persons, or entity requesting the sign, or their successors or assigns. The town may at any time, with or without notice, remove signs approved pursuant to this subdivision that are not adequately maintained or are allowed to deteriorate.

c. *Object or device attached to items for sale.* Any object or device made of any material that is displayed, affixed, attached, in any manner on items that are intended for sale, including, but not limited to, banners, official or unofficial flags, pennants, balloons, and streamers.

d. *Obstruction of ingress or egress of building.* No sign shall be erected or maintained that obstructs ingress and/or egress to or from any window, door, fire escape, stairway, ladder or opening intended to provide light, air, ingress or egress to or from any room or building as required by law.

e. *Obscene matter prohibited.* No sign shall be erected or maintained which bears or contains statements, words or pictures of an obscene character.

f. *Signs on private property; consent required.* No sign may be erected by any person on the private property of another person without first obtaining the verbal or written consent of such owner.

g. *Portable signs.* Portable signs as defined in Section 102A-1402.

h. *Flashing signs.* Flashing signs as defined in Section 102A-1402.

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## **ARTICLE XV PLANNED DISTRICTS**

### **Sec. 102A-1501. General objectives.**

This article recognizes that through ingenuity, imagination, and quality design community development can be improved. All planned zoning districts shall be subject to site plan review and approval prior to application for any permits. The careful review of development plans by the Town and County Planning Staff is a process that will:

- (a) Permit creative approaches to the development of land, reflecting changes in the technology of land development;
- (b) Provide for an efficient use of land, which can result in smaller networks of utilities and streets and thereby lower development costs;
- (c) Provide and ensure an environment of stable character compatible with surrounding land uses;
- (d) Accomplish a more desirable environment than would otherwise be possible; and
- (e) Enhance the appearance of the community.

### **Sec. 102A-1502. Detailed site plan specifications.**

In any planned district, permits shall not be issued by the Chief Building Inspector except in conformance with a detailed plan submitted to the County Planning Staff, reviewed by the Town and County Planning Staff and approved by the Board of Commissioners. Plans for approval shall be in the number as required by the County Planning Director, drawn to an engineering scale of not less than one inch equaling 200 feet, and shall show all information necessary for proper evaluation of the plan, including:

- (a) The dimensions and location of the property, all existing and proposed structures, including any existing and/or proposed freestanding signs, and existing and proposed rights-of-way;
- (b) The parking and general circulation plan, including entrances, exits, pedestrian ways, and lateral access to adjoining commercial or industrial properties where practical.
- (c) The service area, including off-street loading facilities, service drives, and dimensions thereof and proposed uses of all structures;
- (d) The proposed location and material of fences, walls, buffer and landscaping; and

(e) The name of the developer, the date, the scale, the north arrow-Parcel Identification Number, general vicinity sketch map, and the person or firm preparing the plan.

**Sec. 102A-1503. Site plan review.**

Plans for development shall be submitted to the County Planning Staff and shall be processed in accordance with the schedule adopted by the Board of Commissioners. The County Planning Staff shall ensure the plan is in compliance with this ordinance and Chapter 86 if applicable, and shall provide copies to the Town Staff for their review and comment.

The burden shall be on the developer to show that their plans are in the best interests of the community and the users of the proposed developments. Site planning of the proposed development shall provide protection of the development from potentially adverse surrounding influences, and protection of surrounding areas from potentially adverse influences within the development. The development plan shall show, and careful review shall be given to, the following information:

- (a) Proposed land uses, the location of various land uses, their types, and densities;
- (b) Proposed circulation pattern for vehicles and pedestrians including providing for the interconnectivity of drives and parking areas by means of lateral access;
- (c) Proposed parks, and other common open space areas, proposed means of dedication of any common open space areas and organizational arrangements for the ownership, maintenance, and preservation of common open space;
- (d) Delineation of the units or phases to be constructed in progression;
- (e) Relation to land uses in surrounding areas and to the general development plan;
- (f) The layout of motor vehicle parking and loading areas, service areas, entrances, exits, yards, courts, landscaping, location of freestanding signs, and method control of lighting, noise or other potentially adverse influences in order to protect the residential character within and/or adjacent to the planned development;
- (g) The yard setbacks and type of buffering and/or screening various land uses;
- (h) The plan shall note and the developer shall ensure that all utilities are placed underground, except for 25kv or greater electrical lines; and
- (i) Extension and connection to public water and/or sewer, if extension and connection would be required under the provisions of Chapter 86. If the development consists of

non-residential uses or mixed use and utilities are present within the right-of-way or if any adjacent lot is served by utilities, extension and connection is mandatory.

Upon the Planning and Town Staff review, the combined staff recommendations shall be forwarded to the Board of Commissioners; the staff shall either recommend approval of the site plan and state the conditions of recommendation, if any, or shall recommend disapproval of the site plan and state its reasons.

**Sec. 102A-1504. Board of Commissioners' consideration.**

The Board of Commissioners shall hear and approve the plan and state the conditions of the approval, if any, or shall disapprove the plan and state its reasons. Where a development plan meets the provisions of Chapter 86, approval of the development plan shall constitute preliminary subdivision plan approval for the purposes of Chapter 86. The decision of the Board of Commissioners shall be the final decision on the plan. The approved plan shall be filed with the Chief Building Inspector and may be amended in the same manner as provided for original plan approval.

The Board of Commissioners may approve alternate yard setbacks for developments in any planned zoning district if such approval will provide a more logically planned development. The Board shall give careful consideration to the relation and effect on the surrounding properties and the intent of this ordinance prior to granting such approval.

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## ARTICLE XVI AMENDMENTS

### Sec. 102A-1601. Submission of amendments and changes.

The Board of Commissioners may amend, supplement, change, modify, or repeal the provisions of this ordinance, including but not limited to: its regulation of, or the number, area, boundaries and classifications of the zoning districts, upon petition, recommendation of the Zoning Board, or on its own motion, after public notice and hearing as provided by law. No amendment shall become effective unless and until it is first submitted to, considered by and reported on from the Zoning Board and thereafter approved by the Board of Commissioners. The following provisions shall govern submissions for amendment of this ordinance.

(a) *Submission of petition.* Petitions for amendments to this ordinance shall be submitted in the form prescribed by the County Planning Staff. Submissions by the Board of Commissioners, Zoning Board or the Town Manager on their own initiative shall state the proposed amendment succinctly.

(b) *Schedule for public hearings.* All petitions for amendments may be set for public hearing to be considered for recommendation by the Zoning Board, and then shall be heard at public hearing and decided by the Board of Commissioners according to their adopted regular meeting schedule.

(c) *Revisions to petitions.* Once the initial review of the petition for amendment has been reviewed by the County Planning Staff or the Town Staff, and the petition is found to be inaccurate, incomplete or requires revision, or if the applicant of his own accord desires to make a change in the application for the petition, the petition may be rescheduled to the next available scheduled hearing.

(d) *Notice to military bases.* All requests for amendments that would change or affect the permitted uses of land located five miles or less from the perimeter boundary of Fort Bragg, Pope Air Force Base, and/or Simmons Army Airfield shall be provided to the Commander of said bases.

(e) *Zoning map amendments.* An ordinance shall provide for the manner in which zoning regulations and the boundaries of zoning districts are to be determined, established, and enforced, and from time to time amended, supplemented, or changed, in accordance with the provisions of GEN. STAT. §160D-602. The owners of affected parcels of land and the owners of all parcels of land abutting that parcel shall be mailed a notice of the hearing on a proposed zoning map amendment by first-class mail at the last addresses listed for such owners on the county tax abstracts. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the hearing.

After initial adoption of a zoning regulation, all proposed amendments to the zoning regulation or zoning map shall be submitted to the planning board for review and comment. If no written report is received from the planning board within 30 days of referral of the amendment to that board, the governing board may act on the amendment without the planning board report. The governing board is not bound by the recommendations, if any, of the planning board.

(f) *Down-zoning.* No amendment to zoning regulations or a zoning map that down-zones property shall be initiated or is it enforceable without the written consent of all property owners whose property is the subject of the down-zoning amendment, unless the down-zoning amendment is initiated by the local government. The term "down-zoning" refers to a zoning ordinance that affects an area of land in one of the following ways:

1. By decreasing the development density of the land to be less dense than was allowed under its previous usage;
2. By reducing permitted uses of the land that are specified in a zoning ordinance or land development regulation to fewer uses than were allowed under its previous usage.

#### **Sec. 102A-1602. Planning and Town Staff recommendation.**

Upon submission of a complete petition for amendment of this ordinance, the County Planning Staff and the Town Staff shall review the petition and the request and make a recommendation to the Zoning Board. The staff shall take into consideration, among other related issues, the following factors when considering criteria for their recommendation:

- (a) The appropriateness of the request in relation to, and the request's consistency with the current Land Use Plan for the subject area;
- (b) The availability of public services, to include utilities, schools, fire, police, recreation, etc.;
- (c) The suitability of the request as related to the nature of the surrounding land area and any foreseeable effects on the surrounding area;
- (d) The policies of the Zoning Board and Board of Commissioners in similar cases;
- (e) The effect of the request regarding environmental concerns;
- (f) Any changed conditions or circumstances in the area of a proposed change since any previous zoning action;

- (g). Whether the proposed amendment would correct an inadvertent mistake; and
- (h) The reasonableness of the proposed request for all small-scale rezoning.

**Sec. 102A-1603. Zoning Board hearing and recommendation.**

- (a) The Zoning Board, upon receipt of a proposed amendment, by petition or otherwise, and upon a recommendation from the County Planning Staff and the Town Staff, shall consider each proposed amendment and may hold public hearing, public notice of which shall be given, for such consideration. Upon petition or other proposal for an amendment of the ordinance for the purpose of establishing a conditional use district or specifically changing the classification of an existing district or part thereof, the Zoning Board may consider amending the ordinance to provide a classification or reclassification other than that specifically requested or recommended, provided that the notice to landowners and notice of public hearing state that classifications or reclassifications other than that requested may be considered. If, upon receipt of a proposal to reclassify one type of general zoning district to another, or the Zoning Board proposes, or has a proposal from the Board of Commissioners, to consider establishment of a conditional use district, it must refer such proposal to the owners of the property to be included in such district for submission of a petition in accordance with the provisions of Article V hereof; no consideration of such a proposal shall occur unless and until such a petition is received. The Planning Board will be consulted to consider any plan adopted according to N. C. GEN. STAT. § 160D-501 when making a comment on plan consistency.
- (b) Following consideration of proposed amendments, supplements, changes, modifications or repeal of provisions of this ordinance, the Zoning Board shall report all proposals it has considered to the Board of Commissioners along with a statement addressing consistency of the request with the current Land Use Plan and with its recommendation thereon. Failure of the Zoning Board to make a report and recommendation within 30 days after hearing a petition for a specific amendment shall constitute a favorable report and recommendation for such amendment.

**Sec. 102A-1604. Board of Commissioners' hearing and final disposition.**

- (a) Upon receipt of reports and recommendations from the Zoning Board concerning proposed amendments, supplements, changes, modifications or repeal provisions of this ordinance, the Board of Commissioners shall schedule a public hearing, upon notice to landowners of proposed action and notice of the public hearing as required by law, and therefore shall approve or deny the proposed action. A failure to approve a proposed action shall constitute a denial of the proposal.

(b) The Board of Commissioners may approve an amendment of this ordinance to provide a classification or reclassification of a zoning district or part thereof, other than that specifically requested by a petitioner, provided that the notice to landowners and the notice of public hearing required by law states that classifications or reclassifications other than that requested will be considered and further provided that the Zoning Board has considered other such classifications or reclassifications and reported on them to the Board of Commissioners. If such notice or such consideration has not been accomplished, the Board of Commissioners shall refer its proposal to amend this ordinance in a way other than that proposed by the petitioner to the Zoning Board for further action in accordance with this ordinance.

(c) To approve any amendment, supplement, change, modification or repeal of any provisions of this ordinance, the Board of Commissioners shall address the consistency of the action with the current Land Use Plan; and make a finding and determination, entered in the minutes of the meeting, that such action is reasonable, neither arbitrary or unduly discriminatory and in the public interest. Consideration of any ~~conditional use district conditional district~~ is governed by Article V of this ordinance.

(d) Notice of approval of any amendment for an industrial zoning district within 660 feet of the right-of-way of interstate or primary highways shall be sent by registered mail to the North Carolina Department of Transportation in accordance with N. C. GEN. STAT. § 136-153.

#### **Sec. 102A-1605. Petitions for amendments limited; reapplication limited.**

After the initial zoning process in a zoning area, a petition to amend this ordinance so as to reclassify property in that area may be submitted at any time. After the first such petition has been submitted, regardless of the outcome thereof, no subsequent petition, by the same or other persons, to reclassify the same property or any portion thereof, whether in conjunction with other property or not, shall be considered earlier than one full calendar year after the date of the last public hearing before the Board of Commissioners on the most recent prior application to reclassify such property or portion thereof. A petition to amend this ordinance so as to reclassify property may be withdrawn without establishing a new one year time limit only by a written instrument submitted to the County Director of Planning or the Town Manager prior to the first official notification to the public concerning the petition. If the instrument withdrawing a petition to reclassify property is received after such first notification of the public, the decision to allow the withdrawal without further hearing must be voted on by the Zoning Board or the Board of Commissioners, dependent upon the status of the application at the time the instrument requesting withdrawal is received. The foregoing time limits on petitions to reclassify property shall not apply to amendments of any nature initiated by the Zoning Board or Board of Commissioners.



**Sec. 102A-1606. Protest petitions.**

In the event of a qualified protest against a zoning map amendment, the amendment shall not become effective except by favorable vote of three-fourths of all the members of the Board of Commissioners. For the purposes of this sub-section, vacant positions on the board and members who are excused from voting shall not be considered "members of the board" for calculation of the requisite supermajority. To qualify as a protest under this section, the provisions of N. C. GEN. STAT. § 160D-102, 108(d), 603 shall apply.

**Sec. 102A-1607. Statement of Reasonableness.**

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, (1) the size, physical conditions, and other attributes of the area proposed to be rezoned, (2) the benefits and detriments to the landowners, the neighbors, and the surrounding community, (3) 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, (4) why the action taken is in the public interest, and (5) any changed conditions warranting the amendment.

**Sec. 102A-1608. Plan-Consistency Statement.**

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 a zoning amendment may be considered concurrently. The plan consistency statement is not subject to judicial review.

## ARTICLE XVII BOARD OF ADJUSTMENT

### **Sec. 102A-1701. Establishment.**

The Board of Commissioners, pursuant to N.C. GEN. STAT. § ~~160D-1-9(d), 302, 403(b), 405, 406, 702, 703, 1405~~, does establish a Board of Adjustment. Such board shall consist of at least five members appointed by the Board of Commissioners, with membership providing for a means of proportional representation of the Town's territorial jurisdiction. The appointments shall be for staggered terms. Subsequent or new reappointments shall be for three-year terms; all appointments to fill vacancies shall be for the unexpired term. The Board of Commissioners shall also appoint three alternate members to serve on the Board of Adjustment in the absence of any regular member. Alternate members shall be appointed in the same manner as regular members and at the regular time for appointment. Each alternate member, while attending any regular or special meeting of the Board of Adjustment and serving in the absence of any regular member, shall have and exercise all the powers and duties of any regular member absent from the meeting. All members and alternate members shall be residents of the Town and shall serve without pay.

### **Sec. 102A-1702. Proceedings.**

The Board of Adjustment shall elect a chairman and vice-chairman from among its members, who in turn may appoint a secretary. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman is authorized in his official capacity to administer oaths and compel the attendance of witnesses in any matter coming before the board. Any member of the board while temporarily acting as chairman shall have and exercise like authority. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The board shall also keep records of its examinations and official action.

### **Sec. 102A-1703. Powers and duties.**

The Board of Adjustment shall have the powers, authority and duty to:

(a) Act in all matters relating to the administrative review of any order, requirement, decision or determination made by the Town Manager, Chief Building Inspector or other administrative official regarding enforcement of this ordinance;

(b) Vary or modify any of the provisions of this ordinance relating to the use, construction, or alteration of buildings or structures and minimum standards of individual uses

contained within this ordinance, in accordance with Section 102A-1705, where there are unnecessary hardships in the way of carrying out the strict letter of this ordinance, so that the spirit of the ordinance shall be observed, public safety and welfare secured, and substantial justice done;

(c) To grant permit exceptions, called "special uses," in the classes of cases or situations and in accordance with the principles, conditions, safeguards, and procedures specified in Section 120A-1706;

(d) Interpret the official zoning maps and pass upon disputed questions of lot lines or district boundary lines and similar questions as they arise in administration of this ordinance. ~~Current and prior zoning maps will be maintained in paper and digital format, as well as any state or federal agency maps incorporated by reference into the zoning map;~~

(e) Rule on matters concerning nonconforming uses as to their continuance or discontinuance, expansion, reconstruction and, in general, compliance with this ordinance.

(f) Rule on matters related to the Phase II Stormwater Post-Construction as provided for in Section 67-91 of the Town's Code of Ordinances;

(g) Rule on matters related to Floods as provided for in Section 42-110 of the Town's Code of Ordinances; and

(h) Rule on matters related to Housing as provided for in Chapter 50, Town Code of Ordinances.

~~(i) Rule on objections to inclusion or exclusion of administrative material in an evidentiary hearing.~~

~~(j) Allow parties with standing to participate fully in an evidentiary hearing, including presenting evidence, cross-examining witnesses, objecting to evidence, and making legal arguments.~~

#### **Sec. 102A-1704. Administrative review.**

Appeals may be taken to the Board of Adjustment by any person aggrieved or by an officer, department, committee, or board of the Town affected by any decision of an administrative official charged with the enforcement or interpretation of this ordinance thought to be in error. Such appeals shall be filed with the Board of Adjustment by notice specifying the grounds for appeal. Appeal shall be filed within 30 days from the date of the action being appealed. The officer from whom the appeal is taken ~~shall appear as a witness in the appeal~~ and forthwith transmit to the Board of Adjustment all the papers constituting the record upon which the action appealed from was taken, together with any

additional written reports or documents, as he deems pertinent. The Board of Adjustment may after public hearing, so long as such action is in conformity with the terms of this ordinance, reverse or affirm, wholly or in part, or may modify any order, requirement, decision, or determinations as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken. **The Board of Adjustment shall pause all enforcement actions, including fines, during an appeal.**

#### **Sec. 102A-1705. Variance.**

The Board of Adjustment may authorize in specific cases such variances from the terms of this ordinance upon request of a property owner or his authorized agent and may require any evidence necessary to make a determination of the case. Before the board may grant any variance, the board must find that all of the following conditions exist for an individual case:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district;
- (b) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located;
- (c) The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located;
- (d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare;
- (e) The special circumstances are not the result of the actions of the applicant;
- (f) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure;
- (g) The variance is not a request to permit a use of land, building or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries;
- (h) The existence of a nonconforming use of neighboring land, buildings or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for approval of the requested variance. In granting a variance, the board may attach, and the record shall reflect such conditions regarding the location, character and other features of the proposed building, structure or use as it may deem advisable. The record shall also state in detail any exceptional difficulty or unnecessary hardship upon which the request was based and which the board finds to exist;

(i) A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one calendar year from the date of such approval. The Board of Adjustment is not authorized to grant variances to a conditional use permit issued in conjunction with a ~~conditional use district~~ conditional district rezoning or to the specific conditions or other performance criteria imposed upon such use. If the board denies the variance request, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider re-submission of the application for the same variance request on the same property without a substantial material change concerning the property and the application.

#### **Sec. 102A-1706. Special use permits.**

The various special uses set forth in the use matrix in Article IV, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the Board of Adjustment in accordance with the standards and conditions as set forth in this section.

(a) *Purpose.* Permitting special uses adds flexibility to this ordinance. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.

(b) *Procedure.* Special use permits shall be granted by the Board of Adjustment as permitted for only those uses enumerated in Section 102A-403 (use matrix) as special uses. Uses specified as a special use in Section 102A-403 shall be permitted only upon the issuance of a special use permit by the Board of Adjustment.

The owner or owners of all property included in the petition for a special use permit shall submit a complete application and five copies of a detailed site plan (drawn in accordance with the specifications listed in Section 102A-1503) to the County Planning Staff. The staff will schedule the application to be heard by the Board of Adjustment in accordance with the adopted time schedule. The Town Clerk shall also notify the commanders of the military bases of any application affecting the use of property located within five or less miles of the perimeter boundary of said bases.

Developers are encouraged to discuss their special use plans with the County Planning and Town Staff prior to submission of the application. The staff shall assist the developer upon request by reviewing special use plans to ensure that the technical requirements of this ordinance are met before submission to the Board of Adjustment.

(c) *Consideration of application.* The Board of Adjustment shall consider the application, site plan and any other evidence presented in accordance with this article and may grant or deny the special use permit requested. In granting a special use permit, the board shall find that:

(1) The use will not materially endanger the public health or safety if located according to the plan submitted and proposed;

(2) The use meets all required conditions and specifications;

(3) The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

(4) The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Hope Mills' most recent and officially adopted land use plan, either comprehensive or a detailed area plan.

(d) *Final disposition.* In granting approval of a special use permit, the Board of Adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare and public interest. In granting a special use permit, the Board of Adjustment shall give due consideration to:

(1) The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;

(2) The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;

(3) The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;

(4) The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;

(5) The added noise level created by activities associated with the proposed use;

(6) The requirements for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;

(7) Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;

- (8) The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;
- (9) The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;
- (10) The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;
- (11) The availability of public facilities and utilities;
- (12) The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and
- (13) The reasonableness of the request as compared to the purpose and intent of the most recent land use plan, this ordinance, and officially adopted policies, for the physical development of the district, and protection of the environment.

All such additional conditions shall be entered in the minutes of the meeting, at which the special use permit is granted, on the special use permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the special use permit, their heirs, successors, and assigns. ~~The Board of Adjustment shall obtain the applicant's written consent to conditions related to a special use permit to ensure enforceability.~~ The applicant for the special use permit is responsible for the recordation of the *Notice of Special Use Permit* with the County Register of Deeds prior to application for any zoning/building permit.

If the board denies the special use permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the Board of Adjustment shall not consider re-submission of the application for the same special use permit on the same property without a substantial material change concerning the property and the application.

(e) *Expiration of permits.* Any special use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one calendar year from the date of such approval. Furthermore, once the *Certificate of Occupancy* has been issued for a special use and then the special use ceases to exist for a time period of one calendar year or more, a re-submittal of the special use application for the same use may be required if there has been a material change in the ordinance standards.

(f) *Modifications to plans.* The Board of Adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a special use application, and new conditions may be imposed where findings require. The County Planning and Town Staff may approve minor modifications of the approved plans in the same manner

as authorized in Section 102A-508 for conditional use permits, provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.

(g) *Noncompliance.* If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, the special use permit shall be null and void and of no effect, and the County Planning or Town Staff shall institute proceedings for the case to be reheard by the Board of Adjustment.

Compliance with all the conditions of a special use permit is an essential element of the special use permit's continued validity and effectiveness. If the Chief Building Inspector determines that a permittee has failed to comply with a condition of an approved special use permit, they shall so notify the permittee or the permittee's successor in interest and shall place the matter on the Board of Adjustment's agenda for the board's decision whether or not to revoke the special use permit. Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the Board of Adjustment shall be a final decision, and a decision to revoke the special use permit may be appealed to the Superior Court of Cumberland County within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the Board of Adjustment's decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the Board of Adjustment's approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the Board of Adjustment's decision hereunder.

(h) *Appeals.* No appeal may be taken from the action of the Board of Adjustment in granting or denying a special use permit except through the Superior Court of Cumberland County in the same manner as set forth in this article for appeal of any Board of Adjustment decision.

#### **Sec. 102A-1707. Hearings.**

Any variance or special use permit application considered by the Board of Adjustment requires a quasi-judicial hearing. All other applications considered by the board shall be considered in the manner in which the governing regulation establishes. The board shall fix a reasonable time for hearing and give public notice as well as due notice to the parties in interest. Each quasi-judicial hearing shall follow quasi-judicial requirements including sworn testimony, the reliance on competent evidence, the right to question witnesses, avoiding ex parte contact and bias and matching up evidence to findings of fact. At the hearing, any person or party may appear in person or by agent or attorney. The board shall take action on all matters within a reasonable time after the termination of the proceedings.



**Sec. 102A-1708. Required vote.**

The concurring vote of four-fifths of the members of the board shall be necessary to grant a variance. Decisions for all matters not a variance shall be made by the majority vote of the board members..

**Sec. 102A-1709. Reversal of decision.**

After a public hearing has been held and approval granted for a special use or variance, the Board of Adjustment may reverse any decision without a public hearing upon finding that the:

- (a) Approval was obtained by fraud;
- (b) Use for which such approval was granted is not being executed;
- (c) Use for which such approval was granted has ceased to exist or has been suspended for one year or more;
- (d) Permit granted is being, or recently has been, exercised contrary to the terms of conditions of such approval or in violation of any regulation or statute; or
- (e) Use for which the approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance.

**Sec. 102A-1710. Appeal of final decision.**

Any decision of the board is subject to review by the Superior Court by proceedings in the nature of certiorari. The aggrieved party shall file a *Notice of Intent to Appeal* with the County Planning Staff on the next business day following the meeting in which the board's decision was made final, or the next business day following receipt of the written copy thereof and delivery is made to every aggrieved party, whichever is later. Any petition for review by the Superior Court shall be filed with the Clerk of Superior Court within 30 calendar days after the decision of the board is made final. The decision of the board may be delivered to the aggrieved party either by personal service or by registered mail or certified mail, return receipt requested.

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Town of Hope Mills

- 140 -

Zoning Ordinance  
Adopted: October 20, 2008

## ARTICLE XVIII LEGAL PROVISIONS

### **Sec. 102A-1801. Severability clause.**

If any article, section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Board of Commissioners hereby declares that it would have passed this ordinance and each article, section, sub-section, sentence, clause and phrase thereof individually, irrespective of the fact that any one or more articles, sections, sub-sections, sentences, clauses, or phrases be declared invalid.

### **Sec. 102A-1802. Vested rights.**

The purpose of this section is to implement the provisions of N. C. GEN. STAT. ~~160D-102~~ ~~108, 108.1~~ pursuant to which a statutory zoning vested right is established upon the approval of a site-specific ~~development vesting~~ plan. Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

#### *(a) Establishment zoning vested right.*

(1) A zoning vested right shall be deemed established upon the valid approval, or conditional approval, by the Board of Commissioners or Board of Adjustment, as applicable, of a site specific development plan, following notice and public hearing.

(2) The approving authority may approve a site specific development plan upon such terms and conditions as may reasonably be necessary to protect the public health, safety and welfare.

(3) Notwithstanding sub-sections (1) and (2) of this sub-section, approval of a site specific development plan with the condition that a variance be obtained shall not confer a zoning vested right unless and until the necessary variance is obtained.

(4) A site specific development plan shall be deemed approved upon the effective date of the approval authority's action relating thereto.

(5) The establishment of a zoning vested right shall not preclude the application of conditional use zoning that imposes additional requirements attached to the permit but does not affect the allowable type or intensity of use, or ordinances or regulations that are general in nature and are applicable to all property subject to land-use regulation by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical

codes. Otherwise applicable new or amended regulations shall become effective with respect to property that is subject to a site specific development plan upon the expiration or termination of the vested right in accordance with this article.

(6) A zoning vested right is not a personal right, but shall attach to and run with the applicable property. After approval of a site-specific ~~development~~ ~~vesting~~ plan, all successors to the original landowner shall be entitled to exercise such right while applicable.

(7) ~~A development containing 25 acres or more, with vesting up to seven years—known as a multi-phased development—will adhere to a submittal process for development permit approval in more than one phase. It will also be subject to a master development plan with committed elements showing the type and intensity of use of each phase.~~

(b) *Approval procedures and approval authority.*

(1) Except as otherwise provided in this section, an application for site specific development plan approval shall be processed in accordance with the procedures established by ordinance and shall be considered by the designated approval authority for the specific type of zoning or land use permit or approval for which application is made.

(2) Notwithstanding the provisions in this section, if the authority to issue a particular zoning or land use permit or approval has been delegated by code to a board, committee or administrative official other than the Board of Commissioners or the Board of Adjustment, in order to obtain a zoning vested right, the applicant must request in writing at the time of application that the application be considered and acted on by the Board of Commissioners or Board of Adjustment, following notice and a public hearing as provided in N. C. GEN. STAT. § ~~160D-601~~.

(3) In order for a zoning vested right to be established upon approval of a site specific development plan, the applicant must indicate at the time of application, on a form to be provided by the Town, that a zoning vested right is being sought.

(4) Each map, plat, site plan or other document evidencing a site specific development plan shall contain the following notation:

“Approval of this plan establishes a zoning vested right under N. C. GEN. STAT. ~~160D-102~~ ~~103-108~~, unless terminated at an earlier date, the zoning vested right shall be valid until \_\_\_\_\_.”

(5) Following approval or conditional approval of a site-specific ~~development~~ ~~vesting~~ plan, nothing in this section shall exempt such a plan from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approval are not inconsistent with the original approval.

(6) Nothing in this section shall prohibit the revocation of the original approval or other remedies for failure to comply with applicable terms and conditions of the approval or this ordinance.

(c) *Duration.*

(1) A zoning right that has been vested as provided in this section shall remain vested for a period of ~~two years to five years~~ unless specifically and unambiguously provided otherwise pursuant to subsection (2) of this sub-section. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approval authority at the time the amendment or modification is approved.

(2) Notwithstanding the provisions of sub-section (1) of this sub-section, the approval authority may provide that rights shall be vested for a period exceeding two years but not exceeding five years where warranted in light of all relevant circumstances, including, but not limited to, the size of the development, the level of investment, the need for or desirability of the development, economic cycles, and market conditions. These determinations shall be in the sound discretion of the approval authority at the time the site specific development plan is approved.

(3) Upon issuance of a building permit, the expiration provisions of N. C. GEN. STAT. § ~~160D-403(c), 111~~ and the revocation provisions of N. C. GEN. STAT. § ~~160D-403(f), 111~~ shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. ~~Otherwise, all building permits are valid for six months, as under prior law.~~

(d) *Termination.* A zoning right that has been vested as provided in this section shall terminate:

(1) At the end of the applicable vesting period with respect to buildings and uses for which no valid building permit applications have been filed;

(2) With the written consent of the affected landowner;

(3) Upon findings by the Board of Commissioners, after notice and public hearing, that natural or manmade hazards on or in the immediate vicinity of the property, if uncorrected, would pose a serious threat to the public health, safety, and welfare if the project were to proceed as contemplated in the site specific development plan;

(4) Upon payment to the affected landowner of compensation for all costs, expenses, and other losses incurred by the landowner, including, but not limited to, all fees paid in consideration of financing, and all architectural, planning, marketing, legal, and other consultant's fees incurred after approval by the Town, together with interest thereon at the legal rate until paid. Compensation shall not include any diminution in the value of the property which is caused by such action;

(5) Upon findings by the Board of Commissioners, after notice and hearing, that the landowner or his representative intentionally supplied inaccurate information or made material misrepresentations which made a difference in the approval by the approval authority of the site specific development plan; or

(6) Upon the enactment or promulgation of a State or Federal law or other regulation that precludes development as contemplated in the site specific development plan, in which case the approval authority may modify the affected provisions, upon a finding that the change in State or Federal law or other regulation has a fundamental effect on the plan, after notice and hearing.

(e) *Voluntary annexation.* A petition for annexation filed with the Town under N. C. GEN. STAT. § 160A-31 or N. C. GEN. STAT. § 160A-58.1 shall contain a signed statement declaring whether or not any zoning vested right with respect to the properties subject to petition has been established under N. C. GEN. STAT. § ~~160D-102, 108~~; 108.1. A statement declaring that no zoning vested right has been established under N. C. GEN. STAT. § ~~160D-102, 108, 108.1~~ or the failure to sign a statement declaring whether or not a zoning vested right has been established, shall be binding on the landowner and any such zoning vested right shall be terminated.

(f) *Limitations.* Nothing in this section is intended or shall be deemed to create any vested right other than those established pursuant to N. C. GEN. STAT. § ~~160D-102, 108, 108.1~~.

### **Sec. 102A-1803. Violations.**

(a) *Statutory authority.* This ordinance may be enforced by any appropriate equitable action, including but not limited to, injunction and abatement, in addition to any other remedy authorized by N. C. GEN. STAT. § ~~160D-404(c)~~.

(b) *Notice of civil citation Notice of violation.* When staff determines work or activity has been undertaken in violation of a development regulation adopted pursuant of N.C. GEN. STAT. § 160D-404(a) or other local development regulation or any State law delegated to the local government for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first-class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the local government that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. The citation shall also state the monetary penalty and the right of the offender to appeal the violation that is the

basis of the citation to the Board of Adjustment within ten days from the date of service of the citation.

(c) *Responsible parties.* The owner, lessee, tenant or occupant of any building or land or part thereof and any architect, builder, contractor, agent or any other person who participates in, assists, directs, creates or maintains any violation of the provisions of this ordinance may be held responsible for the violation and be liable for the penalties and be subject to the remedies provided below.

(d) *Separate offense.* Each day that any violation continues after notification by the Chief Building Inspector that such violation exists shall be considered a separate offense for purposes of penalties and remedies specified herein.

(e) *Appeal of citation.* If the offender files notice of appeal to the Board of Adjustment within the ten-day time period established in (b) above, the appeal shall stay the collection of the penalty so imposed as well as the corrective action prescribed in the citation. Appeals to the Board of Adjustment shall be administered as provided in Article XVII; however, the time for perfecting the appeal shall be ten days as hereinbefore stated. A violation of this ordinance may not be appealed to the Board of Adjustment if the offender did not perfect an appeal to the Board of Adjustment within the ten-day time period set forth herein.

(f) *Emergency enforcement.* Notwithstanding the forgoing, in cases where delay would seriously threaten the effective enforcement of this ordinance or pose a danger to the public health, safety or welfare, the Chief Building Inspector may seek enforcement of this ordinance without prior written notice by invoking any of the penalties or remedies herein authorized.

(g) *Revocation of Development Approvals.* In addition to initiation of enforcement actions under N.C. GEN. STAT. § 160D-404(f), development approvals may be revoked by the local government issuing the development approval by notifying the holder in writing stating the reason for the revocation. The local government shall follow the same development review and approval process requirement for issuance of the development approval, including any required notice or hearing, in the review and approval of any revocation of that approval.

#### **Sec. 102A-1804. Penalty.**

A person who violates any of the provisions of this ordinance shall be subject to revocation of any permits and a civil penalty in the sum of \$500.00 following the issuance of a civil citation. The penalty shall be recovered by the Town in a civil action if the offender fails to pay the penalty to the Finance Director, Town of Hope Mills, 5770 Rockfish Road, Hope Mills, North Carolina 28348, within ten calendar days after being cited for the violation. The civil action of recovery shall be in the nature of an action to recover a debt and shall include as an additional sum to be recovered the full costs of the action, including but not

limited to, filing, service and attorney fees. Second and subsequent violations shall subject the offender to a \$500.00 penalty. Nothing in this section shall preclude the enforcement of this ordinance pursuant to the all of the provisions of N.C. GEN. STAT. §14-4 where appropriate.

**Sec. 102A-1805. Amendment clause.**

This ordinance, upon its effectiveness as provided by law, amends in its entirety the previously existing Town of Hope Mills, Code of Ordinances, Chapter 102, Zoning (*circa* 1985), including all subsequent amendments to said previously existing ordinance, except where otherwise expressly stated within this ordinance.

**Sec. 102A-1806. Effective date.**

This ordinance shall be in full force and effect from and after its passage by the Board of Commissioners of the Town of Hope Mills, this the 20th day of October, 2008.





# CUMBERLAND COUNTY

NORTH CAROLINA

PLANNING & INSPECTIONS

PLANNING STAFF REPORT  
**Text Amendment CASE # P21-41**

**Jurisdiction: Town of Spring Lake**

## EXPLANATION OF THE REQUEST

This request is a town, staff-driven comprehensive text amendment to the Town of Spring Lake Zoning and Subdivision Ordinances to bring the current ordinances into compliance with the recently adopted Chapter 160D State Statutes. The Chapter 160D statutes were created to clarify terminology and modernize review processes, as well as address legal issues such as permit choice, staff and board conflict of interest, and appeal processes.

The statutes became effective June 19, 2020 with a deadline of July 1, 2021 for the updating of all local ordinances.

## STAFF RECOMMENDATION

In Case P21-41, the Planning and Inspections staff **recommends approval** of the text amendments and finds the request consistent with the 2030 Growth Vision Plan. While specific 2030 Growth Vision Plan policies do not address a comprehensive update to the Town of Spring Lake Zoning and Subdivision Ordinances, a current ordinance that is in compliance with the state statutes allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans for the Town of Spring Lake within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

## Chapter 36 - SUBDIVISIONS<sup>(1)</sup>

### ARTICLE I. - IN GENERAL

#### Sec. 36-1. - Purpose.

The purpose of this chapter is to establish regulations and procedures for the platting, recording, and development of real property within the town. The board of aldermen hereby finds that these regulations and procedures are necessary in order to:

- (1) Promote the orderly development of the town;
- (2) Provide for the coordination and dedication of streets and thoroughfares;
- (3) Provide for the dedication of land for other public purposes;
- (4) Ensure the proper installation of streets, public utilities, and other community facilities;
- (5) Promote the eventual elimination of unsafe and unsanitary conditions arising from improper land subdivision and development; and
- (6) Ensure proper description, identification, monumentation and recording for the public health, safety and general welfare.

(Code 1978, § 12.31; Code 1995, § 155.03; Ord. of 12-4-1970)

#### Sec. 36-2. - Compliance of chapter required.

All plans for the development of land shall conform to the requirements of this chapter and shall be submitted in accordance with the procedures and specifications established herein. Plans for group developments, zero lot line developments, and condominium developments shall be submitted for review and approval under this chapter in the same manner as other plans. For manufactured home park regulations, see chapter 10, article V.

Per G.S. 160D-108(b), if this chapter is amended between the time a development permit application was submitted and a development permit decision is made or if this chapter is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(Code 1978, § 12.35; Code 1995, § 155.04; Ord. of 12-14-1970; Ord. No. 2007-3, § 155.04, 11-26-2007)

#### Sec. 36-3. - Jurisdiction.

This chapter shall control the subdivision of land, as defined herein, lying within the corporate limits planning and development regulation of the town [corporate limits and extraterritorial jurisdiction] as now or hereafter established per G.S. 160D, Article 8.

(Code 1978, § 12.34; Code 1995, § 155.05; Ord. of 12-4-1970)

#### Sec. 36-4. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative decision. Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as "ministerial" decisions or "administrative determinations."

Administrative hearing. A proceeding to gather facts needed to make an administrative decision.

Administrative officer. The person, officer, or official or his authorized representative, whom the Board of Alderman has designated as its agent for administration of this chapter.

Buffer means a maintained sight-obscuring fence, wall, or vegetated earth berm, or a sight-obscuring hedge or other natural plantings of comparable opacity, or a combination of the above, as further specified in this ordinance or section 42-228, Buffers. The purpose of such is to provide a transition between developments, in order to protect each development from possible negative effects likely to be caused by or associated with each other. ~~a site-obscuring fence or wall or a site-obscuring hedge or other natural plantings of comparable opacity. When planted, the natural planting shall have an initial height of at least three feet and such variety that an average height of six feet could be expected by normal growth within four years from the time of planting.~~

Building rear yard means a line parallel to the rear property line, extending across the full width of the lot, thus creating a rear yard in which no principal structure shall be built.

Building setback line means the minimum distance from all property and/or right-of-way lines to the closest projection of the exterior face of buildings, walls or other forms of construction (i.e., decks, landings, terraces, and porches, etc.). ~~means a line parallel to the front property line, extending across the full width of the lot, thus creating a front yard in which no structure shall be built.~~

Building side yard means a line parallel to the side property line extending across the full depth of the lot, thus creating a side yard in which no principal structure shall be built.

Condominium (unit ownership) development means a project of two or more units in one or more multi-unit buildings designed and constructed for unit ownership as permitted by the North Carolina Unit Ownership Act when approved under the requirements for condominium developments set forth in section 36-73.

Comprehensive plan. A comprehensive plan that has been officially adopted by the Board of Aldermen pursuant to G.S. 160D-501.

Crosswalk means a right-of-way, dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

Decision-making board. A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this ordinance.

Determination. A written, final, and binding order, requirement, or determination regarding an administrative decision.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development. Any of the following:

(a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

(b) The excavation, grading, filling, clearing, or alteration of land.

(c) The subdivision of land as defined in G.S. 160D-802.

(d) The initiation or substantial change in the use of land or the intensity of use of land.

Development approval. An administrative or quasi-judicial approval made pursuant to this ordinance that is written and that is required prior to commencing development or undertaking a specific activity.

project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this ordinance, or a local act or charter that regulates land use or development.

Evidentiary hearing. A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this ordinance.

Governing board. The Spring Lake Board of Aldermen. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and means any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

Group development means a group of two or more principal structures built on a single lot, tract or parcel of land of at least 40,000 square feet and designed for occupancy by separate families, business firms, or other enterprises and as regulated in section 36-71, except see chapter 10, article V, for mobile home park regulations.

Health department means the Cumberland County Health Department.

Highway commission means the North Carolina State Highway Commission.

Landowner or owner. The holder of the title in fee simple. Absent evidence to the contrary, the town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

Legislative decision. The adoption, amendment, or repeal of a regulation under this ordinance or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. 160D.

Legislative hearing. A hearing to solicit public comment on a proposed legislative decision.

Lot means a parcel of land occupied or intended for occupancy by a principal structure or group of principal structures together with any accessory structures, including such yards, open spaces, width, and area as required by this chapter, either shown on a plat of record or, if created prior to adoption of this chapter, described by metes and bounds and recorded with the register of deeds, a portion of a subdivision or any other parcel of land intended as a unit for transfer of ownership or for development or both. The term "lot" includes plot, tract, and the like.

- (1) Lot, corner, means a lot abutting upon two or more streets or roads (including platted or provided but unopened streets or roads) at their intersection. A lot abutting a curved street or streets shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an angle of less than 135 degrees.
- (2) Lot, interior, means a lot other than a corner lot.
- (3) Lot lines means the property lines bounding a lot.
- (4) Lot measurements.
  - a. Depth of the lots shall be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

- b. Width of lots shall be the distance between straight lines connecting front and rear lines at each side of the lot measured across the building line.

(5) *Lot, through*, means an interior lot having a frontage on two streets.

Person means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity.

Planning and development regulation jurisdiction. The geographic area defined in Part 2 of G.S. 160D within which the Town may undertake planning and apply the development regulations authorized by this ordinance.

Planning board or board means the Cumberland County Joint Planning Board, and any board or commission established pursuant to G.S. 160D-301.

Planning director means the Director of Planning of the Cumberland County Joint Planning Board.

Principal structure means the primary building, purpose or function that a parcel or structure serves or is intended to serve, means a structure in which is conducted the principal use of the lot on which it is situated.

Property. All real property subject to land-use regulation by the town. The term includes any improvements or structures customarily regarded as a part of real property.

Public water and/or sewer systems means and includes municipal, sanitary district, community, and privately owned water and/or sewer systems as regulated and controlled by the North Carolina State Utilities Commission and the health department.

Quasi-judicial decision. A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

Site plan means a scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.

Street means a public or private right-of-way which affords the principal means of access to abutting properties, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except an alley, means a public right-of-way for vehicular traffic. The term "street" includes, but is not limited to, road, freeway, expressway, and thoroughfare.

(1) *Cul-de-sac* means a local street permanently terminated by a turn-round.

(2) *Freeways and expressways*. The primary function of freeways and expressways is to move large volumes of interurban, intercounty and interstate traffic. They are not intended to serve the abutting property and therefore should provide limited access with grade separations at all intersections. They should be at least four-lane divided facilities permitting as high an average operation speed as legal and should connect the major economic, recreation and population centers of the county with those of the state and nation.

- (3) *Local street* means a local street designed primarily for access to abutting properties.
- (4) *Major thoroughfares*. Primarily for the movement of heavy volumes of traffic, major thoroughfares should form connections with all the industrial, commercial, and population centers within the county and with the major roads in neighboring counties. Depending upon anticipated traffic volumes and adjacent development they may be two-lane, four-lane or more lane undivided, or four-lane or more lane divided facilities with either limited or controlled access and with major intersections separated. Though their primary function is to serve traffic, they may also serve abutting property with controlled access.
- (5) *Marginal access street* means a local street which parallels and is immediately adjacent to a major thoroughfare, freeway, or expressway, and which provides access to abutting property and protection from through traffic.
- (6) *Minor thoroughfares (collectors)*. The main function of the minor thoroughfares is to collect traffic from the local roads and carry it to the major thoroughfares. They should be designed to serve a limited area with no access control or grade separation.
- (7) *Official thoroughfare plan* means any thoroughfare plan that has been adopted by the board of aldermen.

*Subdivision*. A subdivision shall include all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions, for the purpose, whether immediate or future, of sale or building development and shall include all divisions of land involving the dedication of a new street or a change in existing streets; provided, however, that the following shall not be included within this definition nor be subject to the regulations authorized by this part, but shall have the ~~planning board's stamp of "No Approval Required"~~ before filing with the register of deeds office:

- (1) The combinations or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to or exceed the standards of the town as shown in this chapter;
- (2) The division of land into parcels greater than five acres where no street right-of-way dedication is involved;
- (3) The public acquisition by purchase of strips of land for the widening or opening of streets;
- (4) The division of a tract in single ownership whose entire area is no greater than two acres into not more than three lots, where no street right-of-way dedication is involved and where the resultant lots are equal to or exceed the standards of the town as shown in this chapter;
- (5) The division of a tract into parcels in accordance with the terms of a probated will or in accordance with intestate succession under Chapter 29 of the General Statutes.
- (65) Mobile home park development and maintenance is exclusively regulated by chapter 10, article V. For permissible mobile home park locations, see sections 42-35 through 42-37 and 42-63.

*Townhouse development* consists of single-family residential structures on individual lots where the developer may reduce the size of such lots while maintaining applicable overall density standards for the zoning district in which it is located.

*Vested right* means the right to undertake and complete development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-108 or under common law.

*Zero lot line development* means a development including, but not limited to, patio houses, townhouses and businesses including one or more structures and/or two or more lots comprising at least two single-family residences or businesses, whether attached or detached, intended for separate ownership.

~~*Zoning vested right* means law a right to undertake and complete the development and use of property under the terms and conditions of an approved specific site plan or approved phased development plan.~~

(Code 1978, § 12.37; Code 1995, § 155.06; Ord. of 12-4-1970; Ord. of 11-25-1991; Ord. No. 2007-3, § 155.06, 11-26-2007)

Sec. 36-5. - Plat approval.

No subdivision plat of land as defined in section 36-4, within the jurisdiction of this chapter, shall be filed or recorded until it shall have been submitted to and approved by the board of aldermen or administrative officer as hereinafter provided and no land shall be sold or transferred by reference to a subdivision plat, except those recorded prior to the effective date of the ordinance from which this chapter is derived, that has not been approved and recorded in accordance with the provisions of this chapter.

(Code 1978, § 12.36; Code 1995, § 155.07; Ord. of 12-4-1970)

Secs. 36-6—36-28. - Reserved.

ARTICLE II. - PROCEDURE FOR SECURING APPROVAL OF SUBDIVISIONS

Sec. 36-29. - Preapplication sketch plan.

Whenever a subdivision is proposed to be made and before any improvements shall be made, including grading, the subdivider shall cause a preliminary plat to be prepared. The preliminary plat shall comply fully with this chapter and with the health, zoning, and other applicable ordinances in effect at the time the plat is submitted for preliminary approval. Before filing a preliminary plat for review by the board of aldermen, the subdivider is ~~encouraged to~~ shall submit a preapplication sketch plan to the building inspector/administrative officer for criticisms and suggestions to review for compliance with this ordinance.

(Code 1978, § 12.38; Code 1995, § 155.20; Ord. of 12-4-1970)

Sec. 36-30. - Preliminary plat; submission; approval; effect of approval.

- (a) Upon review of compliance of the sketch plan by the administrative officer, eEach applicant for preliminary plat approval shall pay ~~\$50.00 to the town~~ fee determined by the board of aldermen, which shall issue a receipt therefor, which sum shall be applied to the expense of processing the application, including advertising, and shall not be refunded.
- (b) Six copies of the preliminary plat, in such form as required by section 36-128, shall be submitted to the ~~building inspector~~ administrative officer at least 30 days prior to a regularly scheduled meeting of the board of aldermen at which subdivision plats are considered. ~~One copy of the plat shall be forwarded to the county planning department for review. The planning department shall make recommendations for conditions of approval to the town manager.~~
- (c) The board of aldermen shall conduct an evidentary public hearing and review ~~provide a quasi-judicial decision on the preliminary plat and the recommendations for conditions of approval submitted by the county planning department to determine its compliance with this ordinance, applicable zoning regulations and officially adopted comprehensive plans.~~ No preliminary plat shall be approved by the Board of Aldermen unless it complies with the following findings of fact:
  - (1) All applicable provisions and standards of this ordinance and the Town's zoning land development ordinance are met;
  - (2) The plan provides adequate infrastructure (transportation, utilities, drainage, etc.) in accordance with this ordinance and other applicable local, state or federal requirements. and shall negotiate with the subdivider for required changes in order that the subdivision shall comply with the provisions of this chapter.

- (d) Every quasi-judicial decision shall be based upon competent, material, and substantial evidence in the record. Each quasi-judicial decision shall be reduced to writing, reflect the board's determination of contested facts and their application to the applicable standards, and be approved by the board and signed by the chair or other duly authorized member of the board. A quasi-judicial decision is effective upon filing the written decision with the clerk to the board or such other office or official as the development regulation specifies. The decision of the board shall be delivered within a reasonable time by personal delivery, electronic mail, or first-class mail to the applicant, landowner, and any person who has submitted a written request for a copy prior to the date the decision becomes effective. The person required to provide notice shall certify to the town that proper notice has been made, and the certificate shall be deemed conclusive in the absence of fraud.
- (e) ~~Where agreement is reached between approval is granted by the board of aldermen and the subdivider and where preliminary plat approval is granted, the subdivider shall have zoning a vested rights for a period of two years. The subdivider may then proceed to construct improvements in accordance with the requirements of sections 36-128 and 36-129 and to prepare and submit the final plat.~~

(Code 1978, §§ 12.39, 12.40; Code 1995, § 155.21; Ord. of 12-4-1970; Ord. of 11-25-1991)

Sec. 36-31. - Final plat; subdivision; approval; recording.

- (a) The final plat shall conform to the preliminary plat as approved. The subdivider may submit as a final plat that portion of the approved preliminary plat which he proposes to develop immediately; provided, that unless the final plat is submitted to the board of aldermen for final approval within two years from the date on which preliminary plat approval was granted, such action on the preliminary plat shall become void.
- (b) ~~Six copies of the final plat, in such form as required by section 36-129, shall be submitted to the building inspector administrative officer at least ten days prior to a regularly scheduled meeting of the board of aldermen at which subdivision plats are considered to review from compliance with this ordinance and applicable zoning regulations. The building inspector shall review the final plat for compliance with the provisions of this chapter and other such specifications as agreed upon at the time the preliminary plat was approved by the board of aldermen.~~
- (c) ~~At its meeting the board of aldermen shall review such plat for compliance with the provisions of this chapter. No final plat shall be approved until the improvements specified by the approval of the preliminary plat and required by sections 36-105 through 36-107 have been installed or assured to be installed in accordance with section 36-32.~~
- (d) ~~Within 30 days following approval of the final plat by the board of aldermen administrative officer, the subdivider shall cause the recording of the final plat in the office of the register of deeds of the county. Failure of the subdivider to cause the recording of the final plat in the office of the register of deeds within 30 days after final approval by the board of aldermen administrative officer shall cause such final approval to be null and void.~~

(Code 1978, §§ 12-41, 12.42, 12.44; Code 1995, § 155.22; Ord. of 12-4-1970; Ord. of 11-25-1991)

Sec. 36-32. - Guarantee of improvements.

Per G.S. 160D-804.1, in lieu of requiring the completion, installation, and dedication of all improvements prior to final plat approval the town may enter into an agreement with the subdivider whereby the subdivider shall agree to complete all required improvements. The subdivider shall be allowed to choose which security or combination of securities that he/she wishes to provide from the choices provided below. The Town shall not have the authority to dictate which form of security will be accepted as an improvement guarantee, and shall be required to offer a range of options of types of improvements guarantees from which the subdivider may choose. Once said agreement is signed by both



parties and the security required herein is provided, the final plat may be approved by the administrative officer if all other requirements of this ordinance are met. To secure this agreement, the subdivider shall provide, subject to the approval of the administrative officer, either one, or a combination of the following guarantees not exceeding 1.25 times of the reasonably estimated cost of completion at the time the performance guarantee is issued:

1. Surety bond issued by any company authorized to do business in this State.
2. Letter of Credit issued by a financial institution licensed to do business in this State.
3. Other form of guarantee that provides equivalent security to a surety bond or letter of credit.

The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. Final plats of subdivisions may be approved by the board of aldermen after the subdivider has complied with one of the following procedures:

~~(1) All required improvements have been installed by the subdivider in accordance with the requirements of this chapter;~~

~~(2) A surety bond or certified check has been posted by the subdivider, payable to the town upon default, in an amount determined by the building inspector to assure installation of the required improvements. The subdivider and the building inspector shall set a reasonable time by which it is estimated the improvements can be installed and completed. Unless an extension of that time is granted by the building inspector and a new estimated date of completion established, the town shall make necessary steps to proceed with the accomplishment and completion of the improvements, making use of the certified check or calling upon the surety of the bond;~~

~~(3) An irrevocable letter of credit, in a form approved by the town attorney, issued by a bank or other lending institution or a deposit of funds in escrow, may be accepted in lieu of bond or check under the same terms and conditions; or~~

~~(4) The board of aldermen may approve the first and succeeding sections of an approved preliminary plat, submitted as final plats without installation of improvements or financial guarantee of improvements, with the provision that final plat approval of any succeeding section of the subdivision will be withheld until the required improvements have been installed in the section 36-31(b) and (c). Final plats approved under this procedure shall be limited to a maximum of 25 lots in size or 50 percent of the gross area of the approved preliminary plat remaining preliminary form prior to submission, whichever is the lesser. A final plat of the last section of a subdivision submitted under this procedure or a final plat constituting an entire subdivision may be of any size and shall be granted final approval only under a procedure stated in subsections (1) through (3) of this section.~~

~~(Code 1978, § 12.43; Code 1995, § 155.23; Ord. of 12-4-1970)~~

The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the town that the improvements for which the performance guarantee is being required are complete. The town shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to town acceptance. When required improvements that are secured by a bond are completed to the specifications of the town, or are accepted by the town, if subject to its acceptance, upon request by the developer, the town shall timely provide written acknowledgement that the required improvements have been completed

Secs. 36-33—36-52. - Reserved.

ARTICLE III. - MINIMUM STANDARDS OF DESIGN

Sec. 36-53. - Conformance of proposed subdivisions.

All proposed subdivisions shall be so planned as to facilitate the most advantageous development of the entire community and shall bear a reasonable relationship to existing or amended plans of the board of aldermen.

(Code 1978, § 12.45; Code 1995, § 155.35; Ord. of 12-4-1970)

Sec. 36-54. - Minimum width of proposed street.

The proposed street system shall extend existing or proposed streets at the same or greater width, but in no case less than the required minimum width, provided that no extension wider than 80 feet shall be required. ~~Where, in the opinion of the board of aldermen, it is desirable~~necessary, to meet the purpose of this chapter, to provide for street access to adjoining property, proposed streets shall be extended by dedication to the boundary of such property.

(Code 1978, § 12.46; Code 1995, § 155.36; Ord. of 12-4-1970)

Sec. 36-55. - Through traffic layout to be discouraged.

Minor residential streets shall be laid out so as to discourage through traffic.

(Code 1978, § 12.47; Code 1995, § 155.37; Ord. of 12-4-1970)

Sec. 36-56. - Thoroughfare plans.

Where any portion of a subdivision lies within the proposed right-of-way of any major street or road shown on an officially adopted thoroughfare plan of the town, the street shall be dedicated in the location and width shown on the official plan, provided that no dedication wider than 80 feet shall be required and provided that no dedication shall be required where right of direct access from abutting property is denied.

(Code 1978, § 12.48; Code 1995, § 155.38; Ord. of 12-4-1970)

Sec. 36-57. - Access to unsubdivided property.

The proposed street system shall be designed to provide for the dedication of access to and not to impose undue hardship upon unsubdivided property adjoining the subdivision. Reserve strips adjoining street right-of-way for the purpose of preventing access to adjacent property shall not be permitted.

(Code 1978, § 12.49; Code 1995, § 155.39; Ord. of 12-4-1970)

Sec. 36-58. - ~~Lots intended for~~located in commercial and industrial zones ~~uses only~~.

Commercially and industrially zoned lots may be arranged in convenient units of width and to a depth that is appropriate to the development contemplated, provided that the minimum requirements for lots, blocks and zoning are met.

(Code 1978, § 12.50; Code 1995, § 155.40; Ord. of 12-4-1970)

Sec. 36-59. - Street names.

Proposed street names shall not duplicate nor closely approximate phonetically the name of any street within the county. Where proposed streets are extensions of existing streets, the existing street names shall be used, except where a new name can reasonably be used to avoid further street name duplication.

(Code 1978, § 12.51; Code 1995, § 155.41; Ord. of 12-4-1970)

Sec. 36-60. - Alleys.

A reservation or easement for an alley to the rear of the business lots may be required, provided that a comprehensive plan for the entire block in which the property is located, establishes the need for such reservation or easement. Alleys shall not be provided in residential blocks except where the subdivider produces evidence satisfactory to the board of aldermen of the need for alleys.

(Code 1978, § 12.52; Code 1995, § 155.42; Ord. of 12-4-1970)

Sec. 36-61. - Half streets.

Whenever an existing half street is adjacent to a tract of land to be subdivided, the other half of the street shall be dedicated or shown as an easement for conditional future dedication within the new subdivision. New half streets are prohibited except when essential to the reasonable development of the subdivision in conformity with the other requirements of these regulations and where it will be practicable to require the dedication of the other half when the adjoining property is subdivided.

(Code 1978, § 12.53; Code 1995, § 155.43; Ord. of 12-4-1970)

Sec. 36-62. - Marginal access streets.

When a tract of land to be subdivided adjoins a limited access highway, the subdivider may be required to provide a marginal access street parallel to the highway or reverse frontage on an interior street for the lots to be developed adjacent to the highway.

(Code 1978, § 12.54; Code 1995, § 155.44; Ord. of 12-4-1970)

Sec. 36-63. - Easements.

To provide for existing or future service poles, underground electric and communication lines, public utilities, conduits, drainage facilities, and water and sewer lines, an easement not less than ten feet wide, five feet on each side of the common rear lot line or in other locations where necessary, shall be provided. No building or other permanent obstruction, not including fences, shall be erected on any easement required under this chapter. Where the property to be subdivided is traversed by a watercourse, drainageway, channel, or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse at a width not to exceed 40 feet for flood drainage purposes. Parallel streets may be required in connection therewith although other plattings may also be recognized as acceptable.

(Code 1978, § 12.55; Code 1995, § 155.45; Ord. of 12-4-1970)

Sec. 36-64. - Proposed school sites.

Per G.S. 160D-804, the reservation of school sites may be provided as approved by the Board of Aldermen. In order for this authorization to become effective, before approving such plans, the Board of

Aldermen and the Board of Education with jurisdiction over the area shall jointly determine the location and size of any school sites to be reserved. Whenever a subdivision is submitted for approval that includes part or all of a school site to be reserved under the plan, the Board of Aldermen shall immediately notify the board of education and the board of education shall promptly decide whether it still wishes the site to be reserved. If the board of education does not wish to reserve the site, it shall so notify the Board of Aldermen and no site shall be reserved. If the board of education does wish to reserve the site, the subdivision shall not be approved without such reservation. The board of education shall then have 18 months beginning on the date of final approval of the subdivision within which to acquire the site by purchase or by initiating condemnation proceedings. If the board of education has not purchased or begun proceedings to condemn the site within 18 months, the landowner may treat the land as freed of the reservation. Where a tract of land that has been approved by a school board as a proposed school site lies wholly or partially within an area proposed to be subdivided, and provided that the school board has notified the planning board and the property owner of its approval of the school site prior to board of aldermen action on the preliminary plat, the subdivider shall reserve the proposed school site for acquisition by the school board for a period of not more than 30 days from the date of the board of aldermen meeting at which time the plat is first considered.

(Code 1978, § 12.56; Code 1995, § 155.46; Ord. of 12-4-1970)

Sec. 36-65. - Access to parks, schools and other public places; specification.

Streets shall be designed or walkways dedicated to ensure convenient access to adjacent parks, playgrounds, schools and other public places. Dedicated walkways shall not be less than ten feet in width.

(Code 1978, § 12.57; Code 1995, § 155.47; Ord. of 12-4-1970)

Sec. 36-66. - Water and sewer systems.

- (a) Where public water and/or sewer systems are to be installed as part of the subdivision improvements, such systems shall be designed and installed in accordance with the standards and specifications of the town. In any subdivision which has either public water or public sewer systems, or both, available or to be made available within 200 feet of the subdivision boundary, water and/or sewer mains shall be extended by the subdivider to provide service to each lot in the subdivision.
- (b) Prerequisite to first plat approval, all lots on the plat to be recorded must be certified in writing by the health department to be large enough to meet health department minimum standards for on-site water and/or sewer systems where either or both of such systems are proposed to be used and permitted.

(Code 1978, §§ 12.58, 12.59; Code 1995, § 155.48; Ord. of 12-4-1970)

Sec. 36-67. - Lots subject to flooding; specifications.

Lots that are subject to flooding shall not be established in subdivisions for the purpose of creating residential building sites, except as herein provided:

- (1) No proposed residential building lot shown that is wholly subject to flooding, as determined by the administrative officer or board of aldermen in accordance with generally accepted engineering practice, shall be approved.
- (2) No proposed residential building lot that is partially subject to flooding shall be approved unless there is established on the plat a line representing on actual contour two feet above the 20-year flood line. Such line shall be known and identified on the plat as the building restriction flood line.

- a. All buildings or structures designed or intended for use for residential purposes shall be situated on such a lot so that the lowest usable and functional part of the structure shall not be below the elevation of the building restriction flood line. The term "usable and functional part of the structure" means and includes living areas, basements, sunken dens, basement utility rooms, attached carports, mechanical appurtenances such as furnaces, air conditioners, water pumps, electrical conduits and wiring, but shall not include water lines, or sanitary sewer traps, piping and cleanouts, provided openings serving the structure are above the building restriction flood line.
  - b. Where a residentially zoned building lot is partially subject to flooding, such lot may be approved only if there will be available for building a usable lot area not less than 1,000 square feet. The usable lot area shall be determined by deducting from the total lot area, the area of setbacks required by this chapter plus all yards and set any applicable zoning requirements and any remaining area of the lot lying below the building restriction flood line.
- (3) During the construction, preparation, arrangement, and installation of subdivision improvements and facilities in subdivisions located at or along a watercourse, the developer shall maintain the watercourse in an unobstructed state and shall remove from the channel and banks of the watercourse all debris, logs, timber, junk and other accumulations of a nature that would, in time of flood, clog or dam the passage of waters in their downstream course; provided, that installation of appropriately sized storm drains, culverts, or bridges shall not be construed as obstructions in the stream.

(Code 1978, § 12.60; Code 1995, § 155.49; Ord. of 12-4-1970)

Sec. 36-68. - Street design.

- (a) Street gradient, reverse curves and horizontal alignment shall be in accordance with the standards and specifications of the town.
- (b) Proposed street right-of-way shall be of sufficient width to meet the requirements of this chapter but in no case shall the right-of-way be less than the following:

| Street   | Minimum Width<br>Lot Line to Lot Line<br>(Feet) |
|--|---|
| Freeways, expressways, and major thoroughfares | 100   |
| Minor thoroughfares (collectors)               | 60  |
| Local streets                                  | 50  |
| Cul-de-sacs                                    | 40  |
| Marginal access streets                        | 40  |

Where a subdivider elects to establish a street divided with a median strip, the right-of-way width shall not be less than 80 feet, and no median strip shall be less than 20 feet wide.

- (c) Cul-de-sacs shall not be longer than 800 feet and shall be provided at the closed end with a circular turnaround having an outside roadway diameter of at least 80 feet and a right-of-way line diameter of at least 100 feet.
- (d) Property lines at street intersections shall be rounded with a radius of 25 feet.
- (e) Streets shall be laid out so as to intersect as nearly as possible at right angles.
- (f) Where there is an off-set in the alignment of a street across an intersection, the off-set of the center lines shall not be less than 125 feet.
- (g) All streets shall be certified by the town as being acceptable for future maintenance, provided that other conditions for acceptance and maintenance are met.

(Code 1978, § 12.61; Code 1995, § 155.50; Ord. of 12-4-1970)

Sec. 36-69. - Blocks; dimensions.

- (a) Block lengths shall not be longer than 1,800 feet; provided that where a longer block will reduce the number of railroad grade crossings, major stream crossings, or where longer blocks will result in less traffic through residential subdivisions from adjoining businesses or acres, the board of aldermen may approve block length in excess of 1,800 feet through the variance process. Where blocks longer than 1,800 feet are permitted, crosswalks of a width not less than ten feet may be required.
- (b) Block width shall be sufficient to allow two tiers of lots except where prevented by topographical conditions or the size of the property. A single tier of lots may be used to separate residentially zoned developments and land uses from non-residentially zoned developments and land uses or residential developments from watercourses, traffic arteries or railroads.

(Code 1978, §§ 12.62, 12.63; Code 1995, § 155.51)

Sec. 36-70. - Lot standards.

Lot standards shall conform to the standards of chapter 42, zoning, and the following provisions:

- (1) Lots not served by public water and/or sewer systems shall be large enough and of such physical character to meet health department minimum standards for on-site water and/or sewer systems.
- (2) Except as otherwise provided for in section 36-72 for zero lot line developments, no residential lot shall be created with an area of less than 6,000 square feet and a lot width of less than 60 feet.
- (3) Except as otherwise provided for in section 36-72 for zero lot line developments, every lot shall abut a public street for at least 35 feet; such frontage to be continuous from the property line to the building setback line.

(Code 1978, § 12.64; Code 1995, § 155.52; Ord. of 12-14-1970; Ord. No. 2007-3, § 155.52, 11-26-2007)

Sec. 36-71. - Group developments; specifications.

The site plan for group developments shall show the locations and sites of buildings, streets, drives, alleys, parking, recreation areas, signs, loading berths, yards and other open spaces, and shall be in accordance with the following specifications:

- (1) *Lot area.* The plot area per dwelling unit, excluding the area of publicly dedicated rights-of-way within the development, shall be as permitted by the town zoning ordinance.
- (2) *Yard setbacks.* Each building on the periphery of a group development shall observe the minimum yard setback requirements for the district in which the development occurs. The judgment of the ~~board of aldermen~~ administrative officer as to what constitutes the front, rear, and side yards of each building in the group development shall be final.
- (3) *Building separation.* Buildings within group developments under single ownership shall be separated by a minimum distance of 20 feet plus ten feet for each story above two stories. In no case shall any part of a principal building be located closer than 20 feet to any part of another principal building.
- (4) *Street access.* The property to be developed must have a boundary line or lines contiguous with and giving direct vehicular access to and from one or more public streets, or private streets with public access. Group developments in the form of apartment complexes or unit ownership (i.e., condominium or townhouse) developments with owners' associations legally obligated to maintain vehicular access and circulation drives shall not be subject to the private street standards specified in this chapter.
- (5) *Dedication/reservation of right-of-way.* Where official plans show future streets or thoroughfares, or where reasonable access to adjoining property is required, the development will be designed so as to provide right-of-way for such future streets or thoroughfares and to give access to such properties by means of a public street dedication, if the development is such that requires a final plat to be prepared and recorded, or where no final plat is required, the land area within the right-of-way shall be reserved. No portion of the land area contained within the reserved or dedicated right-of-way may be used to satisfy calculation for density.
- (6) *Off-street parking.* Parking shall be provided in accordance with the applicable zoning regulations. At least three-fourths of the required parking spaces shall be located on the development in off-street parking lots, no part of which shall be located closer than five feet to any existing or proposed street right-of-way line in accordance with the adopted highway plan or locally adopted collector/feeder street plan. Each space shall be not less than nine feet by 20 feet in area. Compact car spaces may be utilized within a development in accordance with the provisions of the town zoning ordinance. Isles adjacent to the compact car spaces shall be standard width, and all compact car spaces shall be clearly marked. One-fourth of the required parking spaces may be in parking bays on minor public streets which are entirely within the development, provided that no space shall be in the turn-around portion of cul-de-sacs. Bays shall not be longer than 80 feet along such street lines and each bay shall be separated from any other bay by a distance of not less than one-half the combined width of both bays. No more than one-third of the total frontage of any such street shall be devoted to parking bays. Each off-street parking space for any residential building shall be located within 200 feet of said building.
- (7) *Swimming pools.* Swimming pools which are constructed within a multifamily development shall be located not less than 50 feet from any boundary of the project, including a public street. All swimming pools shall comply with the provisions of the town zoning ordinance.
- (8) *Recreation/open space areas.* In residential group developments, designated recreation/open space areas and facilities shall be provided on site in accordance with the provisions of section 36-107(h), unless the developer can show, and the parks and recreation director agrees, that the surrounding community has adequate public recreation area available. In the event that adequate public recreation is existing within the surrounding community, the developer shall pay a fee in lieu of providing on-site recreation as allowed in section 36-107(h). Areas within the required yard setbacks can be counted as part of the required recreation area provided they are developed, which would include tennis and basketball courts, jogging trails, etc. These facilities shall not consist of over ten percent of the required recreation/open space area. On-site amenities outside the setback area such as indoor recreation centers and clubhouses may be counted to satisfy the provisions of this subsection. Recreation/open space areas dedicated to the public sector shall be subject to all the requirements in section 36-107(h).

- (9) *Zoning compliance.* All applicable provisions of the chapter 42, zoning, to include buffers, signage, etc., is to be complied with and evidenced on the site plan.

(Code 1978, § 12.65; Code 1995, § 155.53; Ord. of 12-4-1970; Ord. of 11-25-1991; Ord. No. 2009-17, 8-24-2009)

Sec. 36-72. - Zero lot line developments.

Zero lot line developments shall comply with all of the requirements of group developments (section 36-71) when not specified herein, and for the purposes of determining compliance with this chapter and chapter 42, zoning, such development plan shall be considered a group development, except that a zero lot line development plan may not be proposed for a tract of land less than one acre in the R10 and R15 residential zoning districts. Zero lot line developments shall be exempt from the provisions of section 36-70(2) and (3) and "lot" as defined in section 42-8, provided that any such development complies with all provisions of this section.

- (1) *Site plans.* Site plans for zero lot line developments shall show the location of structures, streets and drives, alleys, walks, parking and recreation areas, yards, residential sites, the boundary of the development, maintenance easements and all common area.
- (2) *Building sites.* A building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of residential or nonresidential structures and shall be sufficient in size to contain the structure to be constructed thereon and any other proposed components of the development that is to be conveyed. Each site shall abut and have direct access to a private street or drive that is maintained by an owners' association or a public street.
- (3) *Building yards.* Building sites, structures and accessory structures thereon, are exempt from all zoning district dimensional requirements of section 42-192, except:
  - a. Building lots having direct access to a public street must meet the front yard and/or corner lot provisions of the applicable zoning district;
  - b. Building lots on the periphery of the development must meet all setback requirements of the applicable zoning district. In the event of dispute, the judgment of the town board of aldermen as to what constitutes the front, rear, and side yard of each building lot on the periphery shall be final; and
  - c. A minimum of a ten-foot separation between structures shall be provided for all building lots within developments that are creating individual building lots.
- (4) *Density.* The number of residential building sites created shall not exceed the density standard for such developments as stated in the district dimensional provisions for the applicable zoning district, excluding land area contained within the public right-of-way which is dedicated or reserved and excluding land area contained within a private street approved under the private street provisions of this chapter.
- (5) *Owners' association.* An owners' association complying with subsection (8) of this section shall be mandatory when land and/or any portion of any structure is to be held in common.
- (6) *Common areas.* All areas on the site plan, other than building sites and public rights-of-way, shall be shown and designated as "common areas," the fee simple title to which shall be conveyed by the developer to the owners' association. All common areas shall not be further subdivided or conveyed by the owners' association. This provision shall be so stated in the covenants and restrictions.
- (7) *Recreation areas.* All developments consisting primarily of units shall provide recreation areas in accordance with section 36-71(8). Those developments consisting primarily of individual lots shall provide parks, open space and recreation area in accordance with section 36-107(h).



- (8) *Covenants and restrictions.* The developer shall file, along with the application for preliminary approval, a declaration of covenants and restrictions governing the common areas and the owners' association, if provided or required for the development, and the building sites. This declaration of covenants and restrictions, along with the association incorporation documents and by-laws, shall be approved by the town attorney prior to recording of such documents and prior to any final plat or plan approval. The restrictions shall contain, but not be limited to, provisions for the following, if applicable:
- a. The owners' association shall be organized and in legal existence prior to the sale of any building site in the development;
  - b. Membership in the owners' association shall be mandatory for each original purchaser and each successive purchaser of a building site;
  - c. The owners' association shall be responsible for the provision of liability insurance, any taxes, maintenance of recreation and other facilities located on the common areas, and payment of assessments for public and private capital improvements made to or for the benefit of the common areas located within the development. It shall be further provided that upon default by the owners' association in the payment to the governmental authority entitled thereto of any ad valorem taxes levied against the common areas or assessments for public improvements to the common areas, and said default continues for a period of six months, each owner of a building site within the development shall become personally obligated to pay to the tax assessing governmental authority a portion of such taxes or assessments in an amount determined by dividing the total taxes and/or assessments due by the total number of building sites in the development. If such sum is not paid by the owner within 30 days following receipt of notice of the amount due, then such sum shall become a continuing lien on the building site of the then owner, his heirs, devisees, personal representatives and assigns, and the taxing or assessing governmental authority may either bring an action at law against the owner personally obligated to pay the same or may elect to foreclose the lien against the property of the owner;
  - d. The owners' association shall be empowered to levy assessments against the owners of building sites within the development for payment of expenditures made by the owners' association for the items set forth in the preceding paragraph and any such assessments not paid by the owner against whom such are assessed shall constitute a lien on the building site of the owner;
  - e. Easements over the common areas for access, ingress and egress from and to public streets and walkways, and easements for enjoyment of the common areas and for parking and drive areas shall be granted to each owner of a building site within the development; and
  - f. Any common walls constructed between units shall be party walls, and provisions for the maintenance thereof, and restoration in the event of destruction or damage shall be established either within the owners' association documents or by the covenants.
- (9) *Final plat.* A final plat shall be prepared in accordance with section 36-129 and shall also include the following:
- a. All building sites numbered and bearings and distances given for the boundaries for any buildings to be constructed thereon;
  - b. All common areas labeled as "common area" and with the facilities identified thereon;
  - c. Any notes as required under this section, including maintenance easements when required;
  - d. Clearly labeled as a "zero lot line" development in the title block; and
  - e. An indication as to the location (book and page number) of the covenants and restrictions governing the plat.
- (10) *Compliance with state law.* In addition to the above requirements, zero lot line developments shall comply with the pertinent provisions of G.S. Ch. 47A, specifically sections 7 through 11,

14.1, 18 through 20, and 23 (G.S. 47A-1—47A-11, 47A-14.1, 47A-18—47A-20, 47A-23), as if such development has been submitted under the provisions of that chapter.

(Code 1978, § 12.66; Code 1995, § 155.54; Ord. of 12-4-1970; Ord. No. 2007-3, § 155.54, 11-26-2007)

Sec. 36-73. - Condominium developments; requirements.

Before a declaration establishing a condominium development may be recorded in the office of the county register of deeds as prescribed in the North Carolina Unit Ownership Act, the declaration and plan must be approved by the ~~board of aldermen~~town. Such declaration and plan shall conform to applicable subdivision or residential group development requirements as set forth in this chapter and to the applicable zoning requirements. In addition, the following requirements shall be complied with:

- (1) The declaration shall be a complete legal document prepared strictly in accordance with the North Carolina Unit Ownership Act and shall be submitted in five copies to the ~~building inspector~~administrative officer for review ~~at least ten days prior to a regularly scheduled board of aldermen meeting~~ along with a plan drawing described in subsection (2) of this section.
- (2) The final plan of the proposed development shall contain the following particulars:
  - a. The unit designation of each unit and a statement of its location, approximate area, number of rooms and/or immediate common area to which it has access and any other data necessary for its proper identification;
  - b. Description of the general common areas and facilities as defined in the North Carolina Unit Ownership Act and the proportionate interest of each unit owner therein;
  - c. Description of boundary lines between portions of the structures designed for different ownership;
  - d. Description of all garages, balconies, patios, and the like, which form a part of any unit;
  - e. Description of any special common areas and/or facilities stating what units shall share the same and what proportion;
  - f. Statement of the purpose for which the building and each of the units are intended and restricted as to use.
- (3) The recordation of the declaration and plan shall be completed by the developer within 30 days after approval by the ~~board of aldermen~~administrative officer in accordance with the provisions of section 36-31(c). Where a condominium is submitted as a residential group development, a group development plan as provided in section 36-71 shall accompany the declaration and plan.

(Code 1978, § 12.67; Code 1995, § 155.55; Ord. of 12-4-1970)

Secs. 36-74—36-104. - Reserved.

ARTICLE IV. - IMPROVEMENTS

Sec. 36-105. - Installation of improvements.

Before any subdivision plat shall be eligible for final approval the following minimum improvements must have been installed or assured to be installed in accordance with the provisions of section 36-32. Improvements proposed by the subdivider and exceeding those required by this article shall be installed in accordance with the standards and requirements for acceptance of the town, the standards of the health department, or the standards of another public body, whichever is applicable.

(Code 1978, § 12.69; Code 1995, § 155.65; Ord. of 12-4-1970)

Sec. 36-106. - Street improvements.

- (a) *Grading.* Rights-of-way and roadways shall be graded in accordance with the standards and specifications of the town.
- (b) *Roadway base.* All roadways shall be improved with a base course to the required width of the town. All construction and materials shall meet the standards and specifications of the town.
- (c) *Roadway surface.* Roadway surfacing is not required but is encouraged. All surfaced roadways shall be improved with a surface material to meet the standards and specifications of the town.
- (d) *Pavement widths.* All surfaced roadways shall be improved with a minimum surface course to meet the standards and specifications of the town.
- (e) *Gutters or curbs and gutters.* Gutters and curbs are not required but encouraged. All gutters or curbs and gutters installed shall meet the standards and specifications of the town.
- (f) *Required drainage.* An adequate drainage system shall be installed by the subdivider in accordance with good engineering practices and the standards of the town. Such drainage shall remove all surface water without undue damage to street right-of-way and adjacent properties. Conditions contributing to the breeding or insects shall be avoided.
- (g) *Installation of utilities required.* Except for unusual circumstances, approval by the board of aldermen at the time of preliminary plat approval, all subdivision streets shall be developed in such a manner that the extension of water and sewer laterals to both sides of the street shall occur prior to paving of the street and acceptance by the ~~board of aldermen~~ administrative officer. When an existing street must be cut to extend water and sewer service to a subdivision, the town may require the subdivider to repave the street as a condition of approval of the subdivision.

(Code 1978, § 12.70; Code 1995, § 155.66; Ord. of 12-4-1970)

Sec. 36-107. - Specific improvements.

- (a) *Monuments.* Monuments of a permanent material shall be installed in accordance with G.S. ch. 39, art. 5A, and at such points as may be consistent with good engineering practice.
- (b) *Removal of rubbish.* All cut or fallen trees, stumps, or rubbish shall be completely burned or in other ways removed from the subdivision.
- (c) *Drainage.* All drainageways shall be cleared in accordance with section 36-67.
- (d) *Public water and sewer system.* Where the installation of public water and/or sewer systems is prerequisite to approval of lot sizes and standards, are required as provided in section 36-66(a), such systems shall be installed and certified prior to final plat approval or assured to be installed in accordance with the provision of section 36-32.
- (e) *Street signs.* All streets within a subdivision shall be marked with a street name sign of a design and location in accordance with the standards and specifications of the town.
- (f) *Sidewalks.* In any subdivision located within the town, sidewalks shall be required on one side of the street, the location to be determined by the administrative officer and building inspector. Further, such sidewalks shall be installed by the subdivider in accordance with the town specifications.
- (g) *Utilities.* Where installation of underground utilities is a prerequisite to approval of lot sizes and standards are required as provided in section 36-66(a), such systems shall be installed in a manner that would provide service to both sides of the street and certified prior to final plat approval.
- (h) *Recreation areas.*

- (1) For each residential lot or dwelling unit to be developed in a subdivision and not subject to section 36-71, except including zero lot line development plans consisting primarily of individual building lots approved under section 36-72, the developer shall dedicate to the town 500 square feet of recreation area at the time the final plat is signed by the town. This requirement shall not apply to subdivisions containing less than ten dwelling units. In computing the required open space, land subject to flooding or land to be used for any purpose other than recreation shall not be included in meeting the minimum requirement.
- (2) The minimum size of any one recreation area shall be no less than 5,000 square feet. Additionally, the minimum recreation area's site shall be designed so as to provide a 5,000 square foot tract or contiguous tracts within the subdivision. The board of aldermen shall approve the number and location of recreation areas at the time the preliminary plat is approved and with the signing of the final plat by the town, the land shall be deemed accepted by the town for public use and development.

(Code 1978, § 12.71; Code 1995, § 155.67; Ord. of 12-4-1970; Ord. of 11-22-1993; Ord. No. 2007-3, § 155.67, 11-26-2007)

Secs. 36-108—36-127. - Reserved.

#### ARTICLE V. - PLATS AND SUBDIVISION DATA

Sec. 36-128. - Preliminary plat; support data.

The following requirements in the presentation of plats shall be observed. The preliminary plat shall be drawn to a scale of not less than 200 feet to the inch or more than 50 feet to the inch. It shall be superimposed on a topographic map with contour lines shown at one- and two-foot intervals. In addition, the preliminary plat shall show the following:

- (1) *Title data.* Subdivision name, the names and addresses of the owner or owners, name of the designer of the plat, the scale, date and approximate north point.
- (2) *Vicinity sketch.* A key map or vicinity sketch at a scale of not less than 1,000 feet to the inch showing the relation of the property to adjoining properties.
- (3) *Existing data.* Location of existing and platted property and street lines, existing buildings, water mains, sewers, drain, pipes, culverts, bridges, watercourses, railroads and spurs, political boundary lines, zoning district lines, parks, playgrounds, public easements both on the land to be subdivided and on the land immediately adjoining, names of existing streets on and adjoining the land to be subdivided, and the names of adjoining subdivisions and property owners.
- (4) *Data relating to proposed subdivision.* The names, locations, and dimensions of proposed streets, alleys, crosswalks, lots, easements, building restriction flood lines, parks, playgrounds, and other open space and a copy of any proposed deed restrictions or restricting covenants.
- (5) *Data relating to surrounding area.* Where the preliminary plat submitted includes only a part of the subdivider's tract, an additional sketch showing the prospective future street system, proposed public open spaces and other features for the development of the entire tract shall accompany the preliminary plat.
- (6) *Utility plans.* Preliminary plans of proposed utility layouts for public water and/or sewer, if these utilities are to be furnished to the subdivision, shall be provided. Where public water and/or sewer is not to be provided, the preliminary plan shall contain a statement as to the proposed method of water supply and/or sewage disposal.
- (7) *Street cross sections.* Typical cross sections of proposed streets shall be drawn showing the width and proposed construction of roadways at a scale of not less than 30 feet to the inch.

- (8) *Other improvements.* Where other improvements are to be provided in the subdivision, appropriate plans shall accompany the preliminary plat.

(Code 1978, § 12.72; Code 1995, § 155.80; Ord. of 12-4-1970)

Sec. 36-129. - Final plat; form.

The final plat shall be submitted as a reproducible map in cloth, linen, film or other permanent material; shall be drawn to scale not larger than 50 feet to the inch and not less than 200 feet to the inch; and shall have an outside margin size of either 18 by 24 inches or 24 by 36 inches. Where size of land areas require, maps may be shown on two or more sheets with appropriate match lines and each section shall contain a key map showing the location of the sections. In addition, the first plat shall show the following:

- (1) *Generally.* The final plat shall conform to the approved preliminary plat and to the requirements of G.S. 47-30.
- (2) *Engineer or surveyor's certificate.* There shall appear on each final plat a certificate by the person making the survey or on each map where no survey was made, a certificate by the person under whose supervision the origin of the information shown on the map, including deeds and any recorded data shown thereon. If a complete survey was made, the error of closure as calculated by latitudes and departures must be shown. Any lines on the map that were not actually surveyed must clearly indicated and a statement revealing the source of information. The execution of such certificate shall be acknowledged before preparing the map. All maps to be recorded shall be probated as required by law for the registration of deeds. The certificate required in this subsection shall include the source of information for the survey and data indicating the accuracy of closure of the map and shall be in substantially the following form:

"I, \_\_\_\_\_, certify that this map was (drawn under my supervision) from (actual survey made under my supervision) (Deed description recorded in Book \_\_\_\_\_, page \_\_\_\_\_, (etc.)) (other); the error of closure as calculated by latitudes and departures is 1: \_\_\_\_\_; that the boundaries not surveyed are shown as broken lines plotted from information found in Book \_\_\_\_\_, page \_\_\_\_\_; that this map was prepared in accordance with G.S. 47-30, as amended.

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, A.D. 20\_\_\_\_.

(Acknowledgement)

Surveyor or Engineer"

- (3) *Certificate of ownership and dedication.* On the final plat the following shall be printed over the signature of the owner:

"The undersigned hereby acknowledge(s) that the land shown on this plan is within the subdivision-planning and development regulation jurisdiction of Spring Lake and that this plat and allotment is (my or our) free act and deed and that (I or we) do hereby dedicate to the public use as (streets, parks, playgrounds, school sites, open space and easements) forever also are shown on indicated on said Plat.

Owner(s) Signature"

- (4) *Certificate of registration.* Space shall be provided on the final plat for the certificate of registration by the register of deeds as required by law.
- (5) *Certificate of guarantee of improvements.* Space shall be provided on the final plat for the following certificate:

"Improvements required by the Subdivision Regulations for this plat have been guaranteed in accordance with the provisions of section 36-32 of the Code of Ordinances. .

Clerk"

- (6) *Certificate of approval of final plat.* The following certificate shall appear on the final plat with a blank line provided for the signature of the Clerk of the Town of Spring Lake.

"Approved by the Board of Aldermen of the Town of Spring Lake on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

|                               |  |
|-------------------------------|--|
| Signed _____ (SEAL)<br>Clerk" |  |
|-------------------------------|--|

(Code 1978, § 12.73; Code 1995, § 155.81; Ord. of 12-4-1970)

Secs. 36-130—36-156. - Reserved.

#### ARTICLE VI. - ADMINISTRATION AND ENFORCEMENT

Sec. 36-157. - Variances.

The Board of Aldermen may authorize a variance through an evidentiary hearing and quasi-judicial decision from these regulations when, in its opinion, undue hardship may result from strict compliance. In granting any variance, the Board of Aldermen shall make the findings required below, taking into account the nature of the proposed subdivision, the existing use of land in the vicinity, the number of persons to reside or work in the proposed subdivision and the probable effect of the proposed subdivision upon traffic conditions in the vicinity. No variance shall be granted unless the Board of Aldermen finds all four of the following conditions to exist:

a. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.

b. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

c. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship; and

d. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved. The board of aldermen may vary the requirements of this chapter where, because of the size of the tract to be subdivided, its topography, the conditions or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this chapter would cause an unusual and unnecessary hardship on the subdivider. In granting variances, the board of aldermen may require such conditions as will secure, in so far as practicable, the objectives of the requirements varied. Any variance thus granted is required to be entered in writing in the minutes of the board of aldermen and the reasoning upon which departure was justified set forth.

(Code 1978, § 12.74; Code 1995, § 155.90; Ord. of 12-4-1970)

Sec. 36-158. - Register of deeds; responsibilities.

No subdivision plat of land within the town's subdivision-planning and development regulation jurisdiction shall be filed or recorded until it shall have been submitted to and approved by the board of aldermen or administrative officer and until such approval shall have been entered on the face of the plat in writing by the town clerk. The register of deeds shall not file a plat of subdivision of land located within the planning and development regulation territorial-jurisdiction of the town, as defined in section 36-3, which has not been approved in accordance with these provisions, nor shall the town clerk of the superior court order or direct the recording of a plat where such recording would be in conflict with this section.

(Code 1978, § 12.75; Code 1995, § 155.91; Ord. of 12-4-1970)

Sec. 36-159. - Approval of plat not to constitute acceptance of dedication.

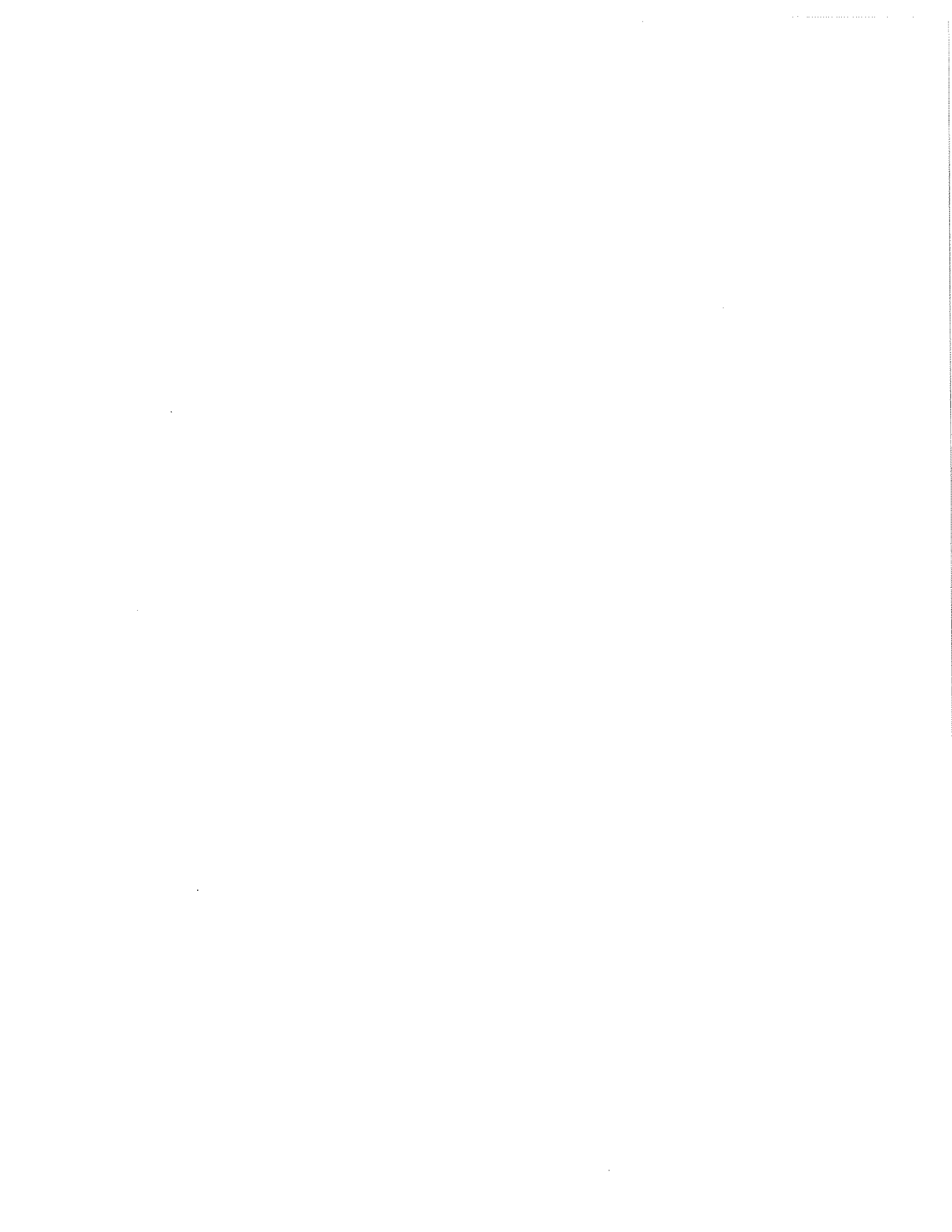
The approval of a plat pursuant to this chapter shall not be deemed to constitute or effect the acceptance by the town or the public of the dedication of any street or other ground, public utility line, or other public facility shown on the plat.

(Code 1978, § 12.76; Code 1995, § 155.92; Ord. of 12-4-1970)

Sec. 36-160. - Penalty.

From and after the effective date of the ordinance from which this chapter is derived, any person who, being the owner, or agent of the owner, of land located within the platting jurisdiction of this chapter, as defined in section 36-3, thereafter transfers or sells such land by reference to a plat showing a subdivision of land before such plat has been properly approved under this chapter and recorded in the office of the register of deeds, shall be guilty of a misdemeanor. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties. ~~The town, through its attorney or other official designated by the board of aldermen, may enjoin such illegal transfer or sale by action for injunction. The town may bring an action for injunction of any illegal subdivision, transfer, conveyance, or sale of land, and the court shall, upon appropriate findings, issue an injunction and order requiring the offending party to comply with the subdivision regulation(s).~~

(Code 1978, § 12.77; Code 1995, § 155.99; Ord. of 12-4-1970)





Chapter 42 - ZONING<sup>11</sup>

ARTICLE I. - IN GENERAL

Sec. 42-1. - Title.

This chapter shall be known and may be cited as the "Zoning Code."

(Code 1978, § 12.83; Code 1995, § 156.001; Ord. of 1-10-1972)

Sec. 42-2. - Authority to enact.

The board of aldermen, pursuant to the authority conferred by G.S. Ch. 160A and 160D [Local Planning and Development Regulation], art. 49, part 4, does hereby ordain and enact into law the following [provisions of this chapter].

(Code 1978, § 12.82; Code 1995, § 156.002; Ord. of 1-10-1972)

Sec. 42-3. - Purpose.

The zoning regulations and districts (conventional and overlay) as herein set forth have been made in accordance with a comprehensive plan and are designed to lessen congestion in the street; to secure safety from fire, panic and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. These regulations have been made with reasonable consideration, among other things, as to the character of each zoning district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the town.

(Code 1978, § 12.81; Code 1995, § 156.003; Ord. of 1-10-1972)

Sec. 42-4. - Jurisdiction.

On and after the effective date of this chapter, these regulations shall govern the use of all lands lying within the town's planning and development regulation jurisdiction [Town of Spring Lake corporate limits and extraterritorial jurisdiction (ETJ)].

(Code 1978, § 12.84; Code 1995, § 156.004; Ord. of 1-10-1972)

Sec. 42-5. -- Exemption and Permit Choice.

- (1) Bona Fide Farms. The provisions of this chapter do not apply to bona fide farms. This chapter does not exercise controls over crop lands, timber lands, pasture lands, or other farm lands, nor over any farm house, barn, poultry house, or other farm buildings, including tenant or other houses for persons working on such farms, as long as such houses shall be in the same ownership as the farm and located on the farm. Such agricultural uses maintain the openness of the land and achieve the purposes of this chapter without the need for regulation. Per G.S. § 160D-903, residences which are not occupied by the owner, lessee, or operator and other non-farm uses shall be subject to the provisions of this chapter. Residences for non-farm use or occupancy and other non-farm uses are subject to the provisions of this chapter.

(1)(2) Permit Choice. Per G.S. 160D-108(b), if this chapter is amended between the time a development permit application was submitted and a development permit decision is made or if this chapter is amended after a development permit decision has been challenged and found to be wrongfully denied or illegal, G.S. 143-755 applies.

(Code 1978, § 12.85; Code 1995, § 156.005; Ord. of 1-10-1972)

Sec. 42-6. - Interpretation.

The district regulations shall be enforced and interpreted according to the following rules:

- (1) *Uses by right.* All uses of property shall be prohibited except those which are permitted under the terms of this chapter as permitted uses and nonconforming uses. Special use permits are permitted according to specific criteria and approval of the board of adjustment aldermen.
- (2) *Minimum provisions.* Provisions set forth by this chapter shall be minimum provisions. If the district requirements set forth in this chapter are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the more restrictive or higher criteria shall govern.
- (3) *Fractional requirements.* When any requirement of this chapter results in a fraction of a unit, a fraction of one-half or more shall be considered a whole unit and a fraction of less than one-half shall be disregarded. When the determination of the number of dwelling units permitted on a lot results in a fraction of a dwelling unit, a fraction of one-half or more shall be considered a dwelling unit and a fraction of less than one-half shall be disregarded.

(Code 1978, § 12.117; Code 1995, § 156.006; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.006, 11-26-2007)

Sec. 42-7. - Application of chapter.

The regulations set forth in this chapter affect all land, every structure and every use of land and/or structures, and shall apply as follows:

- (1) *Zoning affects every building and use.* No building or land shall hereafter be used and no building or part thereof shall be erected, moved or altered unless in conformity with the provisions of this chapter.
- (2) *Completion of existing buildings.* Nothing herein contained shall require any change in plans, construction or designated use of a building for which a building permit has been heretofore issued. If any amendment to this chapter is hereafter adopted changing the boundaries of districts, the provisions of this subsection shall apply in the same manner as when originally adopted.
- (3) *Conforming uses or structures.* After the effective date of this chapter, any existing building or use of land or buildings which conforms with the regulations for the district in which it is located may continue without a specific permit. Any subsequent structural alteration or change in use shall conform with the regulations herein specified.
- (4) *Special developments.* Group developments, zero lot line developments, condominium developments and townhouse developments may be exempt from the district dimensional provisions of this chapter, provided the development conforms with chapter 36, subdivisions, and the overall density is maintained for the district in which it is located.

(Code 1978, § 12.118; Code 1995, § 156.007; Ord. of 1-10-1972; Ord. No. 2007-2, § 156.007, 11-26-2007)

Sec. 42-8. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Administrative decision. Decisions made in the implementation, administration, or enforcement of development regulations that involves the determination of facts and the application of objective standards set forth in this ordinance. These are sometimes referred to as "ministerial" decisions or "administrative determinations."

Administrative hearing. A proceeding to gather facts needed to make an administrative decision.

Administrative officer. The person, officer, or official or his authorized representative, whom the Board of Aldermen has designated as its agent for administration of this chapter.

Abutting/contiguous means having property or district lines in common, i.e., two lots are abutting if they have any portion of any property line in common. Lots are also considered to be abutting if they are directly opposite each other and separated by a street, alley, railroad right-of-way or stream.

Access means a way of approaching or entering a property. Access also includes ingress, the right to enter and egress, and the right to leave.

Accessory structure or use means a use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

Alley means a public or private right-of-way primarily designed to serve as a secondary access to the side or rear of those properties whose principal frontage is on a street and is not intended for general traffic.

Amphitheatre means a freestanding, open-air round or oval structure with a central arena and tiers of concentric seats.

Ancillary sale means where a grocery store, supermarket, convenience store or similar market uses no more than two percent of its gross floor area, or 200 square feet, whichever is less, for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco. For any grocery store, convenience market, retail kiosk or similar use consisting of 250 square feet or less, "ancillary sale" shall mean where no more [than] five square feet are used for the display, sale, distribution, delivery, offering, furnishing, or marketing of conventional cigars, cigarettes or tobacco. The display, sale, distribution, delivery, offering, furnishing, or marketing of e-cigarettes or any other tobacco products or tobacco paraphernalia, regardless of square footage used, is subject to the restrictions of this section and shall not constitute "ancillary sale" under any circumstances.

Ancillary use means that which is commonly subordinate to or incidental to a principal or primary use. Also see *Accessory structure or use*.

Automobile service station means a building or lot where gasoline, oil, grease, and accessories are supplied and dispensed to the motor vehicle trade and where battery charging, tire repair, and minor mechanical services are rendered.

Automobile wrecking yard means any lot that has three or more unregistered and nonfunctional vehicles for the buying, selling, or dealing in used vehicles of a type required to be licensed under the laws of this state, for the purpose of wrecking, dismantling, [or] disassembling such vehicles to obtain secondhand parts or component materials thereof, in whole or in secondhand parts, including processing automobiles for scrap involving crushing, smashing, baling, burning or reduction of metal for industrial consumption.

Bars and nightclubs means establishments including private clubs, sports bars/clubs etc., that may be licensed to sell alcoholic beverages to be consumed on the premises and do not meet the criteria to be a restaurant, and does not include any use that qualifies to be regulated under section 42-91.

Berm means any elongated earthen mound designed or constructed to separate, screen or buffer adjacent land uses.

Bona fide farm purposes. Those agricultural activities set forth in G.S. 160D-903.

Building. Any structure used or intended for supporting or sheltering any use or occupancy.

Buildable area (buildable envelope) means the space remaining on a lot after the minimum open space requirements (yards, setbacks, etc.) have been met.

Building setback line means the minimum distance from all property and/or right-of-way lines to the closest projection of the exterior face of buildings, walls or other forms of construction (i.e., decks, landings, terraces, and porches, etc.).

Buffer means a maintained sight-obscuring fence, wall, or vegetated earth berm, or a sight-obscuring hedge or other natural plantings of comparable opacity, or a combination of the above, as further specified in section 42-228, Buffers. The purpose of such is to provide a transition between developments, in order to protect each development from possible negative effects likely to be caused by or associated with each other, a dense, evergreen hedge or solid fence or wall used to enclose, screen or separate certain uses as specified in this chapter. The design, composition, height and location of such facilities shall be determined by the zoning administrator.

Campground (recreational vehicle park or (RV park) means land upon which shelters (such as tents, travel trailers and recreational vehicles) are erected or located for occupation by transients and/or vacationers. They may include such permanent structures and facilities as are normally associated with the operation of a campground. (Section 42-66).

Certificate of occupancy means the official certification that a premise conforms to the provisions of this chapter (and N.C. Building Code) and may be used or occupied. Such a certificate is granted for new construction or for alterations or additions to existing structures or a change in use upon completion of the building or site final inspection. Unless such a certificate is issued, a structure cannot be occupied or a new use commenced, but a certificate may be issued for a portion of a structure ready for occupancy, such as separate dwelling or commercial units in a structure with multiple units.

Change of use means changing the original purpose of a building to a different use or changing the lot configuration due to changed requirements (e.g., adding display or storage areas).

Code enforcement officer [see administrative officer] means the individual assigned this position and title within the town's job position classifications that is charged with the day-to-day interpretation and enforcement of this chapter.

Community water and/or sewer means municipal, sanitary, district, and privately owned water and/or sewer systems as regulated and controlled by the North Carolina Utilities Commission, the North Carolina State Board [Division] of [Public] Health and the Cumberland County Health Department.

Comprehensive plan. A comprehensive plan that has been officially adopted by the Board of Aldermen pursuant to G.S. 160D-501.

Conditional use means a use or occupancy of a structure, or a use of land, permitted only upon the successful rezoning to a conditional use district and subsequent issuance of a conditional use permit and made subject to the limitations and conditions specified therein. See special use permit.

Conditional zoning. A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

Condominium development means a project of two or more units in one or more multi-unit buildings designed and constructed for unit ownership as permitted by the North Carolina Unit Ownership Act when approved under the requirements for condominium developments set forth in chapter 36.

Conservancy organization means any legally established incorporated entity, whether for-profit or nonprofit, whose primary mission is dedicated to the protection of the environment and natural resources.

Conventional zoning district. A zoning district in which a variety of uses are allowed as permitted uses or uses by right and that may also include uses permitted only with a special use permit.

Day care facility means a building or dwelling regularly used for recreational or supervisory care of nine or more persons (adults or children), not including the operator's own family members, during any

24-hour period. It does not matter where it is located, whether the same or different persons attend and whether or not it is operated for profit. The following are not included: public schools; private schools, as described in G.S. § 110-86(2); religious worship facilities when operated on the principal campus of and in conjunction with the religious worship facility; summer camps having children in full-time residence; summer day camps; specialized activities or instruction such as athletics, clubs, the arts, etc.; and bible schools normally conducted during vacation periods.

Decision-making board. A governing board, planning board, board of adjustment, historic district board, or other board assigned to make quasi-judicial decisions under this ordinance.

Density development means the division of land in such a way as to allow development at the density of the general zoning district while at the same time promoting the preservation of open space by requiring that all development occur on 60 percent of the overall acreage, with open space designation for the other 40 percent.

Determination. A written, final, and binding order, requirement, or determination regarding an administrative decision.

Developer. A person, including a governmental agency or redevelopment authority, who undertakes any development and who is the landowner of the property to be developed or who has been authorized by the landowner to undertake development on that property.

Development. Any of the following:

(a) The construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure.

(b) The excavation, grading, filling, clearing, or alteration of land.

(c) The subdivision of land as defined in G.S. 160D-802.

(d) The initiation or substantial change in the use of land or the intensity of use of land.

Development approval. An administrative or quasi-judicial approval made pursuant to this ordinance that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal. Development approvals include, but are not limited to, zoning permits, site plan approvals, special use permits, variances, and certificates of appropriateness. The term also includes all other regulatory approvals required by regulations adopted pursuant to this ordinance, including plat approvals, permits issued, development agreements entered into, and building permits issued.

Development regulation. A unified development ordinance, zoning regulation, subdivision regulation, erosion and sedimentation control regulation, floodplain or flood damage prevention regulation, mountain ridge protection regulation, stormwater control regulation, wireless telecommunication facility regulation, historic preservation or landmark regulation, housing code, State Building Code enforcement, or any other regulation adopted pursuant to this ordinance, or a local act or charter that regulates land use or development.

Driveway means a private access way, the use of which is limited to persons residing, employed or otherwise using or visiting the parcel in which it is located.

Dwelling means a building designed for or used by one or more families for residential purposes. Any building, structure, manufactured home, or mobile home, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith. For the purposes of Article 12 of G.S. 160D, the term does not include any manufactured home, mobile home, or recreational vehicle, if used solely for a seasonal vacation purpose.

Dwelling, multifamily, means a residence designed for or occupied by two or more families, with separate housekeeping and cooking facilities for each.

Dwelling, single-family, means a detached residence designed for or occupied by one family only.

*E-cigarette* means any electronically actuated device or inhaler meant to simulate cigarette smoking that uses a heating element to vaporize liquid solution, popularly referred to as "juice," and that causes the user to exhale any smoke, vapor, or substance other than that produced by unenhanced human exhalation. The juice used in e-cigarettes typically contains nicotine, and for this reason e-cigarettes and their juice can be classified as both tobacco products and tobacco paraphernalia.

*Easement* means a right given or reserved by the owner of land for specific limited use of that land.

*Evidentiary hearing.* A hearing to gather competent, material, and substantial evidence in order to make findings for a quasi-judicial decision required by a development regulation adopted under this ordinance.

*Facade* means the exterior wall of a building which is adjacent to or fronting on a public right-of-way or other public area, typically the front of a building, but also includes any side or rear of a building facing a public right-of-way or other public area.

*Family* means one or more persons occupying a single-family housekeeping unit and using cooking facilities; provided that, unless all members are related by blood or marriage, no such family shall contain over five persons.

*Farmers' market, open-air,* means the seasonal selling or offering for sale at retail of locally and self-grown vegetables or produce, items made directly from vegetables or produce, fresh flowers and plants, and/or self-made crafts and sold directly to the consumer at an open-air market in a pre-designated area, where the vendor is generally the individual who raised the vegetables or produce or created the craft.

*Flex office* means a type of development designed to be versatile, which may be used in combination with office (corporate headquarters), research and development, quasi-retail sales, and including, but not limited to, industrial, warehouse, and distribution uses.

*Floor area, gross* means the total area of a building measured by taking the outside dimensions of the building at each floor level.

*Floor area, net* means the horizontal area of each floor of a building or structure; excluding those areas not directly devoted to the principal, incidental, or accessory use, such as: storage areas, stairwells, elevators, closets, restrooms, maintenance rooms, hallways, and similar areas.

*Gross floor area* means the total number of square feet within a building devoted to a particular use, including the space occupied by such supporting facilities as storage areas, work areas, toilets, mechanical equipment and the like.

*Group development* means a group of two or more principal uses, structures, or dwelling units occupying, built on, or intended to occur on a single lot, tract, or parcel of land.

*Group home* means a home with support and supervisory personnel, some or all of whom are nonresident, that provides room and board, personal care and habilitation services in a residential environment to not more than six resident handicapped persons 24 hours a day, seven days a week. For the purpose of this definition, the term "handicapped person" means a person with a temporary or permanent physical, emotional or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sight impairments, emotional or undisciplined disturbances, and orthopedic impairments, but does not include residents who are dangerous to others as defined in G.S. 122C-3(11)(b). A group home for not more than six resident handicapped persons, any one of whom may be dangerous to others as defined in G.S. 122C-3(11)(b), is not a permitted use in any residential district.

*Group quarters* means and includes roominghouses, rooming houses and boardinghouses, membership lodgings, residence halls and dormitories, retirement houses and/or orphanages and religious quarters.

*Governing board.* The Spring Lake Board of Aldermen. The term is interchangeable with the terms "board of aldermen" and "boards of commissioners" and means any governing board without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.

*Highway plan* means a plan, formally known as "Fayetteville Area Metropolitan Planning Organization Highway Plan," that provides and defines a functional system of streets permitting travel from origins to destinations with directness, ease and safety. Different streets in this system are designed and called on to perform specific functions, thus minimizing the traffic and land service conflict.

*Home occupation, incidental*, means any use conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof, and in connection with there is no display, no stock in trade or commodity which is not produced on the premises and only one person not a resident on the premises is employed specifically in connection with the incidental home occupation.

*Junkyard or salvage yard* means the use of more than 200 square feet of a lot for the storage, dismantling, wrecking, abandonment, buying or selling or otherwise dealing in either wholesale or retail any cast-off, secondhand salvage or unsalvageable material of any sort. This definition shall be deemed not to include such uses which are clearly accessory and incidental to any agricultural or other business use permitted in the zone or material or equipment kept on any premises for use in construction of any building on such premises.

*Kennel* means any premises where four or more dogs which are five months old or older are kept commercially or as pets, excluding pet grooming shops, veterinary clinics, and veterinary hospitals.

*Land, gross area*, means the square footage of all the area included within the external boundary of the property to be developed, excluding existing public streets and railroad rights-of-way.

*Land, net area*, means the land area required to meet the minimum dimensional standards for the zoning districts as required by this chapter.

*Landowner or owner*. The holder of the title in fee simple. Absent evidence to the contrary, the town may rely on the county tax records to determine who is a landowner. The landowner may authorize a person holding a valid option, lease, or contract to purchase to act as his or her agent or representative for the purpose of making applications for development approvals.

*Legislative decision*. The adoption, amendment, or repeal of a regulation under this ordinance or an applicable local act. The term also includes the decision to approve, amend, or rescind a development agreement consistent with the provisions of Article 10 of G.S. 160D.

*Legislative hearing*. A hearing to solicit public comment on a proposed legislative decision.

*Lateral access* means the provision of ingress and egress between adjoining or abutting current or future nonresidential uses to facilitate the circulation of vehicular traffic between those uses and designed to relieve traffic congestion, provide protection from through traffic, and limit individual driveway access along public rights-of-way.

*Loading space or berth, off-street* means an area logically and conveniently located for bulk pickups and deliveries, and accessible to such vehicles. Required off-street loading space is not to be included as off-street parking space in computing required off-street parking space.

*Lot* means a parcel of land occupied or intended for occupancy by a principal structure or group of principal structures together with any accessory structures, including such yards, open spaces, width, and area as required by this chapter, either shown on a plat of record or, if created prior to adoption of chapter 36, described by metes and bounds and recorded with the register of deeds.

*Manufactured home* means a dwelling unit that is not constructed in accordance with the standards set forth in the North Carolina State Building Code, is composed of one or more components each of which was substantially assembled in a manufacturing plant and designed to be transported to the home site on its own chassis, and exceeds 40 feet in length and eight feet in width.

*Manufactured home, Class A*, means a manufactured home constructed after July 1, 1976, that meets or exceeds the construction standards promulgated by the United States Department of Housing and Urban Development that were in effect at the time of construction and that satisfies the following additional criteria:

- (1) The manufactured home has a length not exceeding four times its width;

- (2) The manufactured home has a minimum of 1,200 square feet of enclosed living area;
- (3) The pitch of the roof of the manufactured home has a minimum vertical rise of 2.2 feet for each 12 feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in standard residential construction;
- (4) The exterior siding consists predominantly of vinyl or aluminum horizontal lap siding (that does not exceed the reflectivity of gloss and white paint), wood, or hard board, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction;
- (5) The home is set up in accordance with the standards set forth in the State of North Carolina Regulations for Mobile [Manufactured] Homes, published by the North Carolina Department of Insurance, has a continuous, permanent masonry foundation or permanent masonry curtain wall, unpierced except for required ventilation and access, and is installed under the perimeter of the manufactured home;
- (6) Stairs, porches, entrance platforms and other means of entrance and exit to the home shall be installed or constructed in accordance with the North Carolina Building Code, Volume VII, Residential;
- (7) The moving hitch, wheels and axles, and transporting lights have been removed; and
- (8) The manufactured home is appraised and listed as real property.

*Mixed use means:*

- (1) A single building containing more than one type of land use where the residential use occupies no more than 40 percent of the total building floor area and the nonresidential use occupies a minimum of 60 percent of the total floor area; or
- (2) A single development of more than one building and use with the different types of land uses in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas.

*Mobile home* ~~-(a.k.a. manufactured home)~~ means a structure as defined in G.S. 143-145(7), a dwelling structure designed to be transported after fabrication on its own wheels, or on a flat board or other trailer on detachable wheels and which is designed for long-term occupancy and contains all of the following, or facilities like the following: sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems.

*Mobile home park* means any site or tract of land upon which are located two or more single-family mobile home dwellings or one or more multiple-family [mobile] home dwellings, or any combination thereof, capable of being occupied for dwelling or sleeping purposes, regardless of whether or not a charge is made for such service.

*Modular dwelling* means any building or closed construction which is made or assembled in manufacturing facilities on or off the building site for installation or assembly and installation on the building site other than mobile homes or recreational vehicles. Modular homes shall comply with all codes applicable to residential construction and shall be considered the same as any conventional, site-built home. ~~a factory-manufactured dwelling structure designed for year-round living with major components or modules preassembled and transported to a site for final assembly and utility connections. All exterior walls are supported by a permanent foundation, approved by the building inspector, enclosing the area between the ground and the floor. A modular dwelling has an average width of at least 16 feet, and average length of at least 40 feet and at least 1,000 square feet of living area.~~

*Motor vehicle* means a machine designed or intended to travel over land or water by self-propulsion or while attached to a self-propelled vehicle, except that said definition shall not include a "manufactured home" or "mobile home" as defined in county health department regulations, the town subdivision regulations, and this chapter.

*Motor vehicle parking lot/area* means an area of land or plot of land used for, or designated for, the short-term parking of serviceable motor vehicles, either as a principal use or as an accessory use.



*Motor vehicle parking lot, commercial* means a tract of land which is used for the storage of legally licensed, insured and registered motor vehicles, not accessory to any other use on the same or any other lot, and which contains parking spaces rented to the general public or reserved for individuals by the hour, day, week, or month.

*Motor vehicle parking space* means an area of land of not less than 20 feet in length and nine feet in width for each space, plus the necessary access space.

*Motor vehicle parking, off-street* means a parking space located outside of a street right-of-way.

*Nonconforming structure* means an existing structure which does not comply with the dimensional requirements of this chapter for the district in which it is located either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments thereto.

*Nonconforming use* means any existing use of land or structure which does not comply with the use regulations of this chapter for the district in which it is located either at the effective date of the ordinance from which this chapter is derived or as a result of subsequent amendments thereto.

*Open fence or wall* means one in which the openings through which clear vision and the free passage of air are possible from one side to the other on a horizontal plane occupying 75 percent or more of the side area of the fence or wall. All others are solid fences or walls.

*Open space* means the land used for recreation, natural resource protection, amenities and/or buffer areas. Open space may include, but is not limited to, walkways, recreation areas, playgrounds, wooded areas, greenways and watercourses.

*Overlay zoning district.* ~~A zoning district in which different requirements are imposed on certain properties within one or more underlying conventional, conditional, or form-based districts means a zoning district created for [a] special purpose, such as manufactured housing, which shall be superimposed over already existing zoning districts.~~

*Parking space* means the standing storage space for one automobile, plus the necessary driveway access space.

*Person* means an individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, interstate body, the State of North Carolina and its agencies and political subdivisions, or other legal entity. ~~a firm, association, corporation, trust and company, as well as an individual.~~

*Planning and development regulation jurisdiction.* The geographic area defined in Part 2 of G.S. 160D within which the Town may undertake planning and apply the development regulations authorized by this ordinance.

*Planning board* means the Cumberland County Joint Planning Board and ~~any board or commission established pursuant to G.S. 160D-301.~~

*Premises* means a lot and the structure or structures located on it.

*Principal structure/principal use* means the primary building, purpose or function that a parcel or structure serves or is intended to serve.

*Principal use* means the primary purpose or function that a parcel or structure serves or is intended to serve.

*Property.* All real property subject to land-use regulation by the town. The term includes any improvements or structures customarily regarded as a part of real property.

*Public way* means any street, alley or similar parcel of land, which is deeded, dedicated or otherwise permanently appropriated to the public for public use.

*Quasi-judicial decision.* A decision involving the finding of facts regarding a specific application of a development regulation and that requires the exercise of discretion when applying the standards of the regulation. The term includes, but is not limited to, decisions involving variances, special use permits, certificates of appropriateness, and appeals of administrative determinations. Decisions on the approval

of subdivision plats and site plans are quasi-judicial in nature if the regulation authorizes a decision-making board to approve or deny the application based not only upon whether the application complies with the specific requirements set forth in the regulation, but also on whether the application complies with one or more generally stated standards requiring a discretionary decision on the findings to be made by the decision-making board.

*Recreational vehicle* means a vehicle which is built on a single chassis or capable of being placed in or on a vehicle; designed to be self-propelled or towable by a light duty truck; and designed primarily for use as temporary living quarters for recreational, camping, travel or seasonal use. The basic entities are travel trailer, camping trailer, truck camper, and motor home.

*Recreational vehicle park (including RV parks)* . See *Campground* definition in this section.

*Religious worship activity* means any premises, the principal purpose of which is religious worship and in which the principal structure is the principal place of worship. Accessory uses may include religious education classrooms, assembly rooms, kitchens, library room or reading room, recreation hall and a one-family dwelling unit (parsonage), but excluding food sales, second hand shops, festivals, bazaars and facilities for residence or training of religious orders, unless otherwise authorized by this chapter.

*Residential habilitation support facility* means a day care home with support and supervisory personnel that provides room and board, personal care and habilitation services in a family environment to more than six resident handicapped persons. The term "handicapped person" means a person with a temporary or permanent physical, emotional or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, hearing and sign [sight] impairments, emotional disturbances and orthopedic impairments, but not including mentally ill persons who are dangerous to others, as defined in G.S. 122C-3(11)(b).

*Restaurant* means an eating establishment, including cafeterias, cafes, grills, or fast-food establishments that have a gross receipts from food sales and non-alcoholic beverage sales of a least 30 percent of the total gross receipts including alcoholic beverage sales. This definition does not include any use that qualifies to be regulated under section 42-91.

*Right-of-way* means an area owned and maintained by the town, the State of North Carolina, a public utility, a railroad or a private entity for the placement of such utilities and/or facilities for the passage of vehicles or pedestrians, including roads, pedestrian walkways, utilities or railroads.

*Sexually oriented business* means any business or enterprise that has as one of its principal business purposes or as a predominant purpose of its business an emphasis on matter and conduct depicting, describing or related to anatomical areas and sexual activities specified in G.S. 14-202.10.

*Site plan* means a scaled drawing and supporting text showing the relationship between lot lines and the existing or proposed uses, buildings, or structures on the lot. The site plan may include site-specific details such as building areas, building height and floor area, setbacks from lot lines and street rights-of-way, intensities, densities, utility lines and locations, parking access points, roads, and stormwater control facilities that are depicted to show compliance with all legally required development regulations that are applicable to the project and the site plan review. A site plan approval based solely upon application of objective standards is an administrative decision and a site plan approval based in whole or in part upon the application of standards involving judgment and discretion is a quasi-judicial decision. A site plan may also be approved as part of a conditional zoning decision.~~a scaled drawing depicting uses and structures proposed for a parcel of land as required by this chapter and chapter 36. It includes such things as lot lines, streets, building sites and setbacks, means of access, parking, reserved open space, buildings, major landscape features, both natural and manmade, and, depending on requirements, the locations of proposed utility lines.~~

*Smoke shop and tobacco store* means any premises dedicated to the display, sale, distribution, delivery, offering, furnishing, or marketing of tobacco, tobacco products, or tobacco paraphernalia; provided, however, that any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a "smoke shop and tobacco store" and shall not be subject to restrictions in this chapter.

*Solid waste disposal facility* means any depository of solid waste, excluding earth for fill.

*Special use* means a permit issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards. The term includes permits previously referred to as special use permits or special exceptions, those uses for which a permit is required for the proposed activities which are essentially compatible with other uses or activities permitted in a zoning district, but which present unique challenges or possess unique characteristics or qualities that require comprehensive review at a quasi-judicial public hearing by the county board of adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions.

*Street* means a public or private right-of-way which affords the principal means of access to abutting properties, including avenue, place, way, drive, lane, boulevard, highway, road and any other thoroughfare, except an alley.

*Street centerline* means a dedicated and accepted public right-of-way.

*Street line* means the dividing line between a street or road right-of-way and the contiguous property.

*Street, private* means any road, street, or alley which is not publicly owned and maintained and is used for access by the occupants of the development, their guests, and the general public. This definition does not include neighborhood public roads, cart paths and ingress/egress easements.

*Street, public* means a dedicated, and accepted for maintenance purposes, public right-of-way for vehicular traffic that affords the principal means of access to abutting properties.

*Structure. See Building.*

*Subdivision* means the division of land for the purpose of sale or development as specified in G.S. 160D-802, a division of five acres or less of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose of sale or building development, whether immediate or future, with certain modifications as more particularly defined in chapter 36.

*Tobacco* means any preparation of the nicotine-rich leaves of the tobacco plant, which are cured by a process of drying and fermentation for use in smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing, or ingesting by any other means into the body.

*Tobacco paraphernalia* means any paraphernalia, equipment, device, or instrument that is primarily designed or manufactured for smoking, chewing, absorbing, dissolving, inhaling, snorting, sniffing or ingesting by any other means into the body of tobacco products. Items or devices classified as tobacco paraphernalia include but are not limited to the following: pipes, punctured metal bowls, bong, water bong, electric pipes, e-cigarettes, e-cigarette juice, buzz bombs, vaporizers, hookahs, and devices for holding burning material. Lighter and matches shall be excluded from the definition of tobacco paraphernalia.

*Tobacco product* means any product in leaf, flake, plug, liquid, or any other form, containing nicotine derived from the tobacco plant, or otherwise derived, which is intended to enable human consumption of tobacco or nicotine in the product whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means. For the purposes of this chapter, the term "tobacco product" excludes any product that has been specifically approved by the United States Food and Drug Administration (FDA) for sale as a tobacco; smoking cessation product or for other medical purposes, where such product is marketed and sold solely for such an approved purpose.

*Therapeutic foster care home* means a 24-hour residential treatment facility located in a private residence which provides professionally trained parent-substitutes who work intensively with children and adolescents who are emotionally disturbed or have a substance problem, or both. These homes shall not serve more than two children or adolescents.

*Transient lodgings* means land used or intended to be used or occupied by a group of two or more detached or semidetached buildings, except mobile homes, or by a multiple building containing guest rooms, with automobile parking space and incidental utility structures which are provided in connection therewith, all of which is used or designed for use primarily by automobile transients.

*Used or occupied* means and includes the words "intended," "designed," or "arranged" "to be used or occupied."

*Variable lot residential development.* A variable lot residential development consists of single-family residential structures on individual lots where the developer may reduce the size of such lots in accordance with certain standards defined in chapter 36, while maintaining applicable overall density standards for the zoning district in which it is located.

*Vehicular surface area* means an area primarily used for the parking of private passenger vehicles. "Vehicular surface area" includes the means of ingress and egress to the area where motor vehicles are parked. "Vehicular surface area" includes any median, traffic island, or other traffic control device or structure contained wholly within the designated parking area. "Vehicular surface area" does not include covered vehicle parking areas or multi-level vehicle parking areas.

*Vested Right.* The right to undertake and complete development and use of property under the terms and conditions of an approval secured as specified in G.S. 160D-108 or under common law.

*Vertical mixed use* means buildings erected for two or more different uses, providing space for nonresidential uses on the ground floor with residential areas located on the upper floors and functionally designed to share vehicular and pedestrian access and parking areas.

*Yard* means a space on the same lot with a principal building, open, unoccupied and unobstructed by buildings or structures from the ground to the sky, except where encroachments and accessory buildings are expressly permitted herein.

*Yard, front,* means a yard extending across the full width of the lot adjoining the street on which the lot fronts.

*Yard, rear,* means a yard extending across the full width of the lot adjoining the rear lot line.

*Yard, side,* means a yard adjacent to any side lot line extending from the front yard to the rear yard.

*Zero lot line development* means a single development including, but not limited to, patio houses, townhouses, condominiums, businesses, and individual lots and including one or more structures comprising at least two individual lots, dwelling units, or businesses, whether attached or detached, intended for separate ownership and developed in accordance with the standards of chapter 36.

~~*Zoning* means a police power measure, enacted by the board of aldermen pursuant to G.S. 160A-381, in which the town is divided into districts or zones within which permitted, conditional and special uses are established, as are regulations governing lot size, building bulk, placement, and other development standards. Requirements vary from district to district, but they must be uniform within districts.~~

*Zoning district* means an area established by this chapter where the individual properties are designed to serve compatible functions and to be developed at compatible scales.

*Zoning map amendment or rezoning.* An amendment to a zoning regulation for the purpose of changing the zoning district that is applied to a specified property or properties. The term also includes (i) the initial application of zoning when land is added to the territorial jurisdiction of a local government that has previously adopted zoning regulations and (ii) the application of an overlay zoning district or a conditional zoning district. The term does not include (i) the initial adoption of a zoning map by a local government, (ii) the repeal of a zoning map and readoption of a new zoning map for the entire planning and development regulation jurisdiction, or (iii) updating the zoning map to incorporate amendments to the names of zoning districts made by zoning text amendments where there are no changes in the boundaries of the zoning district or land uses permitted in the district.

*Zoning regulation.* A zoning regulation authorized by Article 7 of G.S. 160D.

(Code 1978, §§ 12.111, 12.112; Code 1995, § 156.008; Ord. of 1-10-1972; Ord. 2-12-1990; Ord. of 10-10-1994; Ord. of 9-11-1995; Ord. of 11-25-2002(01), § 156.008; Ord. of 3-13-2006, § 156.008; Ord. No. 2007-2, § 156.008, 11-26-2007; Ord. No. 2007-5, § 156.008, 11-26-2007;

Ord. No. 2009-11, § 1, 5-26-2009; Ord. No. 2009-19, § 156.008, 12-14-2009; Ord. No. 2011-1, § 156.111, 2-14-2011; Ord. No. 2012-2, § 1, 2-13-2012; Ord. No. (2014)17, 9-22-2014; Ord. No. (2015)3, § 1, 2-23-2015; Ord. No. (2016)2, § 1, 2-22-2016; Case No. P19-36, 9-23-2019

Secs. 42-9—42-34. - Reserved.

## ARTICLE II. - ZONING DISTRICTS

Sec. 42-35. - Statement of district intent; purpose and zone characteristics.

For the purpose of this chapter, the areas affected are divided into the following classes of districts:

- (1) *Residential districts.* Residential conventional zoning districts are composed of certain existing residential areas of the town and certain areas where similar residential development appears likely to occur. The regulations for these districts are designed to stabilize and protect the essential characteristics of each district by promoting and encouraging a suitable environment for family life and prohibiting certain activities of a commercial or industrial nature. To these ends, development is limited to dwellings which provide homes for the residents plus certain additional uses such as schools, parks, recreation facilities and certain other public facilities. This system of classification is utilized to optimize orderly development by providing a variety of living environments based on different levels of permitted population density, facilitating the adequate provision of transportation and other public facilities.
  - a. *RR Rural Residential District.* A district for traditionally rural use with lots of 20,000 square feet or above. The principal use of the land is for low-density residential and agricultural purposes. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment.
  - b. *R-15 Residential District.* A district designed primarily for single-family dwelling units with a lot area of 15,000 square feet or above.
  - c. ~~[Family care home location.] No family care home may be located within a one-half mile radius of an approved or existing group home or approved or existing residential habilitation support facility.~~
  - dc. *R-10 Residential District.* A district designed primarily for single-family dwellings on medium-sized lots with area of 10,000 square feet or above.
  - ed. *R-6A Residential District.* A district designed for a mix of single- and multi-family dwellings including the use of mobile homes in mobile home parks only.
  - fe. *R-6 Residential District.* A district designed for a mix of single- and multi-family dwellings.
  - gf. *R-5A Residential District.* A district designed primarily for multi-family housing with a maximum of 13.5 dwelling units per net acre.
  - hg. *R-5 Residential District.* A district designed primarily for multi-family dwelling units with a density greater than that allowed in R-5A.
  - ih. *PND Planned Neighborhood District.* A district for the planned development of various residential densities concurrent with neighborhood-oriented uses in a single project.

[Note: Family care homes as defined in G.S. 160D-907 must be permitted in all residential zoning districts, however, no family care home may be located within a one-half mile to another such defined and regulated family care home].
- (2) *O & I Office and Institutional District.* This conventional zoning district is designed primarily for agencies and offices rendering specialized services in the professions, finance, real estate and brokerage as well as the traditional institutional functions both public and private, public assembly,

religious and certain cultural recreational activities and group housing. The uses in this district classification may be characterized as having no retail or wholesale trade, except as incidental use. The district is normally small and often situated between business and residential areas. The regulations are designed for maintaining more compatibility with nearby residential districts than would exist with a commercial district.

- (3) *HS(P) Planned Highway Service District.* This conventional zoning district is designed for commercial establishments serving transients using only the major highway systems traversing the county. The range of retail and service uses in this district are restricted to those essential to the traveler and therefore, by nature, are inhibiting the generation and potential congestion of local traffic. The district is customarily located near the intersection of limited access facilities and major arterial streets. Plan approval is a requirement for developments proposed for the district.
- (4) *C(P) Planned Commercial District.* The intent of this conventional zoning district is to assure the grouping of buildings on a parcel of land so as to constitute a harmonious, efficient and convenient retail shopping area. To promote the essential design features within this district, plan approval is required. Any site plan shall assure traffic safety and the harmonious and beneficial relations between the commercial area and contiguous land.
- (5) *C-1 Local Business District.* This conventional zoning district is designed to cater to the ordinary shopping needs of the immediate neighborhood with emphasis on convenience goods. This district is customarily located adjacent to any arterial street and generally surrounded by residential areas.
- (6) *C-3 Heavy Commercial District.* This conventional zoning district is designed primarily for a wide variety of retail and wholesale business, commercial and contract services, commercial recreation and amusement, public assembly and office uses. Since this district has such a wide selection of uses, it will not be expanded without consideration as to its effect on surrounding lands and is limited to those areas of mixed commercial activity which lie adjacent [to] or at the intersection of major arterials and those areas which exhibit a highly mixed composition of commercial land uses.
- (7) *CB Central Business District .* This conventional zoning district is intended to preserve and enhance the original downtown area as a compact, viable and convenient location for a wide variety of commercial and office uses. Residential uses are permitted only in conjunction with a mixed use building or mixed use development, and shall be located to the rear or on the second floor of or above any structure. To preserve the compactness of the area and to lessen congestion the display, sales and storage of goods is conducted entirely within enclosed buildings. The yard requirements are based generally on the pattern of existing development so as to minimize dimensional disparities and to preserve the continued usefulness and essential character of the existing buildings located in the downtown area. In order to promote coordination and the compatible intermixture of residential and commercial development, this district is a planned district and site plan review is required for every development, re-development or change-in-use.

[Note: Mixed use buildings and mixed use developments are currently allowed in the Spring Lake ordinance.]

- (8) *M(P) Planned Industrial District.* This conventional zoning district is designed primarily as a restricted industrial and wholesale area which by location and design is compatible with surrounding or abutting residential, commercial, or light industrial areas. The general intent of this district is to permit uses confined to service, wholesaling, manufacturing, fabrication and processing activities that can be carried on in an unobstructed manner characterized by low concentration and limited external effects with suitable open spaces, landscaping, parking and service areas. The district is customarily located between other industrial areas and residential uses or in locations which are served by major roads but are not feasible for other industrial districts because of proximity to residential uses. To promote the essential design features within the M(P) District, plan approval is a requirement.
- (9) *M-1(P) Planned Light Industrial District.* This conventional zoning district is designed for a wide variety of light industrial operations involving manufacturing, processing, and fabrication of

material; operations involving wholesaling and bulk storage; accommodating a limited range of administrative offices, institutional and commercial services; a variety of research and development uses; and certain public assembly and recreational uses with all operations conducted entirely within a structure. The general intent of the district is to prohibit residential and heavy industrial uses of the land. By their nature, the uses permitted in this district are generally not compatible with residential or shopping center uses. Access and compatibility with the surrounding uses are the most important location criteria for the light industrial districts. In addition, by allowing a wide range of permitted uses, this district is intended to accommodate the development of "flex space" arrangements, where at the time of initial site plan approval ~~by the board of aldermen,~~ the developer can establish different combinations of allowable uses on a site over time. For assurance of conformance to the standards established by this ordinance [chapter], this district should only be considered for tracts of land five acres or greater in size and staff level site plan approval is required for any change in use.

- (10) *M-2 Heavy Industrial District*. This conventional zoning district is designed primarily for basis manufacturing and processing industries, all of which normally create a high degree of nuisance and are not generally compatible with residential or commercial and service use. The general intent is to encourage the continued use of certain lands in the town for heavy industrial purpose. The district is customarily located on larger tracts of land with good highway and rail access buffered from residential districts by other more compatible uses. Commercial activities are not permitted, except those having only limited contact with the general public and those not involving the sale of merchandise at retail except for items produced on the premises or for the purpose of serving employees, guests, and other person who are within the district with an industrial activity.
- (11) ~~*Companion District/Conditional Use District (CD)/CUD*~~. Each zoning district ordained by this chapter includes a companion conditional-use district (e.g., R15 has R15/CUD) ~~where no uses are permitted by right.~~ Property may be placed in a conditional district only in response to a petition by all owners of the property to be included. Specific conditions may be proposed by the petitioner or the town or its agencies, but only those conditions approved by the town and consented to by the petitioner in writing may be incorporated into the zoning regulations. ~~All uses in the companion conditional use districts also require a conditional use permit. (See section 42-438.)~~
- (12) *Mixed Use Development/Conditional Use District (MXD/CUD)*. The purpose of this district is to encourage innovative development on a conditional use zoning basis by providing use flexibility while maintaining quality design standards tempered with proper controls regarding buffering, landscaping, open space designation, density and other conditions. (See section 42-139.)
- (13) *Planned Neighborhood Development/Conditional Use District (PND/CUD)*. A district designed for the planned development of various residential densities concurrent with neighborhood-oriented uses in a single project. (See section 42-140.)
- (14) *Density Development/Conditional Use District (DD/CUD)*. The purpose of this district is to promote and encourage the preservation of open space within the town through permanent restriction of development on a percentage of a tract, buffering, and clustering of lots, while at the same time providing for the residential development of land. (See section 42-141.)
- (15) *Dormant zoning districts*. This amendment of the zoning chapter makes dormant certain previously existing zoning districts created under the town's Code of Ordinances, zoning chapter of January 10, 1972, and subsequent amendments. The PND Planned Neighborhood District is now dormant and development shall either comply with the standards of R-10 or shall be submitted for approval under section 42-140.
- (16) *Reserved*.
- (17) *Main Street Overlay District (MSOD)* . An overlay zoning district intended to protect and enhance the traditional downtown main street area by maintaining and stimulating a pedestrian-friendly, vibrant environment while encouraging economic growth that compliments and expands the unique character of the downtown area. Individual structures are encouraged to be multi-story

with uses mixed vertically, street level commercial and upper level office and/or residential. It is the purpose of these regulations to encourage vitality by excluding certain activities which have a negative effect on the public realm through motor vehicle dominated or non-pedestrian oriented design or uses. To facilitate the purpose and intent of this overlay district, proposed uses and all development plans shall be consistent with the regulations as contained within this chapter for the CB central business district.

- (18) *CD Conservancy District*. This conventional zoning district is designed to preserve and protect identifiable natural resources from urban encroachment. The general intent of the district is to provide open area uses for such resource areas that will continue to provide limited development potential while preserving existing conditions to the extent feasible. Areas to be zoned in this district shall be identifiable as swamp, marsh, flood land, poor or very severe soils areas or managed and unmanaged woodland on USGS (Geological Survey) maps, soil maps prepared by the USDA (Department of Agriculture) Soil Conservation Service or other appropriate sources and on file in the county planning department.

(Code 1978, § 12.20; Code 1995, § 156.020; Ord. of 1-10-1972; Ord. of 9-11-1995; Ord. of 4-23-2001; Ord. of 11-25-2002(01), § 156.020(A)(2); Ord. No. 2007-2, § 156.020, 11-26-2007; Ord. No. 2009-11, § 2, 5-26-2009; Ord. No. (2012)10, § 1, 8-13-2012; Ord. No. (2014)17, 9-22-2014; Ord. No. (2016)2, § 1, 2-22-2016)

#### Sec. 42-36. - Zoning maps.

All the territory included in the town is hereby classified into one or more zoning districts and the boundaries of each of these districts are hereby adopted as shown on a series of map sheets entitled "Zoning Maps, Spring Lake, North Carolina." The zoning maps and all notations, references and all amendments thereto, and other information shown thereon are hereby made a part of this chapter, the same as if such information set forth in the map were all fully described and set out herein. Per G.S. 160D-105, the Board of Aldermen has adopted a Zoning Map entitled "Official Zoning Map, Town of Spring Lake, NC" which is retained in the office of the Town Clerk. The Official Zoning Map and notations thereon are hereby designated, established, and incorporated as a part of these regulations and shall be as much a part of these regulations as if they were fully described herein. The maps may be in paper or a digital format approved by the town and may be reproduced by any method of reproduction that gives legible and permanent copies and, when certified by the town clerk in accordance with G.S. 160A-79, shall be admissible into evidence and shall have the same force and effect as would the original map.

Development regulations adopted pursuant to this ordinance may reference or incorporate by reference flood insurance rate maps, watershed boundary maps, or other maps officially adopted or promulgated by State and federal agencies. For these maps a regulation text or zoning map may reference a specific officially adopted map or may incorporate by reference the most recent officially adopted version of such maps. When zoning district boundaries are based on these maps, the regulation may provide that the zoning district boundaries are automatically amended to remain consistent with changes in the officially promulgated State or federal maps, provided a copy of the currently effective version of any incorporated map shall be maintained for public inspection as provided in subsection this section.

The zoning maps, properly attested, shall be kept on file with the planning board and available for inspection by the public. Regardless of the existence of purported copies of the zoning map which may from time to time be made or published, the zoning maps on file with the planning board and amendments thereto entered in the minutes of the board of aldermen shall be final authority as to the current zoning status of lands, buildings, and other structures in the zoning areas.

(Code 1978, § 12.87(a); Code 1995, § 156.021; Ord. of 1-10-1972)



Sec. 42-37. - Interpretation of district boundaries.

If dispute exists as to the boundaries of any district shown on the zoning maps, the following rules shall apply:

- (1) *Extensions of line.* Where such district boundaries are indicated as approximately following street or railroad rights-of-way, alley lines and lot lines, or extensions of such lines, such lines shall be considered to be such boundaries. Where district boundaries are indicated as approximately following the centerline of stream beds or river beds, or such centerlines extended, such centerlines shall be considered to be such boundaries.
- (2) *Unsubdivided property.* In unsubdivided property or where a district boundary divides a lot, the location of such boundary, unless the same is indicated by dimensions shown on the map, shall be determined by the use of the scale of the map.
- (3) *Physical or cultural features.* Where physical or cultural features existing on the ground are at variance with those shown on the zoning maps, or in other circumstances not covered by subsections (a) and (b) of this section, and in instances where none of the above methods are sufficient to resolve the boundary location by the administrative officer, the board of adjustment shall interpret the district boundaries.

(Code 1978, § 12.87(b); Code 1995, § 156.022; Ord. of 1-10-1972)

Secs. 42-38—42-62. - Reserved.

ARTICLE III. ~~PERMITTED, CONDITIONAL, AND SPECIAL USES~~

Sec. 42-63.1. - General.

- (a) Within the various zoning districts, as established in section 42-35, and subject to the requirements of this chapter, no land, building, or structure shall be used and no building or structure shall be erected which is intended or designed to be used in whole or in part for any use other than the uses allowed by the various districts established herein. The use regulations for the various districts are intended to be permissive in nature. Some land uses may be allowed through ~~conditional use district and permit~~ or by issuance of a special use only upon findings that certain conditions exist or should be applied, and is requested and agreed to by the property owner. The establishment of these uses shall be allowed only after review through appropriate measures and approval of plans.
- (b) Permitted uses in the various districts are indicated in the appropriate column of the following matrix. ~~Special uses, with board of adjustment approval and issuance of the permit, and some conditional use districts, after board of aldermen approval and issuance of the permit, are also indicated in the matrix.~~ All proposed non-residential uses, including changes in an existing use, require site plan review and approval by the ~~board of aldermen~~ Administrative Officer and shall be in compliance with the standards of this ordinance and the town's subdivision regulations.

(Ord No. (2016)3, § 1, 5-23-2016)

Sec. 42-63.2. - Uses by right.

All uses of property are allowed as a use by right except where this chapter specifies otherwise or where this chapter specifically prohibits the use. In the event, a use of property is proposed that is not addressed by the terms of this chapter, the minimum ordinance standards for the use addressed by this chapter that is most closely related to the land use impacts of the proposed use shall apply. In addition, ~~the town manager~~ Administrative Officer may initiate a zoning text amendment addressing such proposed

use, provided that the drafting and adoption of said amendment will not cause delay in the permitting of the proposed use.

(Ord No. (2016)3, § 1, 5-23-2016)

Sec. 42-63.3. - Use matrix.

The matrix on the following pages indicates permitted and special uses, as well as some uses allowed only in a conditional use district.

| Sec. 42-63.3 Use Matrix.   |                       |    |                     |             |      |       |     |                |       |             |     |             |
|--|-----------------------|----|---------------------|-------------|------|-------|-----|----------------|-------|-------------|-----|-------------|
| Spring Lake Zoning   |                       |    |                     |             |      |       |     |                |       |             |     |             |
| P = Permitted use (Site plan approval by Board of Aldermen/Administrative Officer) — Non-public hearing) |                       |    |                     |             |      |       |     |                |       |             |     |             |
| C = Conditional use district & permit (Approval by Board of Aldermen — Public hearing)                   |                       |    |                     |             |      |       |     |                |       |             |     |             |
| S = Special use permit (Approval by Board of Adjustment/Alderman — Evidentiary Public hearing)           |                       |    |                     |             |      |       |     |                |       |             |     |             |
| Land Uses  | Zoning Classification |    |                     |             |      |       |     |                |       |             |     |             |
|  | CD                    | RR | R-15<br>R-10<br>R-6 | R-5<br>R-5A | R-6A | O & I | C-1 | CB             | HS(P) | C(P)<br>C-3 | M-1 | M(P)<br>M-2 |
| Accessory uses incidental to any permitted use   | P                     | P  | P                   | P           | P    | P     | P   | P              | P     | P           | P   | P           |
| Addressing service   |                       |    |                     |             |      |       |     |                | P     | P           | P   | P           |
| Agricultural or rural farm use   | P                     | P  |                     |             |      |       |     |                |       |             |     |             |
| Airport operations (minor)   |                       |    |                     |             |      |       |     |                |       |             | S   | S           |
| Alcohol sales  |                       |    |                     |             |      |       |     | P <sup>2</sup> | P     | P           |     |             |
| Amphitheatre   |                       |    |                     |             |      |       |     | P              |       | P           |     |             |
| Apparel and accessory sales  |                       |    |                     |             |      |       |     | P              | P     | P           |     |             |

|  |  |   |   |   |   |  |   |   |   |   |   |   |   |
|--|--|---|---|---|---|--|---|---|---|---|---|---|---|
| Assemblies (halls, armory, stadium, coliseum, community center, fairground activities) |  | S |   |   |   |  | S | S |   | P | P | P | P |
| Bakery production and wholesale sales  |  |   |   |   |   |  |   |   |   | P | P | P | P |
| Baking on-premises and retail only   |  |   |   |   |   |  |   | P | P | P | P |   |   |
| Bank, savings, loan company, other financial activities                                |  |   |   |   |   |  | P | P | P | P | P |   |   |
| Barber and/or beauty college instruction   |  |   |   |   |   |  |   |   | P | P | P |   |   |
| Barbering, hairdressing & salon services   |  |   |   |   |   |  |   | P | P | P | P |   |   |
| Bars & nightclubs  |  |   |   |   |   |  |   |   | P | P | P |   |   |
| Bed and breakfast  |  | P | P | P | P |  |   |   |   |   |   |   |   |
| Bicycle sales and repairing  |  |   |   |   |   |  |   |   |   |   | P |   |   |
| Billboard  |  |   |   |   |   |  |   |   |   |   | S |   | P |
| Bingo  |  |   |   |   |   |  |   |   |   | P | P |   |   |
| Blacksmith/locksmith services  |  | P |   |   |   |  |   |   |   | P | P |   |   |
| Boats and accessories, retail sales and service  |  |   |   |   |   |  |   |   |   |   | P |   |   |
| Books & printed matter sales, not regulated by Sec. 42-91(d)                           |  |   |   |   |   |  |   |   |   | P | P | P | P |
| Books & printed matter, distribution   |  |   |   |   |   |  |   |   |   |   | P | P | P |
| Borrow source operations   |  |   |   |   |   |  |   |   |   |   |   |   | S |
| Bottled gas distributing, bulk storage   |  |   |   |   |   |  |   |   |   |   |   |   | P |
| Bottling   |  |   |   |   |   |  |   |   |   |   |   | P | P |
| Building supply  |  |   |   |   |   |  |   |   |   | P | P | P | P |

|  |   |   |   |   |   |   |   |        |   |   |   |                |                |
|--|---|---|---|---|---|---|---|--------|---|---|---|----------------|----------------|
| Bus repair and storage terminal activities   |   |   |   |   |   |   |   |        |   |   | P | P              | P              |
| Bus station activities   |   |   |   |   |   |   |   |        |   |   | P |                |                |
| Bus station activities, local service only   |   |   |   |   |   |   |   | P      | P |   | P |                |                |
| Cabinet making & other woodworking   |   |   |   |   |   |   |   |        |   |   |   | P              | P              |
| Call center  |   |   |   |   |   |   |   |        |   |   | P | P              | P              |
| Candy/confectionary(on premises/retail)  |   |   |   |   |   |   |   | P      | P |   | P | P              |                |
| Carpet & rug cleaning  |   |   |   |   |   |   |   |        |   |   | P | P              | P              |
| Cemetery, public   |   | S | S | S | S |   | P |        | P |   | P |                |                |
| Club or lodge, not regulated by Sec. 42-91(d)  |   | S | S | S | S | P | P | P      | P |   | P |                |                |
| Convenience container & recycling facility   |   | S |   |   |   |   |   |        |   |   |   | P              | P              |
| Convenience retail w/gasoline sales, including incidental motor vehicle washing  |   |   |   |   |   |   |   | P      |   | P | P | P              | P              |
| Convenience retail w/ gasoline sales, including incidental motor vehicle washing   |   |   |   |   |   |   |   | P      |   | P | P | P              | P              |
| Day care facility  | S | S | S | S | P | P | P | €<br>S |   | P | P | P <sup>3</sup> | P <sup>3</sup> |
| Delicatessen operations (including catering)   |   |   |   |   |   |   | P | P      | P | P | P |                |                |
| Dry cleaning & laundry, commercial   |   |   |   |   |   |   |   |        |   |   | P | P              | P              |
| Dry cleaning & laundry, self service   |   |   |   |   |   |   |   | P      | P |   | P |                |                |
| Dry cleaning & laundry collection (no cleaning on premises except in conjunction w/ service counter, not more than 2,500 square feet devoted to these processes) |   |   |   |   |   |   |   | P      | P |   | P |                |                |

|   |  |                |                |                |                |                |                |                |                |                |   |   |
|---|--|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|----------------|---|---|
| Dwelling, single & multiple-family                          |  | P              | P              | P              | P              | P <sup>4</sup> | P <sub>4</sub> | P <sup>4</sup> | P <sup>4</sup> | P <sup>4</sup> |   |   |
| Equestrian facilities                                       |  | S              |                |                |                |                |                |                |                |                |   |   |
| Exterminating service                                       |  |                |                |                |                |                |                |                |                | P              | P | P |
| Family Care Home (as defined by G.S.)                       |  | p <sup>6</sup> | p <sup>6</sup> | p <sup>6</sup> | p <sup>6</sup> |                |                |                |                |                |   |   |
| Farm supplies merchandising & machinery sales and servicing |  |                |                |                |                |                |                |                |                | P              | P | P |
| Farmer's market, open-air                                   |  | S              |                |                |                | S              | S              |                |                | P              |   |   |
| Fire station operations/emergency services                  |  | P              | P              | P              | P              | P              | P              | P              | P              | P              | P | P |
| Flex office   |  |                |                |                |                |                |                |                |                |                | P |   |
| Florist   |  |                |                |                |                |                | P              | P              | P              | P              |   |   |
| Food processing   |  |                |                |                |                |                |                |                |                |                | P | P |
| Food production, w/on premises retail sales of product      |  |                |                |                |                |                |                |                |                | P              |   |   |
| Food production, wholesale sales                            |  |                |                |                |                |                |                |                |                |                | P | P |
| Food sales (<= 12,000 sq ft in area)                        |  |                |                |                |                |                | P              | P              | P              | P              |   |   |
| Food sales (>12,000 sq ft in area)                          |  |                |                |                |                |                | P              |                | P              | P              |   |   |
| Funeral home  |  |                |                |                |                | P              | P              |                | P              | P              |   |   |
| Funeral home, incl. incidental crematorium                  |  |                |                |                |                |                |                |                | P              | P              |   |   |
| Golf courses  |  | P              | P              | P              | P              | P              | P              | P              | P              | P              |   |   |
| Group homes, six or less clients                            |  | P              | P              | P              | P              |                |                |                |                |                |   |   |
| Group quarters  |  | S              | S              | S              | S              | S              |                |                |                |                |   |   |

|  |   |   |   |   |   |                |                |                |                |                |   |    |    |
|--|---|---|---|---|---|----------------|----------------|----------------|----------------|----------------|---|----|----|
| Gunsmith   |   |   |   |   |   |                |                |                | P              | P              | P |    |    |
| Hardware, paint, and garden supply sales                           |   |   |   |   |   |                |                | P              | P              |                | P |    |    |
| Hatchery operations  | P | P |   |   |   |                |                |                |                |                | P | P  |    |
| Hazardous waste storage/disposal facility                          |   |   |   |   |   |                |                |                |                |                |   | ZS |    |
| Home furnishing & appliance sales                                  |   |   |   |   |   |                |                |                | P              | P              | P |    |    |
| Home occupation, incidental  | P | P | P | P | P | P <sup>4</sup> | P <sub>4</sub> | P <sup>4</sup> | P <sup>4</sup> | P <sup>4</sup> |   |    |    |
| Hotel  |   |   |   |   |   |                |                |                | P              | P              | P |    |    |
| Industrial operations not otherwise prohibited                     |   |   |   |   |   |                |                |                |                |                |   | P  |    |
| Industrial sales of equipment or repair service                    |   |   |   |   |   |                |                |                |                |                | P | P  |    |
| Janitorial service   |   |   |   |   |   |                |                |                |                | P              | P | P  | P  |
| Laboratory operations, medical or dental                           |   |   |   |   |   |                |                |                |                | P              | P | P  |    |
| Laboratory, research   |   |   |   |   |   |                |                |                |                |                | P | P  | P  |
| Landfill, demolition/inert debris                                  |   |   |   |   |   |                |                |                |                |                |   |    | ZS |
| Library  |   | P | P | P | P | P              | P              | P              | P              | P              |   |    |    |
| Livestock sales and auctioning                                     |   |   |   |   |   |                |                |                |                |                |   |    | P  |
| Kennel operations  |   | S |   |   |   |                |                |                |                | P              | P |    |    |
| Machine tool manufacturing or welding                              |   |   |   |   |   |                |                |                |                |                |   |    | P  |
| Manufactured home, Class A &/or Class B, for residential occupancy |   | P |   |   |   | P              |                |                |                |                |   |    |    |
| Manufactured home, Class C   |   |   |   |   |   | P <sup>5</sup> |                |                |                |                |   |    |    |



|   |   |   |   |   |   |   |   |   |   |   |   |   |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Motor vehicle wrecking yards & junkyards, including sales of parts  |   |   |   |   |   |   |   |   |   |   |   | S |
| Municipal operations & activities   |   |   |   |   |   | P | P | P | P | P | P | P |
| Nursery operations/plant husbandry/greenhouses  | S | S |   |   |   |   |   |   | P | P | P | P |
| Nursing home/convalescent home/hospital/retirement home   |   | S | S | S | S | P | P |   | P | P |   |   |
| Office supplies and equipment, sales and service, including mailbox service   |   | P |   |   |   | P | P |   | P | P |   |   |
| Office use of a doctor, dentist, osteopath, chiropractor, optometrist, physiotherapist, or other medically oriented profession, medical clinic  |   | P |   |   |   | P | P | P | P | P |   |   |
| Office use, with only incidental on-premises stock of goods for sale to the general public and the operations and service of which are customarily conducted and concluded by means of written, verbal or mechanically reproduced communications material |   |   |   |   |   |   | P | P | P | P | P |   |
| Pawn shop & swap shop sales   |   |   |   |   |   |   |   |   | P | P |   |   |
| Pet sales, excluding kennel activities or outside storage of animals  |   |   |   |   |   |   |   | P | P | P |   |   |
| Pharmaceutical sales, includes drug stores  |   |   |   |   |   |   | P | P | P | P |   |   |
| Photography studio  |   |   |   |   |   |   | P | P | P | P |   |   |
| Printing & reproduction, sm scale (<4,000 sf)   |   |   |   |   |   | P | P | P | P | P |   |   |
| Printing & reproduction, lg scale (= > 4,000 sf)  |   |   |   |   |   |   |   |   | P | P | P | P |



|  |           |           |           |           |           |           |           |           |           |           |           |           |           |
|--|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| Public /community utility stations/ sub-stations   | P         | P         | P         | P         | P         | P         | P         | P         | P         | P         | P         | P         | P         |
| Public utility works, shops or storage yards   |           |           |           |           |           |           |           |           |           |           | P         | P         | P         |
| Publishing   |           |           |           |           |           |           |           |           |           |           |           | P         | P         |
| Quarry operations  | <u>CS</u> |           |           |           |           |           |           |           |           |           |           |           | <u>CS</u> |
| Radio or television studio activities  |           |           |           |           |           |           | P         | P         | P         | P         | P         |           |           |
| Railroad station/yard operations   |           |           |           |           |           |           |           |           |           |           |           | P         | P         |
| Recreation or amusement enterprise indoor (conducted inside a building & for profit, not otherwise listed & not regulated)   |           | P         |           |           |           |           |           |           | P         | P         | P         |           |           |
| Recreation or amusement enterprise outdoor (conducted outside a building & for profit, not otherwise listed & not regulated)   | <u>CS</u> | P         | <u>SG</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> |           | P         | P         |
| Recreation/amusement public/private (not operated as a business for profit including but not limited to playgrounds, neighborhood center buildings, parks, museums, swimming pools & not otherwise listed) | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> | <u>SE</u> |
| Recreational vehicle park/campground   | P         | P         |           |           |           |           |           |           |           |           |           |           |           |
| Religious worship activities   |           | P         | P         | P         | P         | P         | P         |           |           | P         | P         | P         | P         |
| Repair, rental, and/or servicing of any product the retail sale of which is a use-by-right in the same district  |           |           |           |           |           |           |           |           | P         | P         | P         | P         | P         |
| Residential habilitation support facilities  |           | S         |           |           |           |           | S         |           |           |           |           |           |           |
| Restaurant   |           |           |           |           |           |           |           | P         | P         | P         | P         |           |           |





|   |  |  |  |  |  |  |   |   |   |   |   |   |
|---|--|--|--|--|--|--|---|---|---|---|---|---|
| Upholstering or furniture refinishing   |  |  |  |  |  |  |   |   | P | P | P | P |
| Variety, gift and hobby supply sales  |  |  |  |  |  |  | P | P | P | P |   |   |
| Vending machine, ice  |  |  |  |  |  |  |   |   |   | P |   |   |
| Vending machine outdoor   |  |  |  |  |  |  | P |   | P | P |   |   |
| Vending machine rental  |  |  |  |  |  |  |   |   |   | P | P | P |
| Warehouse distribution center   |  |  |  |  |  |  |   |   |   |   |   | P |
| Wholesale sales with operations conducted and merchandise stored entirely within a building and not otherwise listed herein |  |  |  |  |  |  |   |   |   |   | P | P |
| Wireless communications & accessory sales   |  |  |  |  |  |  | P | P | P | P |   |   |

<sup>1</sup> Special use permit required for mixed use building, see section 42-91(f), except for CB district — see Sec. 42-35.

<sup>2</sup> In conjunction with a restaurant or bar/nightclub only.

<sup>3</sup> Only as incidental to an approved use in an approved industrial park.

<sup>4</sup> Mixed use building only, see Sec. [number to be added at a later date]

<sup>5</sup> See Section [to be inserted at a later date]

<sup>6</sup> Per G.S. 160D-907, Family Care homes must be permitted in all residential zoning districts, however, no family care home may be located within a one-half mile to another such defined and regulated family care home.

(Code 1978, § 12.88; Code 1995, § 156.035; Ord. of 1-10-1972; Ord. of 7-2-1973; Ord. of 9-26-1983; Ord. of 10-10-1994; Ord. of 9-11-1995; Ord. of 4-23-2001, § 156-035; Ord. of 3-13-2006, § 156.035; Ord. No. 2007-2, § 156.035, 11-26-2007; Ord. No. 2007-5, § 156.035, 11-26-2007; Ord. No. 2009-11, § 3, 5-26-2009; Ord. No. 2009-19, § 156.032, 12-14-2009; Ord. No. (2016)2, § 1, 2-22-2016; Ord. No. (2016)3, § 1, 5-23-2016; Ord. No. (2019)4, § 1, 4-22-2019)

Sec. 42-64. - Temporary uses.

- (a) The zoning inspector/administrative officer in coordination with the building inspector may issue a temporary certificate of occupancy for the following uses in accordance with the provisions of this section. In cases where the desirability of permitting the use is questionable, the applicant may submit an administrative appeal matter shall be referred to the board of adjustment, for a decision.

- (b) Temporary events. The ~~zoning inspector~~ administrative officer may issue a temporary occupancy permit for bazaars, carnivals, religious revivals, sports events, circuses, festivals and similar uses for a fixed period of time not to exceed 30 days in any one calendar year, and subject to limitations as the administrative officer ~~zoning inspector~~ may impose to protect the character of the district affected.
- (c) Temporary construction offices. The zoning inspector may issue a temporary occupancy permit for construction offices in any district at any site where erection, addition, relocations and/or structural alterations are taking place, provided that such construction office shall be removed immediately upon completion of the project.
- (d) Temporary exhibition. The ~~zoning inspector~~ administrative officer may issue a temporary occupancy permit for mobile structures used solely for purposes of exhibition in any district for a fixed period of time not to exceed 30 days and only upon satisfactory evidence that the use of such mobile structure shall not violate any code or regulation or the intent of this chapter.

(Code 1978, § 12.89; Code 1995, § 156.036; Ord. of 1-10-1972)

Sec. 42-65. - Incidental uses.

- (a) *Home occupations*. A home occupation shall be permitted as an accessory use to any dwelling unit and may be conducted in the principal structure or an accessory structure on the same lot as the principal structure; provided that:
  - (1) The principal person or persons providing the business or service resides in the dwelling on the premises;
  - (2) The area used for the business or service does not exceed 25 percent of the combined floor area of the structures or 500 square feet, whichever is less;
  - (3) All work associated with the home occupation is conducted inside the designated building(s);
  - (4) One attached sign not more than two square feet in area is allowed;
  - (5) The property contains no outdoor display or storage of goods or services associated with the home occupation;
  - (6) The home occupation causes no change in the external appearance of the existing building and structures on the property;
  - (7) One additional off-street parking space is allowed;
  - (8) Wholesale sales of goods do not occur on the premises;
  - (9) The home occupation employs no more than one person who does not reside on the premises;
  - (10) The home occupation does not create any parking congestion, noise, vibration, odor, glare, fumes or electrical or communications interference which can be detected by the normal senses off the premises, including visual or audible interference with radio or television reception;
  - (11) One vehicle, no heavier than ¾ ton, used in connection with the home occupation is permitted and shall be located on the premises in such a manner so as not to disrupt the quiet nature and visual quality of the neighborhood;
  - (12) A small home day care shall be permitted as accessory to any dwelling unit, provided that the following additional conditions are met, as well as the other conditions of this section:
    - a. If an outdoor play area is provided, it must be located in the side and/or rear yard of the property, provided that the yard area is not adjacent to any street, and the outdoor play area is fenced with a solid (opaque) fence; and
    - b. No more than eight children who are unrelated to the operator can be cared for during any 24-hour period.

- (13) All federal, state, and local regulations, including the county environmental health regulations are complied with in the conduct of the home occupation.
- (b) *Outside storage and display.* Outside storage of goods, equipment and material shall be prohibited in any PND, O & I, HS(P), C(P) or C-1 district. Outside display of merchandise which is normally required in conducting [a]commercial operation is permitted in any of the above-named districts except an O & I district.
- (c) *Other incidental uses.* Incidental accessory retail uses include apothecary shops incidental to a hospital or clinic, variety [stores], book[shops], cafeterias, soda bars, coffee and barber shops incidental to institutional or professional office buildings or manufacturing facilities. Incidental retail uses shall be conducted solely for the convenience of the employees, patients, patrons, students, or visitors and not the general retail public. Such retail use which is conducted wholly within the principal building without access thereto other than from within the building without exterior advertising display shall be permitted.
- (d) *[Accessory structures.]* Accessory structures shall not be rented or occupied for gain or inhabited by other than employees performing services on the premises of the owner, lessee, or tenant of the premises. No accessory building to be used for living quarters shall be constructed upon a lot until the construction of the principal building has commenced.

(Code 1978, § 12.90; Code 1995, § 156.037; Ord. of 1-10-1972; Ord. No. (2015)3, § 1, 2-23-2015)

Sec. 42-66. - Individual uses.

- (a) *Recreational vehicle park and/or campground.*
- (1) Recreation vehicle parks/campgrounds shall be used only by travel trailers, pickup, coaches, motor homes, camping trailers, other vehicular accommodations and tents suitable for temporary habitation and used for travel, vacation and recreation purposes.
- (2) The area of the park/campground shall be at least three acres. Each recreation vehicle/camp site, excluding sites used solely for tents, shall be a minimum of 1,200 square feet in area with a maximum of 20 sites per acre. Each site shall contain a stabilized vehicular parking pad of packed gravel, paving or other suitable material.
- (3) All yard setback requirements shall be in accordance with the dimensional requirements of the zoning district in which the park or campground is located and no structure, recreational vehicle site or camping site shall be located within the required yard area.
- (4) Individual recreation vehicle spaces within a recreation vehicle park/campground shall not directly access a public road. Access to all recreation vehicle spaces and accessory structures within the park/campground shall be from internal streets with the entrance to the park directly accessing a public right-of-way. A driveway permit must be obtained from the North Carolina Department of Transportation for connection to the public street.
- (5) The recreation vehicle park/campground shall not allow for permanent occupancy on the same site by the same occupant for any continuous period of time exceeding 90 days.
- (6) Each park shall have at least one telephone available for public use. Management headquarters, manager's residence, recreational facilities, toilets, dumping stations, showers, coin-operated laundry facilities, stores and the uses and structures customarily incidental to operations of a recreation vehicle park/campground are permitted as accessory uses to the park, subject to the following restrictions:
- a. Such establishments (excluding recreational facilities) and the parking areas primarily related to their operations shall not occupy more than 10% of the gross area of the park/campground.

- b. The structures housing such facilities shall not be located closer than 100 feet to any public street and shall not be directly accessible from any public street but shall be accessible only from an internal drive within the park/campground.
  - c. Such structures containing toilets, bathhouses and other plumbing fixtures shall comply with the requirements of the North Carolina Building Code.
  - d. Each park shall be limited to a maximum of one manager's/caretaker's residence.
- (7) Adequate off-street parking and maneuvering space shall be provided on site. No public street, sidewalk or right-of-way or any other private grounds not a part of the recreational vehicle parking area shall be used to park or maneuver vehicles.
  - (8) Internal drives shall be constructed to a minimum of 18 feet in width if providing two way streets and 12 feet in width for one way streets and contain a minimum depth of six inches of stone gravel base with proper ditching, drainage, and seeding of slopes. Permanent dead-end streets shall have a cul-de-sac constructed 40 feet in diameter.
  - (9) Recreational vehicle parks and campgrounds shall be enclosed by a fence, wall, landscaped screening, earthen mounds or by other measures from all contiguous residential areas in a manner that complements the landscape and assures compatibility with the adjacent environment, and complies with the buffering requirements for non-residential uses adjacent to residential districts.
  - (10) In addition to the requirements required to be shown on the site plan as required by the Article IX, the site plan shall include the name and address of the applicant, the location and dimensions of each recreation vehicle/camping site, the location and use of all service and recreational facilities, all interior access ways, drives, and parking. All site plans subject to this Section shall also require approval from the County Health Department.
  - (11) When permitted, recreation vehicle parks/campgrounds within the CD Conservancy District shall be subject to the following requirements:
    - a. No individual recreation vehicle/camping site shall have individual on-site septic systems.
    - b. Each recreational vehicle must be equipped with a holding tank and each park/campground must have an approved dumping station or pump-out facilities on the premises.
  - (12) All Federal, State and other local regulations shall be complied with.
- (b) *Smoke shops and tobacco stores.*
- (1) Smoke shops and tobacco stores shall not be located within 1,000 feet of a parcel occupied by a public or private kindergarten, elementary, middle, junior high or high school; licensed child-care facility or preschool, youth centers, community centers, recreational facility, park, church or religious institution, medical facility or other similar uses where children regularly gather.
  - (2) Smoke shops and tobacco stores shall not be located within a one-half mile radius of an approved or existing smoke shop and tobacco store.

(Ord. No. (2016)2, § 1, 2-22-2016; Case No. P19-36, 9-23-2019)

Secs. 42-67—42-88. - Reserved.

#### ARTICLE IV. - SPECIAL USES

Sec. 42-89. - Purpose.

Some land uses have a particular impact on the surrounding area that cannot be adequately controlled by general regulations. Their establishment shall be allowed only after review and approval of plans and shall be called special uses. Per G.S. 160D-102, §special uses, because of special site or

design requirements, operating characteristics, or potential adverse effects on surrounding property and the neighborhood, shall be permitted only upon approval by the board of adjustment ~~aldermen~~ in accordance with the standards and ~~conditions~~ findings as set forth in section 42-90.

(Code 1978, § 12.91; Code 1995, § 156.050; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.050, 11-26-2007)

Sec. 42-90. - Procedure for obtaining a special use permit.

- (a) Per G.S. 160D-705, in granting approval for a special use permit, the board of adjustment aldermen may stipulate, such conditions and restrictions as agreed upon by the applicant. Reasonable and appropriate conditions and safeguards may be imposed upon the special use permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the town, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land, shall impose such reasonable terms and conditions as it may deem necessary for protection of health, the general welfare, and the public interest, including the requirement that detailed plans for each special use permit proposal be submitted as part of the application for a special use permit. Any changes, enlargement or alteration in such use shall be reviewed by the board of adjustment and new conditions may be imposed where findings require.
- (b) In granting a special use permit, the board of adjustment aldermen shall hold an evidentiary public hearing and make a quasi-judicial decision on the special use permit application.
- (c) Notice of evidentiary hearings conducted pursuant to this Section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board of aldermen may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.
- (d) Members of the Board of Aldermen exercising quasi-judicial functions pursuant to this Section shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter.
- (e) Prior to granting the special use permit, the board of aldermen shall give due consideration to the following statements and make findings that they have been fulfilled:
  - (1) The location, site, design, and operating characteristics of the proposed development or use so that it will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and surrounding neighborhood;
  - (2) The proposed development or land use is in harmony in scale, bulk, coverage, function, and density of the proposed development with this ordinance;



- (3) The development or land use has availability of adequate public facilities and utilities;
- (4) The development or land use will mitigate the generation of traffic created and the increased capacity of surrounding streets; and
- (5) The development or land use meets the purpose and intent of the general land use adopted comprehensive plan(s) for the physical development of the zoning district to which it is located and the protection of the environment is provided.

Developers are encouraged to discuss their special use plans with the planning board's staff Administrative Officer before submission. The staff Administrative Officer shall assist the developer upon request by reviewing special use plans to ensure that the technical requirements of this section are met before submission to the board of adjustment aldermen.

(Code 1978, § 12.92; Code 1995, § 156.051; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.051, 11-26-2007)

Sec. 42-91. - Specific ~~conditional~~ special uses; requirements.

- (a) *Generally.* It is recognized that there are some uses which, because of their very nature, are recognized as having serious objectionable operational characteristics, particularly when several of these are concentrated, under certain circumstances thereby having a deleterious effect upon adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this section. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area; for example, not more than one such use within 1,000 feet of each other which would create such adverse effects.
- (b) *Radio and television transmitting and receiving stations and towers.* All such facilities, when permitted as a special use, shall provide at least one foot of side, rear and front yard for every two feet of tower and/or building height.
- (c) *Day care facilities.* All day care facilities shall comply with the following:
  - (1) There shall be sufficient paved driveway to accommodate at least two motor vehicles at one time for the purpose of loading and unloading passengers in addition to any required off-street parking for the owner/operator and employee(s);
  - (2) All children's outside play areas shall be enclosed with at least a four-foot high fence and located only within the side and/or rear yards, provided the yards are not adjacent to a street. The horizontal/vertical spacing in the fence shall be a maximum of four inches and at a minimum the fence must comply with the guard opening limitations for spacing established in the N.C. BLDG CODE § R312.2 (2006 or more restrictive subsequent amendment);
  - (3) Provide a minimum of two off-street parking spaces, plus one off-street parking space for each employee;
  - (4) Day care facilities allowed in zoning districts other than residential districts shall comply with the district dimensional requirements of the zoning district; and
  - (5) For day care facilities located within any residential zoning district, the following provisions must be complied with:
    - a. Minimum lot size of 10,000 square feet land area;
    - b. The required minimum setbacks shall be as follows:
      1. Front yard: 30 feet from any public or private street;
      2. Rear yard: 35 feet;
      3. Side yard: 20 feet; and

4. Corner lots shall provide a minimum of 30 feet from both (all) streets.
- c. Subject property must abut and have direct access to a minor collector or minor arterial or higher street classification, as identified on the functional classification map; and
- d. All outside pets shall be enclosed in a separately fenced area.

(d) *Sexually oriented businesses.*

(1) *Generally.* Sexually oriented businesses are some of the uses which, because of their very nature, may have serious objectionable characteristics, particularly when several of them are concentrated in one area, thereby having a deleterious effect upon adjacent areas, or when the uses are proposed to be located in or near sensitive areas or land uses. Special regulation of sexually oriented businesses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations and applicable criteria are contained in this section. Sexually oriented businesses shall be allowed only in the C-3 Heavy Commercial District, subject to the following:

- a. Sexually oriented businesses shall not be located within 1,000 feet of another sexually oriented business. The measurement shall be taken from the exterior walls of the buildings containing such regulated use.
- b. No sexually oriented business shall be located within 500 feet of any area zoned for residential use or from the property line of residential units, religious worship activity, nursery school, day care facility, any recreation and amusement not regulated herein, and any public or private school regardless of the zoning district, and shall be measured from the property lines containing such regulated use.
- c. Buffering complying with the standards of section 42-191(7) shall be placed around the entire perimeter, including road frontage, for all sexually oriented businesses.
- d. No nude or seminude service or entertainment of any kind shall be allowed outside the building of such use.

(2) *Adult activities.*

- a. *Definitions.* For the purpose of this subsection, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

*Adult bookstore* means an establishment having a substantial or significant portion of its stock in trade, books, magazines and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical area, or an establishment with a segment or section devoted to the sale or display of such material.

*Adult motels and hotels* means a place where motion pictures not previously submitted to or not rated by the Motion Picture Association of America are shown in rooms designed primarily for lodging, which the motion pictures have as the dominant or primary theme matters depicting, describing, or relating to specified sexual activities.

*Adult motion picture theater* means an enclosed building used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

*Specified anatomical areas* means any of the following:

- (1) Less than completely and opaquely covered human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

*Specified sexual activities* means any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal;
  - (2) Acts of human masturbation, sexual intercourse or sodomy; or
  - (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- b. *Uses.* The following uses are permitted under C-3 as ~~conditional~~-special use and subject to the provisions of this section:
1. Adult bookstores;
  2. Adult motion picture theater housed in a permanent indoor structure;
  3. Clubs and other places of entertainment operated as a commercial enterprise providing nude or semi-nude entertainment such as "topless" dancing;
  4. Eating and drinking establishments including drive-in curb service providing nude or semi-nude entertainment such as "topless" dancing;
  5. Any physical culture establishment, masseur, massage parlor, health salon or club not otherwise permitted by section 42-63; and
  6. Adult motels and hotels.
- c. *Location of uses.*
1. No use permitted under this section may be located within 1,000 feet of another use permitted under this subsection which will be measured from the exterior walls of the buildings containing such regulated use.
  2. No use permitted under this subsection may be within 500 feet of any area zoned for residential use which will be measured from the exterior walls of the buildings containing such regulated use.
- (3) *Expiration due to unused permit, cessation of use.* Any (specific) ~~conditional~~-special use permit granted becomes null and void if not exercised within the time specified in such approvals or, if no date is specified, within one year from the date of such approvals. Any (specific) ~~conditional~~-special use permit granted is no longer valid when the use is discontinued or ceases for a continuous period of six months, unless the applicant/owner can show that such discontinuation or cessation occurred due to circumstances inevitably outside of his direct control.
- (e) *Open-air farmer's markets.* The following specific provisions are minimum provisions and shall apply to approved open-air farmers' markets. The applicant is the responsible party for continued compliance upon issuance of a special use permit by the town board of adjustment/aldermen. The contents of this section shall not be construed as to limit the board's authority to impose any additional restrictions or conditions necessary for protection of the public health, general welfare, and interest.
- (1) The applicant shall be a local producer of the products offered for sale. For purposes of this section, the term "local" shall mean any resident of the town or the immediate surrounding area. The applicant and/or their immediate family members shall also be the vendors.
  - (2) The market shall be set up on self-owned property or if agreed to by a property owner other than the vendor and if proof of the property owner's consent is submitted with the application, the market may be set up on another's property. The establishment of proof can be accomplished by submission of either a notarized statement signed by all current tax record owners of the property signifying their consent or a copy of a properly recorded lease agreement signed by the parties involved.
  - (3) Sales shall be limited to seasonal or perishable produce, products made largely or entirely from such produce, and may include flowers, plants or other self-made crafts. No resale of produce or items shall be permitted.
  - (4) No fresh meat, poultry or fish shall be sold.

- (5) Any scales used in conjunction with the items offered for sale shall be certified by the state department of agriculture and must be approved as "Legal for Trade."
  - (6) Buffering and landscaping shall be provided and maintained in accordance with the provisions of section 42-191(7) and article IX of this chapter. The market shall not be operated within any landscaping area otherwise required by this subsection.
  - (7) On-site trash receptacles shall be provided and shall comply at all times with chapter 40, article II (set forth in section 40-76(j)), the town's solid waste management provisions, which states that all trash receptacle areas that include dumpsters or three or more trash receptacles shall be located on concrete slabs, or other suitable stable and packed material as approved by the town engineer, and be fenced with a solid fence on at least three sides to shield from public view. All receptacle areas must include a gate that can be locked. All fencing shall be plumb with the ground and extend at least one foot in height above the top of the receptacles.
  - (8) Hours of operations shall be limited to the hours between dawn to dusk. The proposed hours and days of operations shall be stated in the application.
  - (9) No accessory structure, other than for secure storage, shall be permitted on a permanent basis. Any tents or shelters used in conjunction with the market shall be in compliance with all fire regulations. All setups and displays must be removed by the end of the designated sale day. No overnight storage of vehicles, tables, storage containers, display items or support structures shall be permitted. The applicant shall be responsible to insure all debris is removed at the end of each day.
  - (10) Traffic generated by the market shall not impede the normal flow of traffic on any public or private right-of-way.
  - (11) A detailed site plan shall be submitted with the application, complying with the pertinent provisions of section 42-167 and shall also indicate compliance with the following standards:
    - a. This use is exempt from the district provisions of section 42-192; however, no portion of the market shall be located closer than 15 feet to any right-of-way line and/or property line, and shall not be located closer than ten feet to an internal drive;
    - b. Off-street paved parking shall be provided at the rate of one space per 200 square feet of display area or, a minimum five spaces, whichever is greater. The parking spaces shall be permanently maintained by the applicant, arranged in such a manner so that ingress and egress to/from the spaces shall be by forward motion of the vehicle and meet all requirements of section 42-260; and
    - c. Generally the provisions of section 42-191 (yard regulations) shall not apply; however, the provisions of sections 42-191(4), *Corner visibility* , and 42-191(8), *Location of accessory buildings in any district* , shall be met.
  - (12) One on-site advertising sign shall be permitted provided that the sign area and location comply with the sign regulations for the district if the market is located in the C-1P, C(P), and C-3 zoning districts; signage for markets approved in the RR zoning district shall comply with the sign regulations for the C-1 zoning district. Prices must be posted for all items sold and individual pricing signs shall not exceed four square feet in area.
  - (13) The site shall provide access to restroom facilities that comply with all provisions of the *N.C. State Building Code*.
  - (14) The provisions of this section shall not be construed to apply to any bona fide farm operation exempt from this regulation under section 42-5.
  - (15) All applicable federal, state, and local regulations shall be complied with, including the requirement for posting of the state sales tax license.
- (f) *Mixed use building.*

- (1) Mixed use buildings are allowed uses in the O & I Office & Institutional, C-1 Local Business, CB Central Business, C(P) Planned Commercial and C-3 Heavy Commercial Districts;
- (2) Residential uses within a mixed use building shall not exceed 40 percent of the total floor area, with a minimum of 60 percent of the floor area of all structures devoted to the nonresidential uses as allowed within the specific zoning district of the property;
- (3) The facade of the buildings approved for mixed use in a nonresidential district shall be of a commercial design;
- (4) There shall be no ancillary, accessory or incidental residential use of the property outside the mixed use building;
- (5) All "for sale" residential units are subject to the condominium development provisions of section 36-73;
- (6) The development must be served by public or community water and sewer;
- (7) The subject property must have direct vehicular access to a paved public right-of-way;
- (8) Off-street parking shall be provided in accordance with article X of this chapter for the nonresidential use, and 1½ spaces for each residential unit. Shared parking shall be encouraged and permitted when it can be substantiated that the hours of operation of the nonresidential use are restricted to daylight hours and will not adversely affect the residential parking needs;
- (9) The minimum lot area per residential unit shall be 1,000 square feet, not including the lot area utilized by the nonresidential use. The site plan must provide the calculations indicating compliance with this provision;
- (10) Sidewalks are required in accordance with the standards of section 36-107(f); and
- (11) A fee in lieu of dedication for on-site parks, recreation and open space is mandatory. This fee is to be calculated based on the tax assessed raw land value of the equivalent land area required for parks, recreation and open space under the provisions of section 36-107(h).

(Code 1978, § 12.93; Code 1995, § 156.052; Ord. of 1-10-1972; Ord. of 5-13-1991; Ord. of 1-10-1994; Ord. of 10-10-1994; Ord. of 9-22-1997; Ord. of 11-25-2002(01), § 156.052(E); Ord. of 3-13-2006, § 156.052(E); Ord. No. 2007-5, § 156.052, 11-26-2007; Ord. No. 2009-19, § 156.052, 12-14-2009; Ord. No. (2015)3, § 1, 2-23-2015)

Secs. 42-92—42-110. - Reserved.

#### ARTICLE V. - NONCONFORMING USES

Sec. 42-111. - Purpose.

Any structure or use of land existing at the time of the enactment of this chapter, or any amendment thereto, used for a purpose not permitted in the zoning district in which it is located shall be considered a nonconforming use and shall be regulated as follows.

(Code 1978, § 12.94; Code 1995, § 156.060; Ord. of 1-10-1972)

Sec. 42-112. - Provisions for nonconforming uses.

- (a) *Generally.* No structure or land containing a nonconforming use shall hereafter be extended, nor shall its total value be enhanced, except as provided in this section and section 46-111.
- (b) *Discontinuance of open-air uses.*

- (1) All nonconforming uses not carried on within a structure, except those which are incidental and necessary to activities within a structure, shall be discontinued within three years from the effective date of [the ordinance from which] this chapter [is derived] for the zoning area.
  - (2) All such uses which are made nonconforming by an amendment of this chapter or extension of the area in which this chapter is applicable, shall be discontinued within three years after the date of such amendment or extension.
  - (3) Uses to be discontinued under this section shall include outdoor sales areas; automobile parking lots not immediately adjacent to and used in conjunction with a structure which the parking lot serves, storage yards, signs, billboards, and similar uses.
  - (4) Where nonconforming use status applies to structure and premises in combination, if the building is removed or destroyed, the nonconforming use of the land shall cease and any subsequent use of the land and buildings placed thereon shall be in conformity with the provisions of this chapter.
- (c) *Continuance of nonconforming uses.* Any nonconforming use may not be changed to any other nonconforming use, unless the board of adjustment finds that such use is no more detrimental to the neighborhood than the initial performing use of the property in question, and no change of title or possession, or right to possession of property involved shall be construed to prevent the continuance of such nonconforming use.
- (d) *Continuance of nonconforming structures.* A nonconforming structure may be enlarged or extended, provided that its nonconformity is not increased and provided that if such structure is to be remodeled or rebuilt to an extent exceeding one-third of its then reproducible value, as determined by the administrative officer zoning inspector, the entire building or structure must be in conformity with the dimensional requirements of the district.
- (e) *Reconstruction prohibited.* Any nonconforming structure or any structure containing a nonconforming use, which has been damaged by fire or other causes, may be reconstructed and used as before if it is done within one year of such damage, unless such structures have been determined by the administrative officer zoning inspector to have been damaged to an extent exceeding 50 percent of its then reproducible value or its bulk, exclusive of foundations, in which case any repair, reconstruction, or use shall be in conformity with the provisions of this chapter.
- (f) *Resumption of nonconforming use prohibited.* The resumption of a nonconforming use of a structure shall not be permitted [if] such nonconforming use is discontinued or ceases, regardless of intent, for a continuous period of one year.

(Code 1978, § 12.95; Code 1995, § 156.061; Ord. of 1-10-1972)

Secs. 42-113—42-137. - Reserved.

#### ARTICLE VI. - CONDITIONAL USE DISTRICTS AND PERMITS

Sec. 42-138. - Companion District/Conditional Use District.

- (a) *Generally.* Conditional Districts are districts with conditions voluntarily added by the applicant and approved in a legislative procedure by the Board of Aldermen in accordance with G.S. 160D-501. The conditional use zoning districts set forth herein are authorized by G.S. 160A-381, and are intended to modify the use to which the general zoning district is restricted. Generally, an applicant, by seeking to rezone property to a conditional use district, will propose to restrict or eliminate permitted, conditional or special uses. Requests for conditional use district rezoning shall be processed administratively in the same manner as for amendments to this chapter as established in section 42-363.
- (1) ~~Conditional use districts are floating districts that parallel general zoning districts. Conditional use districts are identical to their corresponding general zoning districts in all respects except that~~

a conditional use permit is required as a prerequisite to any use (permitted, conditional or special) or development within them.

- (2) ~~Companion conditional use districts are provided as a voluntary alternative method of petitioning the board of aldermen for a zoning map or classification change. The owner may submit conditions that restrict the uses that would otherwise be allowed in the zoning district and only those uses specifically requested in the application shall be considered.~~
- (b) *Restrictions on filing of applications.* Conditional Districts provide for orderly and flexible development under the general policies of this ordinance without the constraints of some of the prescribed standards guiding by-right development. Because Conditional District developments are constructed in a comprehensive manner, they can establish their own building, street, block, and lot pattern which may be unique from other surrounding blocks or neighborhoods. This Conditional District may be used in any district but is not intended to relieve hardships that would otherwise be handled using a variance procedure. A request for a conditional use district rezoning shall be initiated only by an application [petition] signed by all current record owners of the property.
- (c) *Content of applications and conditions.* Within an approved Conditional District, no use shall be permitted except pursuant to the conditions imposed by the applicant on the Conditional District in the approval of the rezoning. The Board of Aldermen and the applicant may mutually agree to additional reasonable and appropriate conditions or safeguards to serve the purpose and intent of this section, and to preserve public welfare, and justice. The applicant/property owner's written consent to any related conditions must be provided to ensure enforceability. The provisions of the Conditional District Master Plan shall replace all conflicting development regulations set forth in this ordinance which would otherwise apply to the development site. The Planning Board may recommend and the Board of Aldermen (with mutual approval of the applicant) may attach reasonable and appropriate conditions including, but not limited to, the location, nature, hours of operation, and extent of the proposed use(s). Conditions and site-specific standards shall be limited to those that address conformance of the development and use of the site to this ordinance and officially adopted plans and those standards and conditions that address the impacts reasonably expected to be generated by the development and use of the site. The applicant will have a reasonable opportunity to consider and respond to any conditions and site-specific standards proposed by either the Planning Board or the Board of Aldermen prior to final action. A properly submitted application for a conditional use district incorporates a petition for rezoning and an application for a conditional use permit, which may be combined in one application. The conditional use district application shall provide the minimum information requirements set forth below. However, additional information may be required by the county planning staff, town staff, planning board or the board of aldermen, when requested, and if any of the aforementioned deem it necessary in order to be able to make a recommendation on or decision regarding a required finding. Such requests may include a requirement for a more detailed site plan, or one modified in accordance with additional or modified conditions and other performance criteria.
- (1) ~~*Proposed uses.* Proposed uses shall be set forth in detail, including the compatibility with the uses in the neighboring districts. Any limitations or conditions to be placed on the proposed uses to enhance compatibility with and benefit to surrounding areas shall also be set forth.~~
- (2) ~~*Dimensional requirements.* The application shall show that the uses comply with dimensional requirements for the district requested. If the applicant proposes to deviate from the dimensional requirements for the district requested, it shall be demonstrated that the public purposes to be accomplished by any such dimensional requirement are met to an equal or greater degree.~~
- (3) ~~*Sign requirements.* The application shall indicate the location of signs in accordance with article XI of this chapter, Signs. If the applicant proposes to deviate from the signage provisions in this chapter, it shall be demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.~~
- (4) ~~*Off-street parking requirements.* The application shall indicate the size, shape, location of off-street parking and loading in accordance with article X of this chapter, Off-Street Parking and Loading. If the applicant proposes to deviate from the parking and loading provisions in this chapter, it shall be~~

demonstrated that the public purposes to be accomplished by any such provisions are met to an equal or greater degree.

- (5) ~~Miscellaneous provisions.~~ The application for a conditional use permit may also set forth other conditions and performance criteria, such as days and hours of operation, numbers of employees, exterior lighting, and noise, odor and smoke emission controls or other environmental conditions, which might be proposed to make the use of the property compatible with surrounding areas and uses allowed therein.
- (6) ~~Site plan requirement.~~ The application shall include a site plan drawn to the specifications of section 42-167. If the proposed uses involve development subject to chapter 36, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to chapter 36, the site plan shall be of sufficient detail to allow the county planning staff, town staff, the planning board, and the board of aldermen to analyze the proposed uses and arrangement of uses on the site. It shall also include the footprints of all buildings to be placed on the site, the proposed number of stories, and the location and number of off-street parking and loading spaces. The site plan shall show proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers, landscaping and fences shall be included on the site plan.
- (d) ~~Action by the planning board~~ Review procedure.

(1) Conditional district rezoning requests shall be processed in the same legislative process as a general zoning map amendment/rezoning request in Section 42-363.

(2) A conditional district shall consist of an existing conditions map and general site master plan; as well as any other plans, drawings, renderings, elevations, maps and documents specifically included as development documents for approval by the Board of Aldermen. The Conditional District Master Plan, is a site specific that is a condition of the Conditional District rezoning. A Conditional District Master Plan shall, at a minimum, illustrate the following:

- a. The underlying zoning districts and a full list of proposed uses consistent in character with those zoning districts. Such use classifications may be selected from any of the uses, whether permitted, by right or with supplemental standards, allowed in the general zoning district upon which the Conditional District is based. Uses not otherwise permitted within the general zoning district shall not be permitted within the Conditional District;
- b. General traffic routes (external and internal) to and from the development with major access points identified;
- c. Tabular data, including the range and scope of proposed land uses, proposed densities, floor area ratios and impervious surface ratios as applicable to development type; and land areas devoted to each type of general land use and phase of development;
- d. A proposed development schedule if the project is to be phased.

~~The planning board may hold a public hearing during which the applicant may voluntarily make modifications to the conditional use permit request. The hearing shall follow quasi-judicial requirements including sworn testimony, the reliance on competent evidence, avoiding ex parte contact and bias, and basing findings of fact on evidence in the record. Board members shall disclose on the record at the public hearing any site visit they may have made to the affected property or any incidental ex parte contact they may have had with an affected party. The planning board shall review the request for a conditional use district and conditional use permit rezoning and make a recommendation to the board of aldermen. When favorably recommending approval of the conditional use district, the planning board shall issue a statement addressing the reasonableness of the proposed rezoning, in addition to addressing the request's consistency with the current land use plan. In recommending the conditional use permit, the planning board shall find that:~~

- (1) ~~The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;~~
- (2) ~~The use meets all required conditions and specifications;~~



~~(3) The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and~~

~~(4) The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and in general conformity with the town's most recent land use plan and adopted planning policies.~~

~~(e) *Action by the board of aldermen.* The board of aldermen shall hold a public hearing to consider the conditional use district rezoning and conditional use permit. The hearing shall follow quasi-judicial requirements including sworn testimony, the reliance on competent evidence, avoiding ex parte contact and bias, and basing findings of fact on evidence in the record. Board members shall disclose on the record at the public hearing any site visit they may have made to the affected property or any incidental ex parte contact they may have had with an affected party. The board of aldermen shall review the application, recommendations from the planning board, suggested conditions, and other information presented at the public hearing. If the board of aldermen approves the rezoning application, a statement analyzing the reasonableness of the proposed rezoning along with addressing the consistency of the request with the current land use plan shall be made a part of the record. Only upon approval of the conditional use district shall the board of aldermen consider approval of the conditional use permit. In approving the application, the board of aldermen, by separate motion, shall approve the conditional use permit and may attach such reasonable requirements in addition to those specified in the planning board's recommendation, and shall find that the application meets the findings listed in subsections (d)(1) through (4) of this section. All conditions shall be stated in the permit and no condition shall be less restrictive than the standards of the parallel general use district. The conditions may include, but shall not be limited to:~~

~~(1) The location of the proposed use on the property;~~

~~(2) The number and location of structures;~~

~~(3) The location and extent of accessory and support facilities, such as parking lots, driveways, fences and access streets;~~

~~(4) The location and extent of buffer areas and other special purpose areas on the property;~~

~~(5) The height of any structure;~~

~~(6) The phasing of development;~~

~~(7) Other restrictions on the use of the property that adhere to the purposes of this chapter and maintain the public health, safety and welfare; and~~

~~(8) Such other matters as the applicant shall propose.~~

~~The record shall reflect that the applicant voluntarily agrees to all conditions proposed for approval of the conditional use permit.~~

~~(f) *Modification to approved conditional use districts and permits.* All modifications, including changes in use and/or increase in density, to approved conditional use districts and permits, other than those listed below, shall be reviewed in the same manner as a new project. The following minor modifications to the conditional use permit may be approved by the town staff and the county planning staff without requiring resubmission to the board of aldermen, provided no variance is required, the use does not change, and the intent and layout of the approved plan is generally followed, density is not increased, conditions of approval are not violated, and such changes do not cause a significant adverse impact:~~

~~(1) Slight variations in the building dimensions that do not depart from the general approved layout and not exceeding ten percent of the original approved dimensions;~~

~~(2) Minor changes in parking lot or traffic lane dimensions;~~

~~(3) Minor dimensional changes to individual lots;~~

~~(4) Minor site modifications due to necessary engineering requirements;~~

~~(5) Change of location of elements included on the site plan that generally maintains relative alignment and orientation to the approved site plan; and~~

~~(6) Other similar insignificant changes.~~

~~In reviewing such changes, the town staff or the county planning staff may require that the modification be handled in the same manner as a new application.~~

~~(g) *Time limit.* Once the conditional use district rezoning and conditional use permit are approved, all conditions attached thereto shall be binding upon the property and all subsequent development and use of the property shall be in accordance with the approved permit and conditions. Since the intent of this type of district is to provide for workable alternative uses of property, it is intended that land will be zoned in accordance with firm plans to develop. Therefore, at the end of two years from the date of approval, the town board of aldermen or the planning board may examine progress made to determine if active efforts are proceeding. If the town board of aldermen determines that active efforts to develop are not proceeding, the board may institute proceedings to rezone the property to its previous zoning classification.~~

~~(h) *Failure to comply.* If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, or if the applicant should fail to accept any condition, the authorization of such conditional use permit shall be null and void and of no effect, and the property shall remain in, or revert to, its previous zoning classification. Compliance with all conditions of a conditional use permit is an essential element of the conditional use permit's continued validity and effectiveness. If the town's director of planning determines that a developer has failed to comply with a condition of an approved conditional use permit, the director shall so notify the developer or the developer's successor in interest in writing and shall place the matter on the board of aldermen's agenda, after consideration by the planning board and upon issuance of its recommendation, for the board of aldermen's hearing and decision whether or not to revoke the conditional use permit. Such hearing shall be on reasonable written notice to the developer or the developer's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the board of aldermen shall be a final decision, and a decision to revoke the conditional use permit may be appealed to the superior court of the county within 30 days after the developer or the developer's successor in interest has been served with written notice of the board of aldermen's decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the board of aldermen's approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the board of aldermen's decision hereunder.~~

~~(i) *Validation of existing conditional use overlays.* Nothing in this chapter shall be interpreted to affect or impair any rights accrued pursuant to any conditional use overlay district and permit, under the town zoning code of January 10, 1972, and subsequent amendments, prior to the effective date of this amendment. All valid and legally approved conditional use overlay districts and permits shall continue to be valid, provided that terms of the permit are not substantially or materially altered or expanded in any manner, that all conditions and requirements of the permit are and continue to be complied with, and that the use does not cease for a period of one year. Failure to comply with the conditions of the permit for the conditional use overlays will subject the developer and/or current owner to possible revocation pursuant to subsection (h) of this section.~~

(Ord. No. 2007-2, § 156.064, 11-26-2007)

Sec. 42-139. - Mixed Use Development-Conditional Use-District.

(a) *Generally.* This conditional zoning district incorporates the provisions of section 42-138, Companion District/Conditional Use-District, in its entirety. In addition, the restrictions and requirements set forth below shall be considered minimum standards and must be adhered to or exceeded.

(b) *Minimum conditions-standards for application.* The following are the minimum conditions-standards that must be met prior to submission of an application for this district:

- (1) The subject property must be served by public or community water and sewer;
  - (2) The subject property must have permitted access to a public paved street that can support the development; and
  - (3) The subject property must be at least ten acres.
- (c) *Uses allowed.* The intent of this district is to allow for flexibility of development; however, unless a use not listed below is specifically requested by the applicant ~~and receives a favorable recommendation from the planning board and~~ [is] approved by the board of aldermen, all uses within the district shall be limited to the following:
- (1) Any residential use except manufactured homes and manufactured home parks;
  - (2) Allowed office and nonresidential uses in the O & I Office and Institutional District, CB Central Business District, and C1 Local Business District; and
  - (3) Allowed uses from the C(P) Planned Commercial District are as follows:
    - a. Eating or drinking facilities (drive-ins included);
    - b. Fur sales, including cold storage;
    - c. Janitorial service;
    - d. Recreation or amusement enterprise conducted outside a building and for profit, and not otherwise listed herein;
    - e. Theater productions, outdoor;
    - f. Upholstering or furniture refinishing; and
    - g. Vehicle (commercial, government) repair or storage.

Any combination of the above nonresidential allowed uses shall not exceed 50 percent of the total land area within the district for nonresidential development.

(d) *Development performance standards.*

- (1) *Calculation of area.* Prior to submission for approval, the developer shall ensure the following calculations for land uses are provided for and clearly shown on the site plan:
  - a. Fifteen percent of the land area for the entire development shall be subtracted out of the overall acreage prior to any other calculations and shall be reserved as open space; and
  - b. After deduction of open space is completed, all acreage devoted to vertical mixed use, provided only residential use occurs above the first floor, shall be subtracted out of the remainder; then
  - c. The resultant acreage shall be the basis for calculation of the percentages for the 50 percent commercial and residential calculations.
- (2) *Open space provisions.*
  - a. Fifteen percent of the land area is to remain undeveloped (in its natural state), unless developed recreational facilities are specifically requested in the application and shown on the site plan and approved by the board of aldermen upon their consideration of the recommendation from the planning board;
  - b. The open space portion of the tract must be in one contiguous piece or if not, receive a favorable recommendation from the planning board and approved by the board of aldermen; and
  - c. The open space shall be secured by a recorded conservation easement and maintained as common area by an owners' association in the same manner as prescribed in chapter 36 for common area in zero lot line developments, or owned by a public or nonprofit organization (i.e., governmental entity, land trust, conservancy, etc.) provided that this manner of

ownership is approved by the board of aldermen after their consideration of the planning board's recommendation.

(3) *Development standards.*

- a. A site plan including all information required for detailed site plans enumerated in section 42-167 shall be submitted with the application. In addition, the site plan shall include the street layout, all proposed means for pedestrian and vehicle movement, including any alleys, public/private access to open space, etc. The site plan must be detailed and strictly adhered to.
- b. Half of the proposed residential development, excluding vertical mixed use, shall have been issued a certificate of occupancy or a guarantee have been posted in the form of a bond or irrevocable letter of credit and approved by the town attorney, with the estimated cost of construction being approved by the town engineer, in the same manner as required by chapter 36 for guarantee of improvements (section 36-32), prior to the completion of the approved commercial portion of the plan. In the event the developer fails to complete the residential portion of the development, the funds from the guarantee shall be used toward recouping any legal cost associated with enforcement of the permit and toward construction of any improvement within the development reasonably necessary to provide for the safety, health, and welfare of the public.
- c. All development within the district must meet any height restrictions imposed by the military, airports and the Federal Aviation Administration.
- d. The district dimensional requirements, including minimum lot size, setbacks, and density restrictions of section 42-192 shall not apply within the district; however, all periphery setbacks shall be that of any adjoining zoning district.
- e. Sidewalks shall be provided in accordance with the standards of chapters 34 and 36.
- f. The site plan shall indicate the minimum and maximum number, size, and location of parking spaces. In the event the applicant desires approval of parking in a manner not generally authorized by this chapter, the specific details, i.e., dimensions, shape, location, must be provided on the site plan. Unless otherwise specifically approved by the town-board of aldermen, parking must comply with article X of this chapter, Off-Street Parking and Loading.
- g. All utilities except for high voltage electric lines (25kv or greater) shall be placed underground within the district.
- h. Streets and drives shall comply with town and/or state department of transportation standards, whichever is applicable, and must be capable of carrying the projected traffic volumes.
- i. All signage within the district shall comply with article XI of this chapter, Sign Regulations, unless specifically approved otherwise by the board of aldermen as part of a conditional district. In the event the applicant desires approval of signage in a manner not generally authorized by this chapter, the specific details, i.e. sign area, setbacks, height, etc., must be provided with the application and site plan.
- j. Landscaping and buffering shall be provided in accordance with the standards of article IX of this chapter, Landscape Requirements. The location and type of buffering and landscaping must be provided on the site plan.
- k. Developments submitted for approval under this chapter are exempt from the parks, recreation, and open space provisions required by section 36-65 of the town's subdivision regulations.

(4) *Other applicable provisions.* In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:

- a. All water supply watershed requirements shall be complied with, where applicable;

- b. Compliance with the highway plan;
- c. The plans must be in harmony with the town's ~~most current~~adopted comprehensive land use plan and current adopted policies; and
- d. All other applicable federal, state, and local regulations are complied with.

(Ord. No. 2007-2, § 156.067, 11-26-2007)

Sec. 42-140. - Planned Neighborhood Development/Conditional Use-District.

- (a) *Purpose.* This district encourages the development of residential land in such a manner as to provide a more desirable living environment characterized by a variety of housing types in order to best meet the demand of all people, allow methods by which land and facility costs can be reduced on a per unit basis so that more people can afford better living conditions, and may include limited commercial facilities to meet the needs of surrounding residents.
- (b) *Submission of preliminary sketch; restrictions, standards for rezoning of use district.* The developer is strongly encouraged to submit a preliminary sketch of the proposed planned neighborhood development (PND-~~CD~~) plan and to work closely with the ~~town staff and the county planning~~Administrative Officer staff prior to submission of any application and site plan for rezoning to this conditional use district. This zoning district incorporates the provisions of section 42-138, ~~Companion District/Conditional Use-District~~, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional use ~~permit~~district and must be satisfied or surpassed.
- (c) *Minimum ~~conditions~~-standards for application.* The following are the minimum ~~conditions~~-standards that must be met prior to submission of an application for this district:
  - (1) The subject property must be served by public or community water and sewer;
  - (2) The subject property must have permitted access to a public paved street that can support the development; and
  - (3) The subject property must contain at least 50 contiguous acres under one ownership or control. An area shall be deemed contiguous which is composed of one un-separated continuity of land; or is separated by street rights-of-way to which abutting property has direct access rights; or is separated by minor streams, creeks, other bodies of water or railroad rights-of-way across which vehicular crossings are feasible and practicable and which will be provided for in the PND-~~CD~~ plan.
- (d) *Uses allowed.* The following uses are permitted subject to restrictions placed on the PND-~~CD~~ by the planning board and/or board of aldermen, and as agreed to by the record property owner(s):
  - (1) Any residential use permitted in the R10 zoning district, including a variety of single-family, multifamily, patio homes, townhouses, condominiums and zero lot line developments;
  - (2) Allowed office and nonresidential uses in the O & I Office and Institutional District, CB Central Business District, and C1 Local Business District; and
  - (3) Allowed uses from the C(P) Planned Commercial District are as follows:
    - a. Eating or drinking facilities (drive-ins included);
    - b. Fur sales, including cold storage;
    - c. Janitorial service;
    - d. Recreation or amusement enterprise conducted outside a building and for profit, and not otherwise listed herein;
    - e. Theater productions, outdoor;

- f. Upholstering or furniture refinishing; and
  - g. Vehicle (commercial, government) repair or storage.
- (e) *Development standards.*
- (1) *Land use proportions.*
    - a. *Nonresidential uses.* A maximum of five percent of the gross land area of the development may be devoted to such convenience nonresidential uses as listed in subsection (d) of this section, with no one tract to exceed ten acres. If more than one tract of land is proposed for nonresidential uses, no one tract shall be less than two acres and all tracts shall be separated from each other by at least one-quarter mile measured in a straight line.
    - b. *Residential uses.* The maximum density of residential units per acre of the gross land area shall be six, except as provided below. In determining the maximum number of units, the acreage denoted to nonresidential uses shall not be included. The nonresidential land area may be proportioned if the developer wishes (i.e., 3¾ percent commercial and 6½ units per acre of gross land area; 2½ percent commercial and seven units per acre of gross land area; 1¼ percent commercial and 7½ units per acre of gross land area). In lieu of all nonresidential development, a developer may increase the maximum residential density not to exceed eight units per acre of gross land area.
  - (2) *Open space and recreational facilities.*
    - a. Where the town's parks and recreation master plan or any other plan of the town adopted after the effective date of this amendment identifies land in the proposed PND-CD as a proposed recreation area, a minimum of 15 percent of the gross land area to be committed to the PND-CD shall either be placed in an owners' association, under the same provision and conditions as provided for in chapter 36, or be dedicated to the town for use as parks, recreation areas, and open space. At least 50 percent of the area offered for dedication must be suitable for recreational use. The board of aldermen, after their consideration of the planning board's recommendation, shall determine that the quality and location of the land to be dedicated is sufficient to serve the PND-CD.
    - b. The entire dedication may be made when the preliminary plat is presented to the board of aldermen; or, if the development is to be accomplished through a series of stages, the open spaces may be dedicated in parts proportionate to the number of units to be developed as approved in the PND-CD plan. No parcel of land dedicated shall be less than one contiguous acre, must be acceptable to the board of aldermen, and all such areas shall be physically a part of the PND-CD. Detached single-family dwelling units are exempt from any further open space dedication requirements of chapter 36. Residential group developments must provide the recreation areas required by chapter 36. When according to officially adopted town plans, no land is required for recreation purposes, 15 percent of the land shall be either placed in an owners' association, under the same provision and conditions as provided for in chapter 36; the land shall be dedicated to the town for use as parks and recreation and open space; or a fee shall be paid to the town for the acquisition of land for recreation purposes in accordance with the provision of chapter 36. The board of aldermen shall decide which option is appropriate. If a fee is required, it shall be equivalent to 15 percent of the tax-assessed value of the land contained in the PND-CD. The entire dedication of land or fee may be made at the time the preliminary plat is presented for approval or may be made in proportion to the number of units to be developed of the total approved for the PND-CD. A fee in lieu does not entitle the PND-CD to additional residential units or commercial acreage.
  - (3) *Landscaping and buffering requirements.* Landscaping and buffers complying with the provisions of article IX of this chapter shall be provided. The board of aldermen, on their own merit or upon consideration of a recommendation from the planning board, may require additional buffering, when the proposed nonresidential area abuts land not included in the development plan and the required buffer would not protect the adjoining properties from the nonresidential character of the uses.

- (4) *Off-street parking and loading spaces.* Off-street parking and loading spaces shall be provided as required for the specific uses and design criteria in article X of this chapter.
- (5) *Sign regulations.* All signage shall comply with the standards enumerated in article XI of this chapter, with nonresidential uses not exceeding the standards for the C1 zoning district.
- (6) *Dimensional provisions.* Residential uses shall meet or exceed the minimum standards for setbacks of the R10 Residential District along all public streets and on the periphery of the development. All nonresidential uses shall observe the yard regulations for the C1 zoning district along the public streets and on the periphery of the PND-CD.
- (7) *Schedule of development.* Development of the nonresidential portion of a PND-CD shall not commence until the following schedule of the number of residential units approved for the PND-CD have been developed:

| Size of PND Units               | Approved (percent) |
|---------------------------------|--------------------|
| 50 to 100 acres                 | 50                 |
| Over 100 acres, up to 150 acres | 40                 |
| Over 150 acres, up to 200 acres | 30                 |
| Over 200 acres                  | 25                 |

- (f) *Contents of application.* In addition to the requirements of section 42-138(c), the application shall include the following:
  - (1) General site plan indicating the proposed land use areas including residential, nonresidential, open space and recreational, and other public facility areas to be developed for the entire site;
  - (2) The proposed density pattern for the entire area, and the housing type to be used in each area (i.e., multifamily, single-family attached, single-family detached);
  - (3) The primary and collector streets including thoroughfares on the adopted highway plan and any other adopted plans of the ~~town and/or planning board~~town;
  - (4) The proposed uses for the nonresidential area(s);
  - (5) Floodplain areas where applicable;
  - (6) Legal description of the boundary of the PND-CD plan area and each proposed housing area in the PND-CD plan; and
  - (7) The names and addresses of adjoining property owners.
- (g) *Site plan and subdivision approval.* After approval of the PND-CD from the board of aldermen and prior to issuance of any zoning or building permit, the developer shall submit for preliminary and final approval of each segment of the plan, meeting conditions of the ~~approved permit approval~~, in the same manner as for site plan and subdivision approvals in accordance with this chapter and chapter 36, for review for compliance by the Administrative Officer.

- (h) *Amendments.* Amendments to an approved PND-CD plan shall be processed in the same manner as the original application. In considering the approval of an amendment to a permit, consideration shall be given to the effect the amendment may have on any other portion of the PND-CD.
- ~~(i) *Abandonment of PND plan.* In the event the developer abandons the PND plan as approved, all undeveloped or unplatted land shall be further developed only under the regulations of the R40 Residential District unless a subsequent application is approved for the remaining land. Such subsequent plans must be based, however, on the overall residential density planned on the original tracts of land and may not include additional nonresidential uses, except if a portion was not developed under the original plan.~~
- ~~(j) *Validation of existing PND plans.* PND plans approved prior to the effective date of this amendment shall not be affected by these provisions; however, any change to any existing PND after the effective date of shall be processed under the amended approval process outlined in this chapter.~~

(Ord. No. 2007-2, § 156.068, 11-26-2007)

Sec. 42-141. - Density Development-Conditional Use-District.

- (a) *Purpose.* Density Development/Conditional Use Districts are intended to promote and encourage the preservation of open space within the town while at the same time providing for the residential development of land.
- (b) *Submission of proposed development sketch; restrictions, standards for conditional use permit/district.* The developer is strongly encouraged to submit a preliminary sketch of the proposed development and to work closely with the town staff and the county planning Administrative Office staff prior to submission of any application and site plan for rezoning to this conditional use district. This zoning district incorporates the provisions of section 42-138, Companion District/Conditional Use-District, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional use permit/district and must be satisfied or surpassed.
- (c) *Development standards.*
- (1) *Development area.* All building sites will be restricted to 60 percent of the total tract with the remaining 40 percent designated as open space.
  - (2) *Density.* All developments approved under this section may provide for equal to or less than the density of the requested parallel zoning district as allowed for in section 42-192.
  - (3) *Building sites.* The building site shall be that property intended for conveyance to a fee simple owner after the construction thereon of residential structures and shall be sufficient in size to accommodate the structures intended to be constructed thereon, any accessory structures, and provisions for utilities, whether public or private.
  - (4) *Yard regulations.* The building sites shall be exempt from the yard regulations in 42-191, provided that all sites served by a public street shall provide for the minimum front yard setback and a minimum of ten-foot separation between structures shall be provided for all structures within the development. All periphery setbacks must be met along the perimeter of the development. Setbacks shall not include any of the buffer and/or open space areas as required by subsections (c)(5) and (c)(6) of this section.
  - (5) *Perimeter buffer.* The entire development shall be buffered with a minimum of six feet in height and 20 feet in width vegetative strip of land, as described below, around the periphery and 40 feet in width along the frontage right-of-way. The buffer shall consist of natural topography and/or plantings as necessary to preserve or enhance the natural appearance of the area surrounding the development and the rights-of-way fronting the development, provided that:
    - a. The application and site plan shall clearly reflect the buffer area and the developer's intentions regarding the buffer, including the location of and type of plant material proposed and assurance that any proposed plantings will be three feet in height at time of planting, to



reach a height of six feet within three years, with sufficient plantings along any right-of-way to accomplish complete opacity within three years from time of planting. A berm or combination berm and plantings may also be used, provided an initial height of three feet is achieved with a total height of six feet within three years;

- b. Unless expressly agreed upon in advance and approved by the board of aldermen after consideration of the recommendation from the planning board, the developer shall not develop or alter the natural topography of the land within the buffer area. There shall be no cutting, removal of trees, or the disturbance of other natural features except as stated herein:
  - 1. As incidental to boundary marking, fencing, signage, installation of utilities, construction and maintenance of nature trails and public access allowed hereunder;
  - 2. Selective cutting and prescribed burning or clearing of vegetation and the application of usual and customary pesticides for fire containment and protection, disease control, restoration of hydrology, wetlands enhancement and/or control of non-native plants; and
  - 3. The developer chooses to use a berm or combination berm and plantings.
- c. The land area containing the perimeter buffer shall be permitted to count toward the 40 percent open space requirement, but shall not be considered as any portion of any required yard area;
- d. The perimeter buffer width may be reduced in width if adjacent to an existing and properly approved density development as a condition, provided the combined buffers satisfy the intent of this chapter and is found to be sufficient by the planning board and the board of aldermen; and
- e. The final approval of the sufficiency of the any perimeter buffer shall rest with the board of aldermen after their consideration of the recommendation from the planning board.

(6) *Open space provisions.*

- a. The developer shall not develop or alter the natural topography of the designated open space unless improvements are clearly indicated on the application and site plan and approved by the board of aldermen after their consideration of a recommendation from the planning board.
- b. The open space land area shall adjoin the largest practical number of lots within the development and may, if proposed to be maintained by the developer or by an owners' association, restrict access to only the residents of the development.
- c. The open space land area shall be interconnected wherever possible to provide for a continuous network with such lands in adjacent developments.
- d. All open space shall be permanently restricted from future subdivision and other forms of development through a perpetual open space or conservation easement running with and appurtenant to title of lots in the development, and recorded in the county registry. The location of the easement shall be shown on the recorded plat and clearly depicted on the site plan. The conservation easement shall expressly provide that [the] town shall be an intended third-party beneficiary and shall have standing to both enforce any restrictions and to recover the costs of remedying any violation from any parties breaching the easement.
- e. Open space shall be preserved and used only for natural scenic, passive recreational, agricultural, pasture and/or meadow, forestry, wetlands, or horticultural uses.
- f. A property owners' association shall be created to maintain the open space and any common areas in the development, unless an alternative method of maintenance is approved by the board of aldermen upon recommendation of the planning board (such as, for instance, if the open space is conveyed by a perpetual conservation easement to a recognized nonprofit conservancy or other nonprofit organization established for ecological and/or environmental preservation).

1. Membership in the property owners' association shall be mandatory for all property owners in the development.
  2. The property owners' association shall have the authority and duty to levy assessments, which shall be liens upon and run with the title to every lot within the development, to provide for maintenance of the open space and any other common areas in the development.
  3. The documents creating the property owners' association shall provide that they may not be amended except upon a vote of the owners representing at least three-quarters of the lots in the development.
  4. The town attorney shall approve the property owner's association documents, to include any articles of incorporation, bylaws, and/or declaration of restrictive covenants prior to final plat approval of any portion of the development.
  5. The property owners' association documents may provide or include mechanisms to allow the developer and/or seller of the property actively to use the open space for pasture or agricultural uses.
- g. The developer's intentions regarding the open space (e.g., whether to remain in its natural state, provide developed recreation facilities, timber harvesting, farmed, etc.) shall be clearly reflected in the application and on the site plan upon formal submission of the application.
- (7) *Parks, recreation, and open space exemption.* Developments submitted for approval under this section are exempt from the parks, recreation, and open space provisions contained within chapter 36.
- (8) *Subdivision regulation compliance.* All pertinent portions of chapter 36, the town's subdivision regulations shall be complied with.
- (9) *Other applicable provisions.* In addition to the above requirements and all conditions placed on the district, the developer shall ensure the following:
- a. All water supply watershed requirements shall be complied with, where applicable;
  - b. Compliance with the highway plan;
  - c. The plans must be in harmony with the most current comprehensive land use plan and current adopted policies;
  - d. All other applicable federal, state, and local regulations shall be complied with.

(Ord. No. 2007-2, § 156.069, 11-26-2007)

Secs. 42-142—42-165. - Reserved.

#### ARTICLE VII. - PLANNED CONDITIONAL DISTRICTS

Sec. 42-166. - Objectives.

This article recognizes that through ingenuity, imagination, and quality design, community development can be improved. The careful review of development site plans as part of the conditional district rezoning process by the board of aldermen is a process which will:

- (1) Permit creative approaches to the development of land reflecting changes in the technology of land development;
- (2) Provide for an efficient use of land, which can result in smaller networks of utilities and streets and thereby lower development costs;
- (3) Provide and ensure an environment of stable character compatible with surrounding land uses;

- (4) Accomplish a more desirable environment that would otherwise be possible; and
- (5) Enhance the appearance of the community.

(Code 1978, § 12.96; Code 1995, § 156.070; Ord. of 1-10-1972)

Sec. 42-167. - Contents of development plans.

- (a) Site plans for planned districts shall be submitted as part of the conditional district rezoning request required by section 36-30(a). ~~The burden shall be on the developer to show that his plans are in the best interests of the community and the users of the proposed developments.~~ Site planning in the proposed development shall provide protection of the development from potentially adverse surrounding influences, and protection of surrounding areas from potentially adverse influences within the development. The development plan shall show and a careful review shall be given to the following information:
  - (1) Proposed land uses, the location of various land uses, their types, and densities;
  - (2) Proposed circulation pattern for vehicles and pedestrians;
  - (3) Proposed parks, and other common open space areas, proposed means of dedication of any common open space areas, and organization arrangements for the ownership, maintenance and preservation of common open space;
  - (4) Delineation of the units or phases to be constructed in progression;
  - (5) Relation to the land uses in surrounding areas and to the general development plan;
  - (6) The layout of car parking and loading areas, service areas, entrances, exits, yards, courts, and landscaping, control of signs, lighting, noise or other potentially adverse influences as to protect the residential character within and/or adjacent to the planned development; and
  - (7) The setbacks' size and screening of various land uses.
- (b) In any planned district no zoning permit or certificate of occupancy shall be issued by the zoning administrative officer or building inspector except in conformance with a plan approved by the board of aldermen.

(Code 1978, § 12.97; Code 1995, § 156.071; Ord. of 1-10-1972; Ord. of 11-25-1991)

Sec. 42-168. - Specifications for certain planned districts. Reserved.

~~Plans for the Planned Highway Service District HS(P), the Planned Commercial District C(P), and the Planned Industrial District M(P) must meet all of the general provisions and the yard, lot, parking, building, sign, and other requirements pertaining to these districts as contained in this chapter. In addition, recommendations will be obtained from the county planning department and considered by the board of aldermen who may require that additional information be shown which is needed to properly evaluate the merits of the proposed development as to the adherence to the general land use plan and the impact of the proposed development on surrounding land uses.~~

(Code 1978, § 12.99; Code 1995, § 156.073; Ord. of 1-10-1972; Ord. No. (2014)17, 9-22-2014)

Secs. 42-169—42-173. - Reserved.

Sec. 42-174. - Specifications for the CB Central Business District.

Plans for the CB Central Business District must comply with the below provisions along with other general provisions contained within this chapter. Incorporated by reference herein, the provisions of the Façade Improvement Guide For: The Town of Spring Lake, North Carolina (undated) <sup>[1]</sup>, hereinafter "façade guide," shall be the prevailing standard for all development, change-in-use and redevelopment within this district.

(1) *Uses allowed.* Only those uses specifically allowed within the CB central business district as specified in article III shall be considered for development regardless whether new development, change-in-use or redevelopment, except that alcohol sales shall only be allowed as open beverages served in a restaurant or bar/nightclub.

(2) *Development standards.* The provisions below shall apply to all new construction; renovation and/or remodeling of the exterior areas of any structure or property shall comply with the below provisions to the extent practicable:

a. *Lot dimensions and setbacks .*

1. The minimum lot area shall be 10,000 square feet for any new divisions of property, except where specifically approved otherwise through a conditional district rezoning by the board of aldermen and when the application can show that the intent of the district regulations can be met.

2. Front and corner side setbacks shall be as required by this ordinance, specific allowances shall be given to ensure consistency with the setbacks of the adjacent and nearby buildings, and provided that the improvements and amenities required by the following sub-sections are provided.

[Note: Provisions exist in the ordinance for allowing the same or average setback of nonresidential buildings within the same block in addition to the standard dimensional provisions.]

3. When not connected to an adjacent structure, side yard setbacks shall provide for adequate site distance for vehicular traffic entering and exiting the subject and adjacent properties when a drive or side street is present or a minimum of 20 feet.

4. Where adjacent to a service alley or another nonresidential zoning district, the rear yard shall be a minimum of three feet, and when adjacent to residential zoning, the rear yard shall be a minimum of 20 feet.

b. *Structural dimension and site layout specifications.*

1. It is imperative that the developer and/or their design professional consult the façade guide and implement the provisions of said document into their proposed plans. The staff review of any development under the provisions of this section shall ensure that the purpose and intent of the guide are met or will be met upon construction prior to presentation of the proposed plans to the ~~board of aldermen~~ administrative officer. ~~Any criteria established within the guide that is not or cannot be implemented into the development, redevelopment or change-in-use project shall be specifically noted in the staff report when the project is presented to the board of aldermen.~~

2. The maximum building height shall be 36 feet or a maximum of two stories, whichever is less; except where otherwise specifically approved by the board of aldermen through a conditional district rezoning when it has been determined that a proposed building higher than two stories would not pose an obstruction to air traffic.

3. Developers of properties located on corner lots at all street intersections shall locate motor vehicle oriented uses or facilities, including but not limited to gas pumps, drive-throughs, pick-up windows, or other accessory uses intended for access while inside a vehicle to the side not facing the street or rear of the principal building. In no instance shall a motor vehicle oriented feature or accessory use be located between a principal building and the street it fronts.

c. *Pedestrian pathways/sidewalks and amenities .*

1. All pedestrian pathways shall be established in order to connect internal and external development and all proposed pathways shall be included on the site plan. Types of sidewalks may include: public, private with public access easement, or private (internal pathways from parking to building entrances or building to building).
2. Sidewalks shall be constructed in compliance with Americans with Disabilities Act (ADA) provisions. Adjacent to the sidewalk opposite from the curbside, a minimum six-foot grass, tree and landscaping area shall be provided where on-street parking is not provided; and with the number and types of trees and landscaping meeting or exceeding the standards of this ordinance. A storefront and clear walkway area shall be constructed along the entire building front. This storefront/walkway area shall be designed in such manner that it affords safe pedestrian passage, can accommodate amenities such as benches, potted flowers or plants and may be partially covered by awnings or porticos.
3. Pedestrian walkways should be delineated from any off-street parking area by separate paved routes using a variation in paved texture and/or color, and protected from adjacent vehicle circulation areas.
4. Where sidewalk construction is not feasible due to a change-in-use or redevelopment, the developer shall pay a fee in lieu of sidewalk construction in an amount consistent with the actual cost of installing the sidewalk. The monies generated from this section shall be used by the town for sidewalk construction and/or maintenance of sidewalks within the central business district CB.

[Note: Must first be coordinated with town finance before submitting for approval.]

d. *Landscaping .*

1. Flowering street trees shall be provided in an amount equivalent to at least one tree for every 20 feet of road frontage and shall be located within the amenity area required in subsection 3(b) above, including along any side street. In the event a nonflowering tree is proposed to be planted that would be conducive to the proposed development, ~~specific approval from the board of aldermen~~ administrative modification from the administrative officer for the alternative tree specimens is mandatory. All street trees shall be a minimum of two-inch caliper at time of planting. Additional plantings in pots or boxes are strongly encouraged.
2. Developments within this district shall be exempt from the street tree requirements of article IX of this chapter subject to subsection (a) above; however, for the yard space and off-street parking areas landscaping shall be required the same as required by article IX for any proposed development.

e. *Parking and driveways .*

1. Off-street parking shall be provided as required by article X to the rear or side of the principal structure being served. Furthermore, the developer is encouraged to align off-street parking spaces in a manner consistent with adjacent developed nonresidential properties and engage in shared parking or using remote parking as allowed by article X. Where on-street parking is provided immediately adjacent to the property to be developed, such parking immediately adjacent and in front of the lot where the proposed/existing structure is located may be counted toward the calculation of the minimum number of required off-street parking.
2. Off-street parking areas shall be separated from buildings and public sidewalks with decorative amenities, landscaping or grassed open areas or other appropriate means to afford pedestrian safety.

3. For corner lots along Main Street, driveway/service access shall be restricted to the side street.
- f. *Interconnectivity* .
    1. Pedestrian or motor vehicle connections shall be required for new construction and where appropriate for any redevelopment of properties within the district.
    2. Rear alleys for service, utilities and employee access are strongly encouraged and will be mandatory when a proposed development is adjacent to a developed property having an existing alley.
  - g. *Signage* . All signs within the central business district CB shall comply with the dimensional provisions as regulated in section 42-293(2)c. In addition, signage shall contain no more information than to identify the business to which it serves with no other commercial message and shall be constructed of materials consistent with and complementing the principal structure and other signs in the immediate area as specified in the aforementioned façade guide.
  - h. *Lighting* . All pedestrian areas, including off-street parking areas are to be lighted with shielded, controlled lighting, and shall complement the proposed development in color and style while being consistent with existing lighting of adjacent or nearby developed nonresidential properties. The provisions of section 1102.M shall apply in this district as well as the recommendations of the façade guide.
  - i. *Open space/public space* . Where possible, property owners are encouraged to preserve and provide open space areas, and have the areas delineated on the site plan. If preserved open space or developed public spaces are offered to and accepted by the town, the property owner will receive a density bonus for the equivalent land area outside the main street overlay district. The density bonus shall be calculated at the R10 density rate.
  - j. *Conflict with other ordinance or regulatory provisions* . Wherever there is conflict or inconsistency between the Main Street overlay district provisions and other regulations with any local, state or federal law, the most restrictive standard shall apply. When the provisions of this district conflict with other provisions of this chapter, the overlay district provisions shall prevail.

(Ord. No. (2014)17, 9-22-2014)

Footnotes:

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The Façade Improvement Guide For: The Town of Spring Lake, North Carolina (undated) has not been included in the Code but is adopted by reference as if fully set out herein and can be viewed in the office of the city clerk.

Secs. 42-175—42-189. - Reserved.

ARTICLE VIII. - LOT AND YARD REGULATIONS

Sec. 42-190. - Lot regulations.

General lot regulations shall apply as herein set forth:

- (1) *One principal structure per lot*. Every principal structure hereafter erected shall be located on a lot as herein defined. In no case shall there be more than one main residential building and its

accessory buildings on one lot of record except as provided for group developments and mobile home parks.

- (2) *Street access.* No structure shall be erected on a lot which does not abut a street and no dwelling shall be erected on a lot which does not abut a street for at least 35 feet, such frontage to be continued from the property line to the building setback line, except as a planned group development.
- (3) *Reduction of lot size prohibited.* No lot shall be reduced in area so that lot and/or yard areas below the minimum required under this chapter shall result. If two or more adjacent platted lots are in common ownership and are platted on record in the office of the register of deeds of the county on the effective date of [the ordinance from which] this chapter [is derived] for the zoning area, and such platted lots individually are too small to meet the yard and area requirements of the district in which they are located, such groups of platted lots shall be considered as defined herein and the lot or lots shall be subject to the requirements of this chapter. However, lots 50 feet or more in width may be treated as recorded lots less than minimum width.
- (4) *Recorded lots less than minimum requirement.* Where any lot of record on the effective date of [the ordinance from which] this chapter [is derived] for the zoning area in a district which shows residential uses does not contain sufficient land to permit conformance to the dimensional requirements of this chapter, such lot may be used as a building site for a single-family residence, provided that the lot area and yard dimensions are not reduced below the minimums specified in this chapter by more than 17 percent.
- (5) *Lots without community water and/or sewer.* Any lot that is not served by community water and/or sewer, in addition to the regulations of the district in which such lot is located, must be certified by the county health department to be large enough to meet all applicable regulations regarding water supply and/or sewage disposal.
- (6) *Building lines on irregularly shaped lots.* Locations of front, side and rear buildings lines on irregularly shaped lots shall be determined by the administrative officer/zoning inspector. Such determinations shall be based on the spirit and intent of the district regulations to achieve spacing and location of buildings or groups of buildings on individual lots.
- (7) *Corner lots.* All structures on corner lots in residential districts shall be set back at least 15 feet from the side street property line or 40 feet from the centerline of the side street, whichever is the greater distance. Structures on corner lots in residential districts on which houses are to front on each of the intersecting streets shall observe the front yard requirements on each of the intersecting streets within the same block if they are located within subdivisions which are recorded after the effective date of [the ordinance from which] this chapter [is derived]. Structures on corner lots in residential districts which observe the front yard requirements of the two intersecting streets may reduce the required rear yard by 20 feet.
- (8) *Lot area exception in conservancy districts.* In the CD conservancy district, the area May be used as part of any contiguous zoning district for calculating density of an entire development and satisfying setback requirements for lots within the development. That portion of such lots within the development falling within the CD district shall only be used for open space uses, and no principal or accessory structures shall be permitted, except boat landing piers when permitted by applicable federal, state, or local regulations.

(Code 1978, § 12.100; Code 1995, § 156.085; Ord. of 1-10-1972; Ord. No. (2012)10, § 3, 8-13-2012)

Sec. 42-191. - Yard regulations.

General yard regulations shall apply as follows:

- (1) *Projection into yard space.*

- a. Every part of a required yard shall be open from its lowest point to the sky, unobstructed except for the ordinary projections of sill, belt courses, buttresses, cornices, ornamental features, sundecks, balconies, open porches, and eaves; provided that none of the above projections shall project into a required yard more than four feet.
  - b. Canopies, eaves and marquees may extend into a required yard in a commercial or industrial district provided that no more than ten percent of the square footage within the required yard is covered by such canopies, eaves, and marquees, and provided further, that supports for such canopies, eaves and marquees shall not be solid and shall not interfere with the free movement of traffic, the required off-street parking, and the sight view of adjacent properties.
  - c. Open fire escapes, outside stairways, the ordinary projections of chimneys and flues, swimming pools, flagpoles, decorative fountains, and other similar items may be erected in required yards when placed so as not to obstruct light and ventilation necessary for the structure.
- (2) *Determination of front yard setback.* The front yard requirements of this chapter shall not apply on lots where the average depth of existing front yards on developed lots, located within 100 feet on each side of a lot, within the same block and zoning district as such lot, is greater or lesser than the minimum required front lot depth. In such cases the depth of the front yard on such lot shall not be less than the average front yard depth on such developed lots. This provision shall not require a structure to [be] set back from the street or road a greater distance than that distance set forth in this chapter or the setback line observed by the closer of the two existing main buildings on immediately adjoining lots. In no case, however, shall any residential structure be placed closer than 50 feet from the centerline of a street on which it faces or within 40 feet from the centerline of a side street. The location of a residential structure with respect to the street line in any commercial or industrial district shall not be used as a factor in determining the required setback from the street line for any new buildings to be erected in such districts.
  - (3) *Fences and walls.* The setback requirements of this chapter shall not apply to any retaining wall. Open fences and walls may be erected to any height. Solid fences and walls shall be limited to three feet in height when projected into or enclosing a minimum front yard, [and] shall be limited to six feet in height when projecting into or enclosing a minimum side yard and/or rear yard; provided that in no case shall a solid fence or wall exceed three feet in height within 25 feet of a public right-of-way line.
  - (4) *Corner visibility.* In all districts, no fence, wall, shrubbery, sign or other obstruction to vision between the heights of three feet and 15 feet shall be permitted within 20 feet of the intersection of two streets.
  - (5) *Rear yard on through lots.* The depths of rear yards on through lots shall be at least equal to the minimum required front yards for the district in which it is located and no accessory buildings shall be located in the rear yard on through lots.
  - (6) *No other building in required yard space.* No part of a yard or other open space required about any structure for the purpose of complying with the provisions of this chapter shall be included as part of a yard or other open space required under this chapter for another building. When two or more uses occupy the same building, sufficient parking areas, yard widths, lot area, open space, and the like must be provided so that the dimensional requirements pertaining to each of the uses will be met in full.
  - (7) *Buffer requirements.* Where a commercial off-street parking and loading space, utility regulating and pressure control stations, protective service buildings abut residential areas and where an office, commercial, or industrial district to the side or rear property line, there shall be installed and maintained along such side and rear property line a buffer. Also a buffer shall be required to effectively screen from any residential district which abuts a side or rear yard or from any street, any outside storage of materials, equipment and products.
  - (8) *Location of accessory buildings in any district.* No accessory building shall be erected in any required front or side yard or within 15 feet of any side street line or within five feet of any lot line



not a street line or within five feet of any building or other accessory building. In no case, however, shall an accessory building be placed closer to a street than the principal building.

- (9) *Building height.* Multiple family dwellings and office, commercial, and industrial buildings shall not be limited to height except that for one foot of height greater than 35 feet, the side and rear yard setbacks shall be increased by one foot.
- (10) *[Side yard setbacks, nonresidential buildings.]* For a nonresidential building in an office or commercial zoning district, side yard setback requirements may be reduced to zero when the following conditions are met:
- a. The side yard adjoins property which is not zoned in a residential district.
  - b. The town manager or his representative has approved the method by which fire, police and sanitation services can be provided.
  - c. The right-of-way of any adjoining publicly dedicated street is at least 50 feet.
  - d. Maintenance easement has been granted by the adjoining property owner, the proposed building will abut the wall of an existing building, or consent of the adjoining property owner is obtained.
  - e. Any side yard provided shall be at least two feet in width.
- (11) *[Screening of auto wrecking yards.]* Auto wrecking yards shall install and maintain a six-foot chain link type privacy fence to effectively screen any residential district or public streets or highways. All auto wrecking yards must be in compliance within 120 days from the passage date of the amending ordinance passed on 2-12-1990.

(Code 1978, § 12.101; Code 1995, § 156.086; Ord. of 1-10-1972; Ord. of 2-12-1990)

Sec. 42-192. - District dimensional provisions.

Except for the special provisions set forth in sections 42-190 and 42-191 and chapter 36, the district dimensional regulations set forth in the tables on the next two pages shall be met.

| District | Minimum Lot Size <sup>1</sup>      |                  |                        |  |                  | Minimum Yard Regulations                |   |           |                              |                                      |
|----------|------------------------------------|------------------|------------------------|--|------------------|---|---|-----------|------------------------------|--------------------------------------|
|          | Square Feet Per Dwelling Unit (DU) |                  |                        | Minimum Sq. Ft. per each DU Above Ground Floor | Frontage in Feet | Front Yard Setback in Feet <sup>2</sup> | Side Yard Width in Feet by Structure <sup>3</sup> |           |                              | Rear Yard Depth in Feet <sup>4</sup> |
| First DU | Second & Third DU                  | Four or More DUs | Measured from R/W Line |  |                  |   | One Story   | Two Story | Added Ft. per Story Over Two |                                      |
| RR       | 20,000                             | 20,000           | 20,000                 | 20,000   | 100              | 30                                      | 15  | 15        | 10                           | 35                                   |

|                   |        |        |        |        |     |    |    |    |    |    |
|-------------------|--------|--------|--------|--------|-----|----|----|----|----|----|
| R-15              | 15,000 | 15,000 | 15,000 | 15,000 | 100 | 30 | 15 | 15 | 10 | 35 |
| R-10              | 10,000 | 7,500  | 7,500  | 7,500  | 75  | 30 | 10 | 15 | 8  | 35 |
| R-6A <sup>5</sup> | 6,000  | 5,000  | 5,000  | 5,000  | 60  | 25 | 15 | 17 | 6  | 15 |
| R-6               | 6,000  | 5,000  | 5,000  | 5,000  | 60  | 25 | 10 | 12 | 6  | 30 |
| R-5A              | 6,000  | 3,000  | 3,000  | 3,000  | 60  | 25 | 10 | 12 | 4  | 30 |
| R-5               | 6,000  | 3,000  | 2,500  | 1,500  | 60  | 25 | 10 | 10 | 4  | 30 |

<sup>1</sup> See sections 42-190(3), (4) and (5).

<sup>2</sup> See section 42-191(2).

<sup>3</sup> See sections 42-190(7) and 42-191(9).

<sup>4</sup> See section 42-191(5) and (9).

<sup>5</sup> Except for section 10-182, regarding specifications for manufactured home parks.

|          |                            | Minimum Yard Regulations                |                                 |                                      |                                      |
|----------|----------------------------|---|---------------------------------|--------------------------------------|--------------------------------------|
|          |                            | Front Yard Setback in Feet <sup>2</sup> |                                 |                                      |                                      |
| District | Minimum Areas <sup>1</sup> | Measured From R/W Line                  | Measured From Street Centerline | Side Yard Width in Feet <sup>3</sup> | Rear Yard Depth in Feet <sup>4</sup> |
| O & I    |                            | 35                                      | 65                              | 15                                   | 20                                   |
| C-1      |                            | 45                                      | 75                              | 15                                   | 20                                   |
| CB       |                            | 20                                      | 40                              | 0                                    | 20                                   |
| C-3      |                            | 45                                      | 75                              | 15                                   | 20                                   |
| HS(P)    |                            | 55                                      | 85                              | 20                                   | 20                                   |
| C(P)     | Two acres <sup>5</sup>     | 50                                      | 80                              | 30                                   | 30                                   |

|      |                         |     |     |    |    |
|------|-------------------------|-----|-----|----|----|
| M-1  |                         | 50  | 80  | 30 | 20 |
| M-2  |                         | 50  | 80  | 30 | 20 |
| M(P) | Five acres <sup>5</sup> | 100 | 130 | 50 | 50 |
| CD   |                         | 50  | 80  | 50 | 50 |

<sup>1</sup> See section 42-190(3).

<sup>2</sup> See section 42-191(2).

<sup>3</sup> Side yard width except as regulated by section 42-191(9).

<sup>4</sup> See section 42-191(7) and (9).

<sup>5</sup> Quantities referred to are net areas.

(Code 1978, § 12.98; Code 1995, § 156.087; Ord. of 1-10-1972; Ord. of 9-26-1983; Ord. No. 2007-2, § 156.087, 11-26-2007; Ord. No. (2012)10, § 4, 8-13-2012)

Secs. 42-193—42-222. - Reserved.

#### ARTICLE IX. - LANDSCAPE REQUIREMENTS

Sec. 42-223. - Purpose.

The purpose of the landscape standards, which are to be applied within the town and its municipal influence area, is to control and regulate the planting of trees and shrubs; to encourage the protection of existing trees; to provide attractive views from roads and adjacent properties; to buffer from view visually undesirable uses; and to establish procedures for fulfilling these purposes.

(Ord. of 11-14-2005, § 156.088.1)

Sec. 42-224. - Application of landscaping standards.

(a) Application to public and private property. Except as otherwise exempted by subsection (b) of this section, the landscaping requirements of this article shall apply to all public and private land located within the town and its municipal influence area. Unless provided otherwise by this article, none of the uses authorized by this zoning ordinance shall be permitted until such landscaping requirements are approved through plan review by the town and enforced by the administrative officer, town planning department.

(b) Exempt property. None of these requirements shall apply to:

(1) Detached single-family dwelling on an individual parcel, except as required in section 42-226(2), concerning designated entrance corridors.

- (2) All proposed residential development, except for manufactured home parks and multi-family development, shall not be required to comply with the buffer specifications as set forth in section 42-228, Buffers.
- (3) Parking lots which are not visible from a right-of-way at the same elevation or have less than 12 parking spaces.
- (4) Property developed prior to the effective date of the ordinance from which this article is derived.

(Ord. of 11-14-2005, § 156.088.2)

Sec. 42-225. - Definitions.

[The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:]

*Buffer* means a maintained sight-obscuring fence, wall, or vegetated earth berm, or a sight-obscuring hedge or other natural plantings of comparable opacity, or a combination of the above, as further specified in section 42-228, Buffers. The purpose of such is to provide a transition between developments, in order to protect each development from possible negative effects likely to be caused by or associated with each other.

*Building yards* means the area adjacent to a building reserved for required plant materials.

*Caliper* means the diameter measurement of a tree trunk taken at six inches above ground level for trees up to and including four inches in caliper. For larger trees, measurement of caliper shall be taken at 12 inches above ground level.

*Dead plant material* means any trees, shrubs, or groundcover that shows an absence of living tissue, such as stems or leaves, during a full growth cycle (Spring to Spring).

*Deciduous* means those plants that annually lose their leaves.

*Designated entrance corridor* means a highway (including an existing or a future right-of-way) serving as a major entranceway into the town, as designated by the Spring Lake Area Detailed Land Use Plan [Comprehensive plan], which was adopted by the board of aldermen.

*Developed properties* means land that has been converted to a specific purpose by additional planned and structured improvements.

*Earth berm* means an earthen mound used for providing a buffer, barrier or visual shield as further defined in section 42-228, Buffers.

*Evergreen* means those plants that retain leaves throughout the year.

*Existing trees* means those trees found on a site prior to development, which may be used to meet some or all of the requirements of this chapter (see section 42-230, Existing trees).

*Fence or wall* means an open, opaque or solid structure intended to prevent escape or intrusion, to mark a boundary, or provide a visual shield.

- (1) Open fences or walls have openings greater than 25 percent of the total surface area, which allows clear vision and/or the passage of air.
- (2) Opaque fences or walls have openings less than 25 percent of the total surface area, which allows limited vision and/or the passage of air.
- (3) Solid fences or walls block vision and have no openings in the surface area.

*Ground cover* means any plant whose height under average regional growing conditions will not exceed two feet at maturity, as understood by the American Association of Nurserymen.

*Large shade tree* means any tree whose height under average regional growing conditions will exceed 25 feet at maturity, as understood by the American Association of Nurserymen.

*Loading and service area* means an area which is used for trash or garbage collection, vehicular loading and unloading, outdoor storage or repair, or for covered storage where the structure has no walls to buffer views.

*Municipal influence area* means a geographic area defined and adopted by the board of aldermen and approved by the county board of commissioners, wherein municipal development standards including, but not limited to, the landscape standards set forth in this chapter, shall be applied.

*Parking lot* means areas, which are accessible to vehicular traffic on a regular established basis and designed for the short-term parking of serviceable motor vehicles, either as a principal use or as an accessory use.

*Perimeter planting strip* means a planting area located along the boundary of a parcel, parking lot or right-of-way which is reserved for landscaping purposes.

*Plant material* is a collective term referring to any tree, shrub, or vegetative ground cover as understood by the American Association of Nurserymen.

*Planting area* means the landscape area reserved for the purpose of providing growth area for required plant materials.

*Right-of-way* means a strip of land over which a road is built or proposed to be built.

*Shrub, dwarf*, means any shrub whose height under average regional growing conditions will be between one and three feet at maturity, as understood by the American Association of Nurserymen.

*Shrub, large*, means any shrub whose height under average regional growing conditions will be between six and 12 feet at maturity, as understood by the American Association of Nurserymen.

*Shrub, medium*, means any shrub whose height under average regional growing conditions will be between three and six feet at maturity, as understood by the American Association of Nurserymen.

*Small ornamental tree* means any tree whose height under average regional growing conditions will not exceed 25 feet at maturity, as understood by the American Association of Nurserymen.

*Streetscape* means any landscaped area adjacent to street ~~right-of-ways~~rights-of-way primarily for enhancement of public travel ways and the environment.

*Streetscape landscaping* means the installation of plant materials within a perimeter planting strip adjacent to a street right-of-way.

*Streetscape trees* means any trees planted within a streetscape perimeter planting strip adjacent to a street right-of-way.

(Ord. of 11-14-2005, § 156.088.3)

Sec. 42-226. - Streetscape landscaping.

The intent of this section is to establish a streetscape landscaping area adjacent to the right-of-way along town streets and designated entrance corridors. This area shall contain trees and other live vegetation to provide a more pleasing view from the travel ways; to provide a continuity of vegetation throughout the town and its municipal influence area; to reduce the amount of impervious surface and reduce stormwater runoff; improve environmental conditions; and to preserve existing trees.

- (1) *Streets*. For all proposed development (except single-family residential) abutting rights-of-way, the following shall be required:
  - a. A perimeter planting strip adjacent to the right-of-way (planting area not to be located in the right-of-way) with a minimum width of six feet, provided each streetscape tree shall have a minimum planting area of a three-foot radius, measured from the trunk of the tree. The strip's total length shall be equal to the total length of the property line adjacent to an existing or

proposed right-of-way as determined by the adopted thoroughfare plan, exclusive of access drives.

- b. Trees shall be planted, if not existing, within the planting strip according to one of the following requirements:
  - 1. Large shade trees shall be installed with a minimum of one tree planted for every 50 linear feet of perimeter planting strip. Each tree shall be a minimum of two inches caliper and have a minimum height of ten feet from the ground surface.
  - 2. Small ornamental trees shall be installed with a minimum of two trees planted for every 50 feet of perimeter planting strip. Each tree shall be a minimum of two inches caliper and have a minimum height of six feet from the ground surface.
  - 3. Existing trees along town streets, which meet the minimum criteria specified in section 42-230, concerning existing trees, shall be preserved.
- c. Corner parcels shall have at least one tree on each street perimeter planting strip that is 50 linear feet or greater in length.
- d. The perimeter planting strip shall also contain ground cover, grass, or mulch. The grass shall be mowed on a regular basis and the planting strip shall be kept weed and litter free by the property owner/developer. Shrubs, additional trees and/or beds of flower plants or bulbs may be included at the option of the property owner/developer.
- e. All required plant materials shall be planted according to the specifications set forth in section 42-231, concerning planting standards. Additionally, plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, pedestrian circulation, or lighting.

(2) *Designated entrance corridors.*

- a. Streetscape landscaping shall be required on all proposed development (including single-family residential), which abut a right-of-way along designated entrance corridors, as defined in section 42-225. Existing trees along designated entrance corridors which meet the minimum criteria specified in section 42-230, concerning existing trees, shall be preserved. The designated entrance corridors listed below were adopted by the board of aldermen as part of the Spring Lake Area Detailed Land Use Plan [Comprehensive Plan]:

Murchison Road (N.C. 87 and 210 South)

North and South Bragg Boulevard (N.C. 24 and 87)

Lillington Highway (N.C. 210 North)

Vass Road

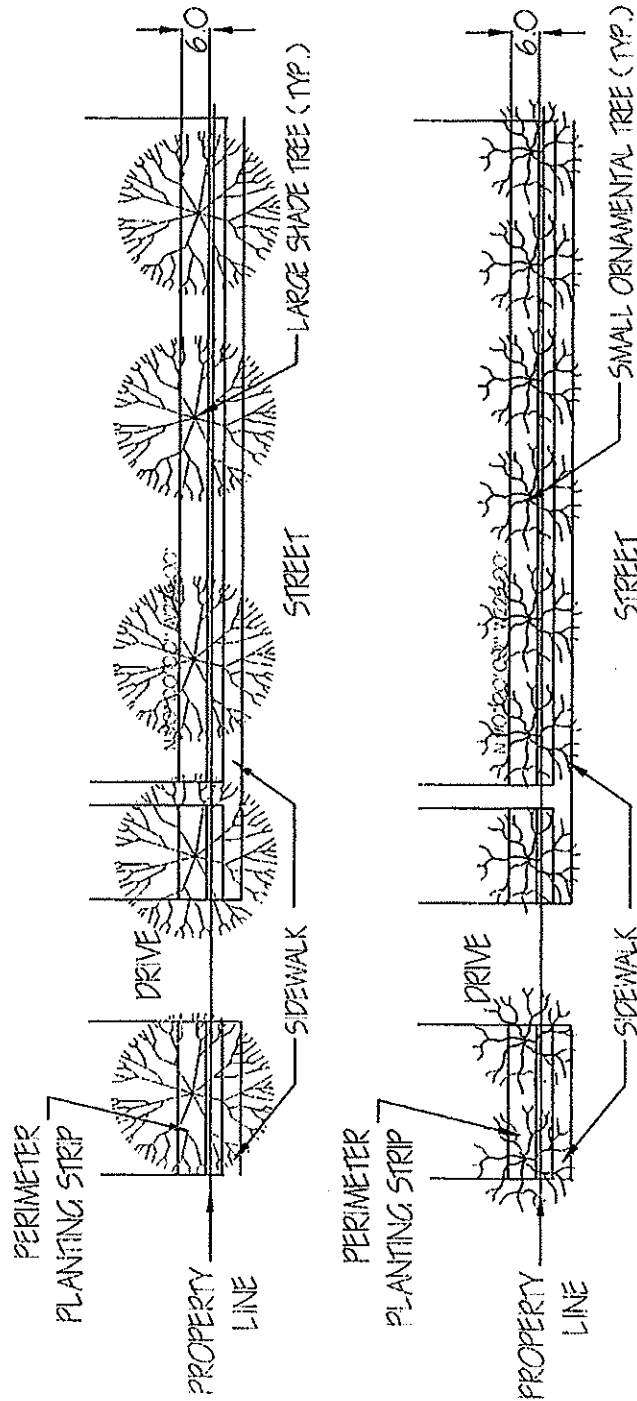
West and East Manchester Road.

- b. Designated entrance corridor planting specifications.
  - 1. The streetscape landscaping standards, as set forth in subsection (1) of this section, shall be applied for all proposed development abutting rights-of-way along designated entrance corridors.
  - 2. In cases where a designated entrance corridor is scheduled to be widened, the property owner/developer shall plant the trees prior to the widening project, provided that the state department of transportation (NCDOT) has marked the proposed right-of-way.

|                          |
|--------------------------|
| <input type="checkbox"/> |
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## FIG. 1 STREETScape LANDSCAPING

Trees required: 1 Large shade tree or 2 Small ornamental trees per 50 linear feet of perimeter planting strip



Calculation of Required Trees: Example - 225 linear feet of frontage divided by 50 equals 4.5 (5) shade trees or 9 ornamental trees.  
Perimeter Planting Strip minimum width = 6.0'

(Ord. of 11-14-2005, § 156.088.4)

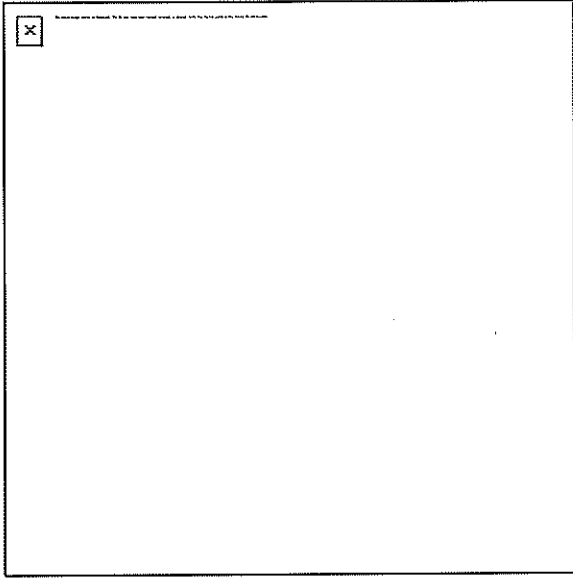
Sec. 42-227. - Parking lot landscaping.

- (a) The intent of this section is to address any visual, environmental, and aesthetic effects of proposed parking lots as well as allowing flexibility in property development. The property owner/developer shall



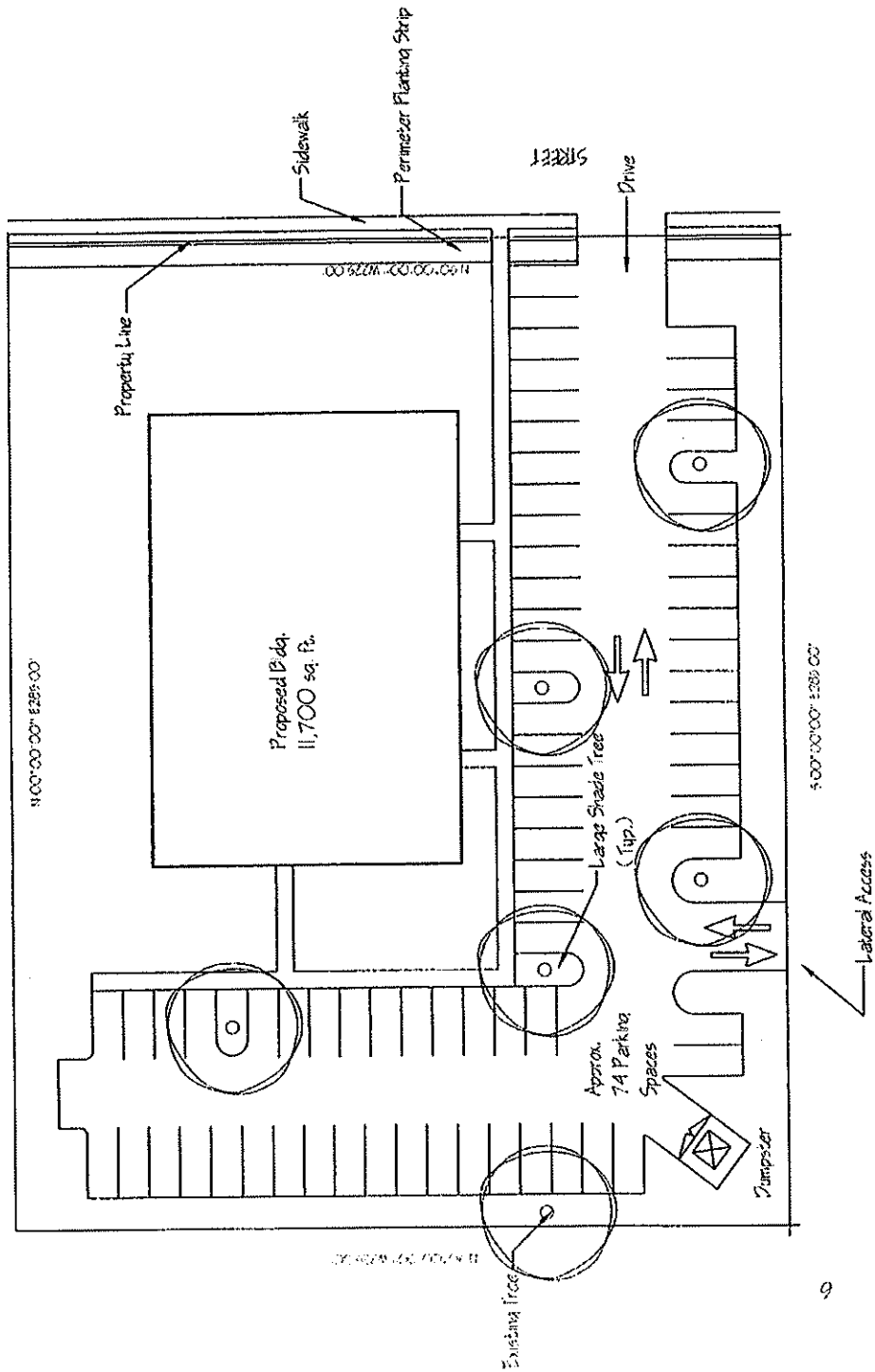
provide and maintain landscape planting areas within or adjacent to parking lots as long as the requirements as set forth below are met.

- (b) Trees shall be required on all proposed development (except single-family residential) whose parking lot is 12 spaces or greater, in accordance with the following requirements:
  - (1) One large shade tree or two small ornamental trees for every 12 parking spaces.
  - (2) Required trees shall be located within or adjacent to parking lots as tree islands, medians, at the end of parking bays or between rows.
  - (3) Trees required within the building yard and streetscape landscaping areas cannot be credited toward the parking lot requirements.
  - (4) All required plant materials shall be planted according to the specifications set forth in section 42-231, concerning planting standards. Additionally, plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, pedestrian circulation, or lighting.
  - (5) All parking lots shall be paved and constructed of asphalt or concrete. All pavements shall be constructed to meet the town standards and maintained according to best management practices.



# FIG. 2 PARKING LOT LANDSCAPING

Trees Required: 1 Large Shade Tree for every 12 spaces  
 Calculation of Required Trees: Example - 74 spaces divided by 12 = 6.17 (6) shade trees.



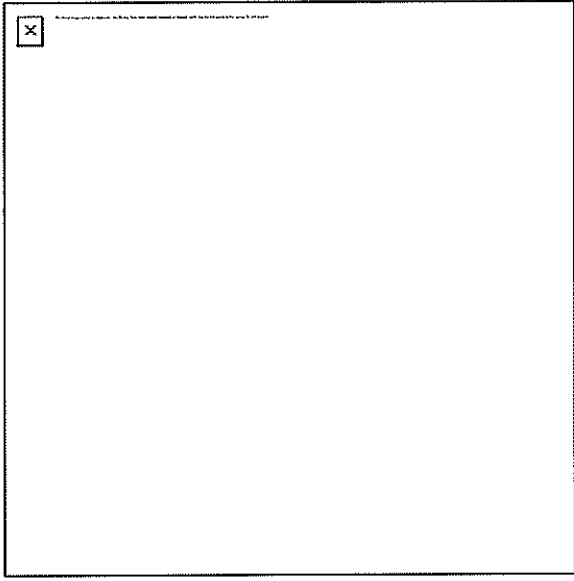
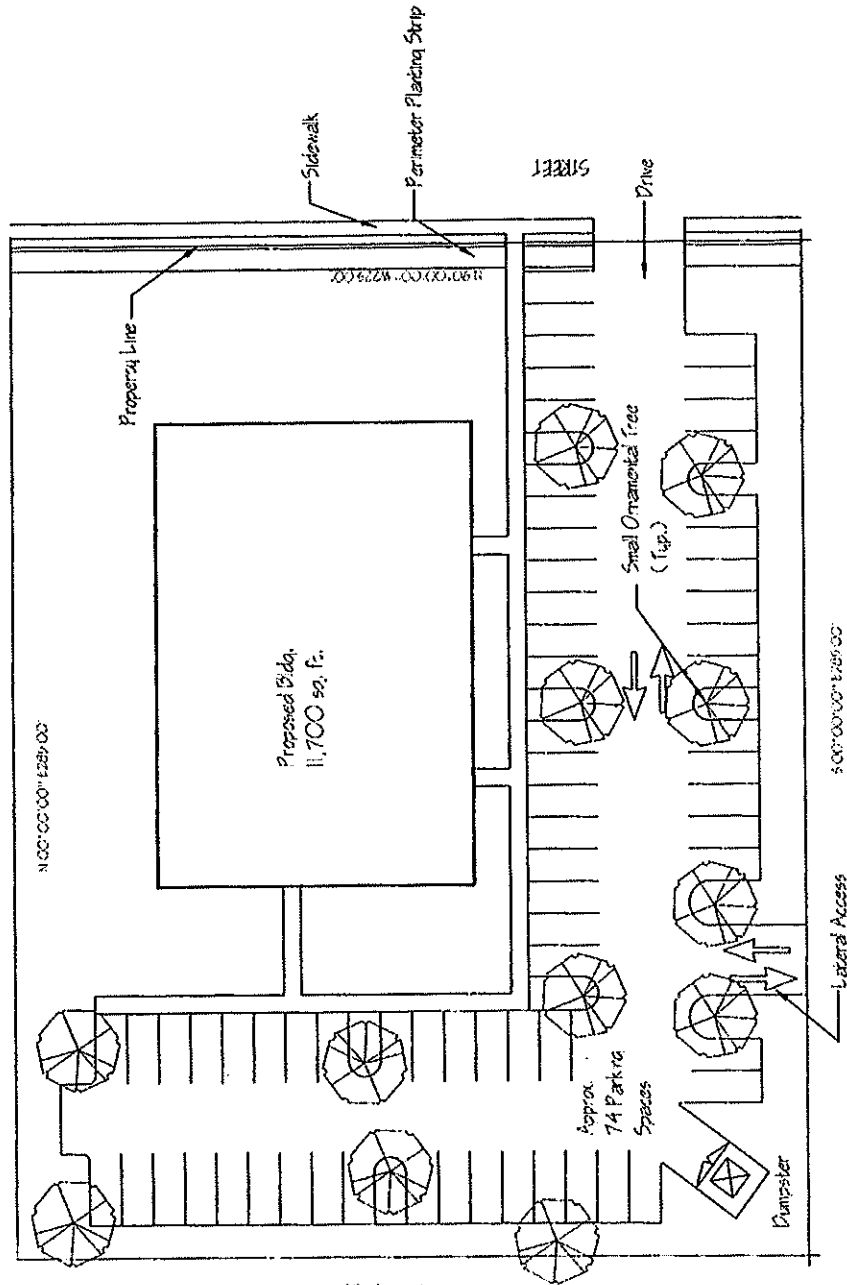


FIG. 2A PARKING LOT LANDSCAPING

Trees Required: 2 Small Ornamental Trees for every 12 spaces  
 Calculation of Required Trees: Example - 74 spaces divided by 12 = 6.17  
 6.17 x 2 = 12.34 (12) ornamental trees.



(Ord. of 11-14-2005, § 156.088.5)

Sec. 42-228. - Buffers.

- (a) *[Intent and applicability.]* The intent of this section is to provide a transition between developments in order to protect each development from possible negative effects likely to be caused by or associated with each other. Additionally, these requirements will serve to prevent an adverse community

appearance; protect the character of the area; conserve the value of the property; and provide adequate environmental conditions.

- (1) *Buffers required.* Buffers shall be required and properly maintained along the side and rear property lines of the following uses:
  - a. Automobile wrecking yards and junkyards.
  - b. Nonresidential development adjacent to residential development.
  - c. Loading and service areas.
  - d. Multifamily group development.
  - e. Public and community stations or substations.
  - f. Solid waste disposal facilities.
  - g. Storage, open (commercial and industrial).
  - h. Vehicle (commercial, government) repair or storage.
  - i. Industrial uses adjacent to office, institutional, and commercial uses.
- (2) *[Buffer types.]* The required buffer shall be accomplished by one of the following:
  - a. An opaque fence or wall with a minimum height of six feet. Additionally, the following plant materials shall be used in conjunction with an opaque fence or wall: one large shade tree or two small ornamental trees per 50 linear feet. Additionally medium or large evergreen shrubs shall be planted along the entire length of the fence.
  - b. A solid fence or wall having a minimum height of six feet. Additionally, the following plant materials shall be used in conjunction with a solid fence or wall: one small ornamental tree, or two medium or large evergreen shrubs or four dwarf (evergreen or deciduous) shrubs per 50 linear feet.
  - c. An earth berm shall be vegetated with grass, ground cover and evergreen shrubs, evergreen dwarf shrubs, or trees. The berm shall be designed so that the expected height of the shrubs at maturity combined with the height of the berm shall provide a minimum buffer height of six feet and provide full buffering. Additionally, all berms shall be built using a slope ratio of 3:1 (three feet horizontal to one foot vertical).
  - d. Any combination of the above [subsections (2)a through (2)c of this section], provided that an effective buffer to a minimum height of six feet is obtained.
- (3) *Dumpsters.* Buffers shall be required and properly maintained around dumpsters and shall be accomplished by an opaque fence a minimum of one foot higher than the trash receptacle with a lockable fence as required by the solid waste regulations.
- (4) *Industrial and manufacturing development.* Buffers shall be required and properly maintained all side and rear property lines of industrial and manufacturing development abutting single-family residential development. This shall be accomplished by one of the following:
  - a. An opaque fence or wall with a minimum height of six feet. Additionally the following plant materials shall be used in conjunction with an opaque fence or wall: two large shade trees or three small ornamental trees per 50 linear feet. Additionally, medium or large evergreen shrubs shall be planted along the entire length of the fence.
  - b. A solid fence or wall having a minimum height of six feet. Additionally, the following plant materials shall be used in conjunction with a solid fence or wall: two small ornamental trees, or four medium or large evergreen shrubs or eight dwarf (evergreen or deciduous) shrubs per 50 linear feet.
  - c. An earth berm shall be vegetated with grass, ground cover and evergreen shrubs, evergreen dwarf shrubs, or trees. The berm shall be designed so that the expected height of the shrubs

at maturity combined with the height of the berm shall provide a minimum buffer height of six feet and provide full buffering. Additionally, all berms shall be built using a slope ratio of 3:1 (three feet horizontal to one foot vertical).

- (5) *Manufactured home parks and recreational vehicle parks.* All manufactured home parks and recreational vehicle parks shall have a minimum 15 feet wide landscape buffer around the perimeter of the park, excluding entrance drives, within which no temporary or permanent structures shall be permitted. The required landscape buffer will be properly maintained and accomplished by the following:
    - a. A solid or opaque fence or wall with a minimum height of six feet.
    - b. Additionally, the following plant materials shall be used in conjunction with an opaque fence or wall: one large shade tree or two small ornamental trees per 50 linear feet and a continuous row of medium or large evergreen shrubs shall be required and planted for the entire length of the fence.
  - (6) *Telecommunication equipment, (unmanned) towers.* Buffers shall be required and properly maintained around the perimeter of all telecommunication equipment, (unmanned) towers. The required buffer shall be accomplished by the following:
    - a. *Fencing.* The tower base shall be enclosed by a chain link fence that is at least ten feet in height and located at least ten feet from the base of the tower.
    - b. *Buffer area.* The tower compound shall be surrounded by a buffer area that is at least 25 feet wide and shall shield the entire tract. No structures, including guy wires or anchors, may be constructed or located within the buffer area. The buffer area shall be planted with evergreen trees that will attain a minimum height of 25 feet. Additionally, the interior edge of the buffer area shall be planted with medium or large evergreen shrubs that shall have a minimum height of three feet.
- (b) *Placement of buffers.*
- (1) *Measurement.* The area to be used as a buffer shall begin from the front, side and rear property lines to be buffered, moving inwardly to the required buffer width, as specified in subsection (a) of this section.
  - (2) *Overlap.* Buffers may overlap other yard areas and yard setbacks, but these yard areas and setbacks shall comply with the requirements of this zoning chapter. Additionally, plant materials, fences, walls and berms required for buffers shall not be planted within a designated utility easement, a right-of-way, or the sight distance triangle of intersecting streets or driveways.
  - (3) *Encroachment.* No structure, other than a mailbox, fence, wall, sidewalk or driveway may be located within a required buffer area. No parking lot shall be allowed within a required buffer area.
  - (4) *Location.* All plant materials used in conjunction with a solid or opaque fence or wall shall be located on the exterior side of the fence or wall.
- (c) *Buffer specifications.*
- (1) All required plant materials shall be planted according to the specifications set forth in section 42-231, concerning planting standards. Additionally, plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, pedestrian circulation, or lighting. The required shrubs shall be pruned in a manner that allows them to maintain the required minimum height of six feet at maturity.
  - (2) Fences and walls required by this section shall comply with other provisions set forth in section 42-191(3), concerning fences and walls.
  - (3) Provisions for natural buffers such as rivers, stream ways, wetlands, and other natural barriers of sufficient space or visual obstructions may meet the buffer requirements as determined by the zoning inspector Administrative Officer.

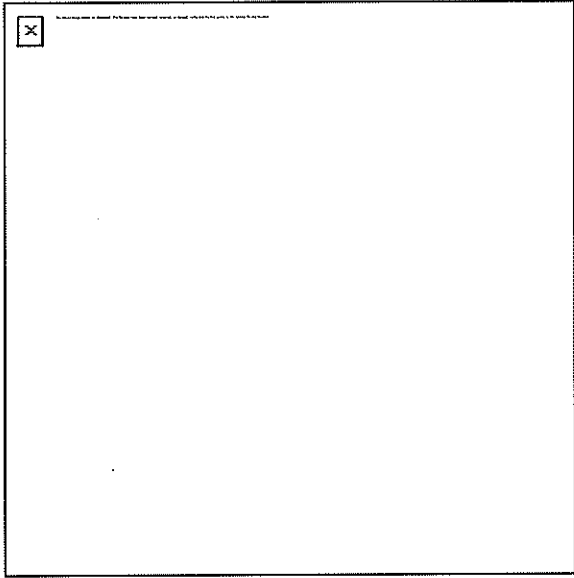
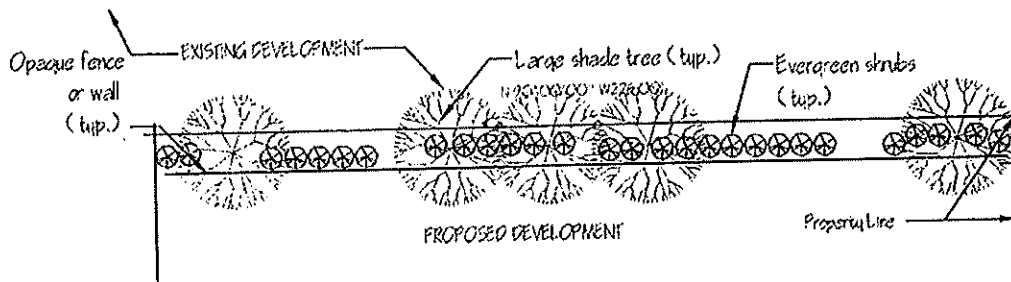




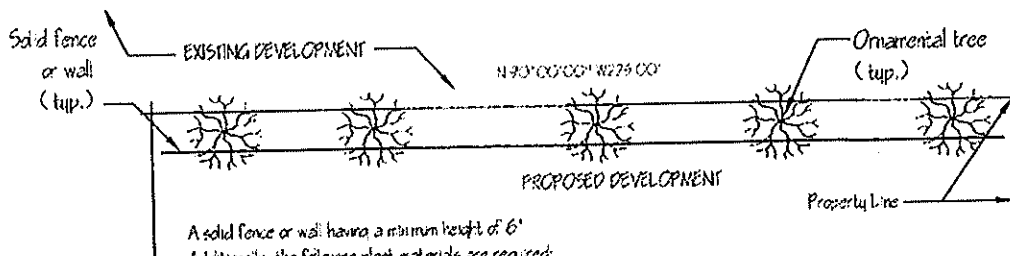
FIG. 5 SCREEN TYPES  
(Unless otherwise specified)

Screen Type 1 - Opaque Fence and Plantings

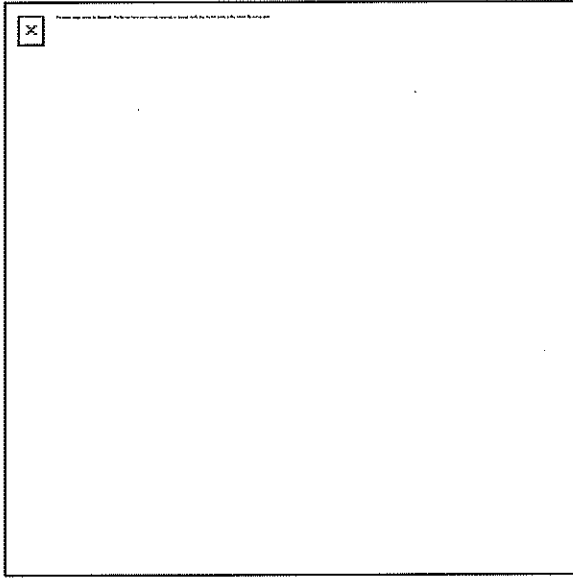


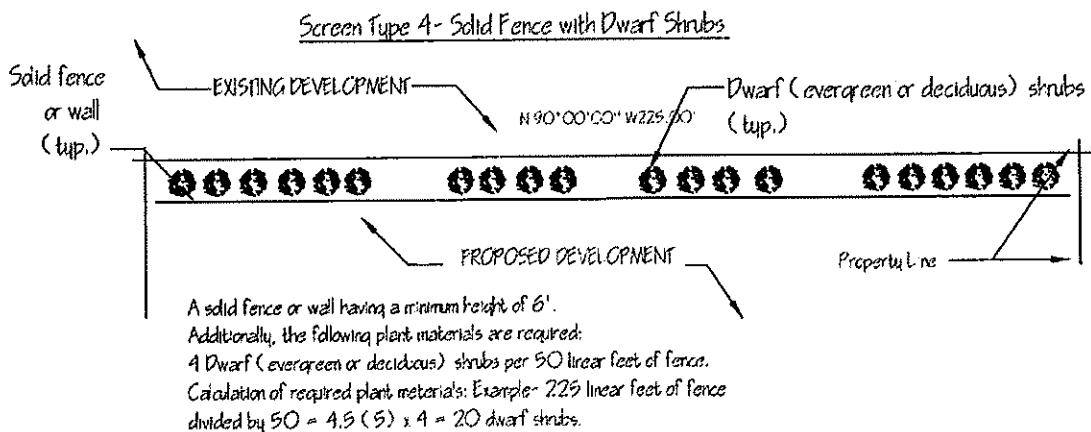
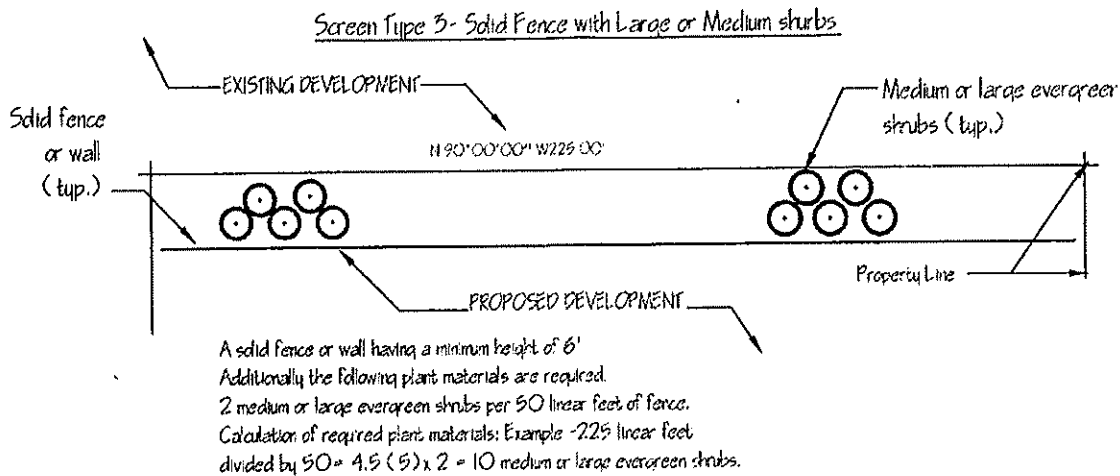
An opaque fence or wall with a minimum height of 6 feet & 1 large shade tree or 2 ornamental trees per 50 linear feet of fence. Additionally, evergreen shrubs shall be planted along the entire length of the fence.  
 Calculation of required plant materials: Example - 225 linear feet of fence divided by 50 = 4.5 (5) shade trees or 4.5 x 2 = 9 ornamental trees

Screen Type 2 - Solid Fence with Ornamental Trees



A solid fence or wall having a minimum height of 6'  
 Additionally, the following plant materials are required:  
 1 Small ornamental tree per fifty linear feet of fence.  
 Calculation of required plant materials: Example - 225 linear feet of fence divided by 50 = 4.5 (5) small ornamental trees





(Ord. of 11-2005, § 156.088.6)

Sec. 42-229. - Building yard landscaping.

The purpose of this section is to visually and aesthetically enhance the appearance of buildings. Building yards shall be provided along the perimeter of the building visible from a public right-of-way. The required landscaping shall be accomplished by the following:

- (1) One small ornamental tree and six medium shrubs per 100 linear feet of the perimeter of the building visible from a public right-of-way.
- (2) Placement of building yard landscaping.
  - a. Measurement. Minimum dimensions shall apply and be measured horizontally. Widths shall be measured from the respective building front wall. Length measurements shall be measured from the respective building corner to corner. Entrance walkways to buildings may

cross building yards and the width of entrance walkways shall not be calculated as part of the length of the building yard in determining the required amount of plant materials, provided, however, that the width deducted for the entrance walkway shall not exceed the width of the entrance to the building.

- b. All required plant materials shall be planted according to the specifications set forth in section 42-231, concerning planting standards. Additionally, plantings shall be arranged so as not to interfere with driver vision, vehicle circulation, pedestrian circulation, or lighting.

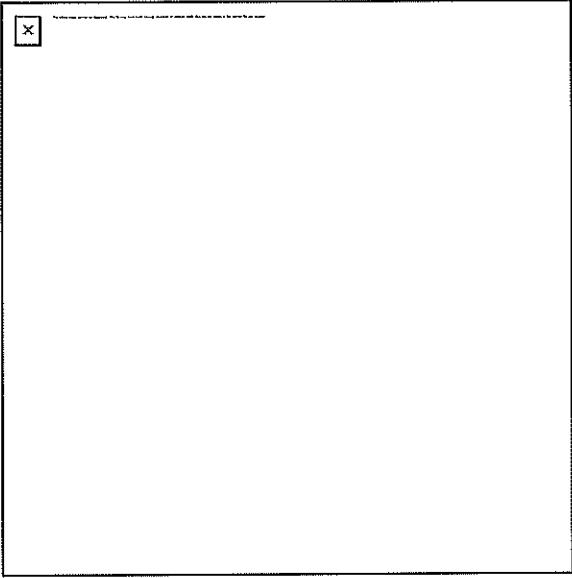
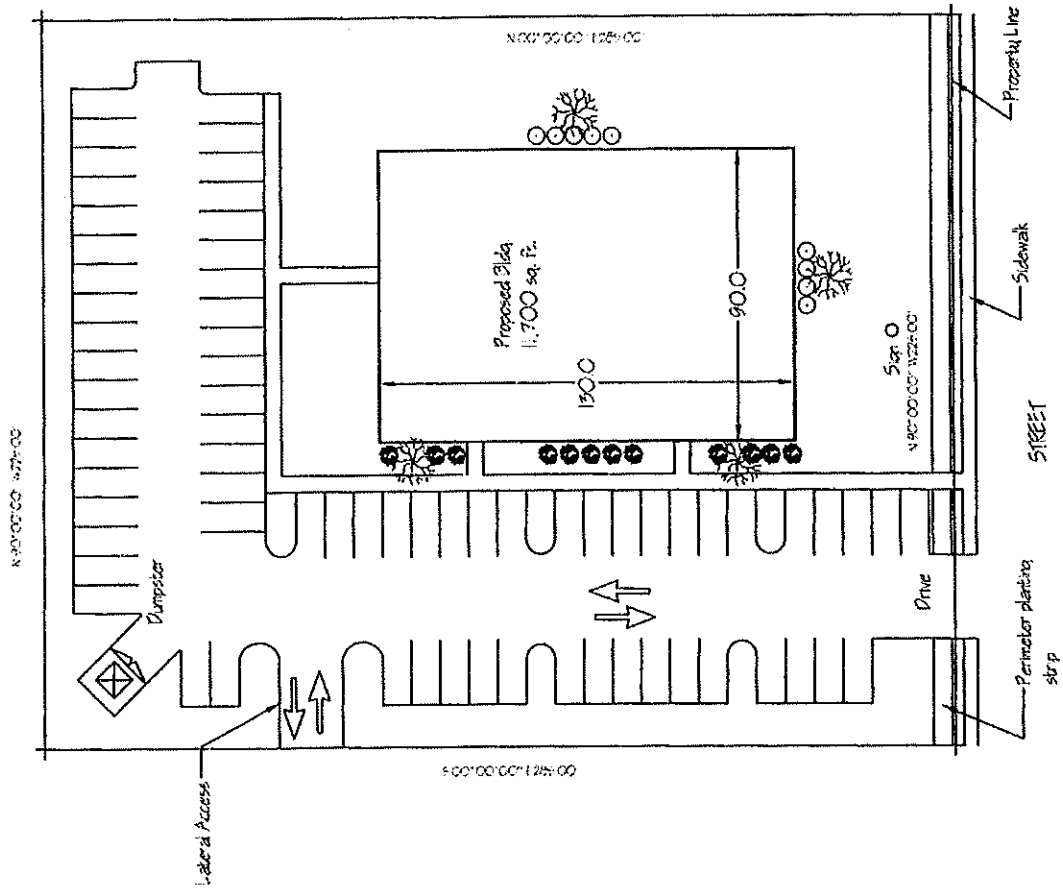


FIG. 4 BUILDING YARD LANDSCAPE

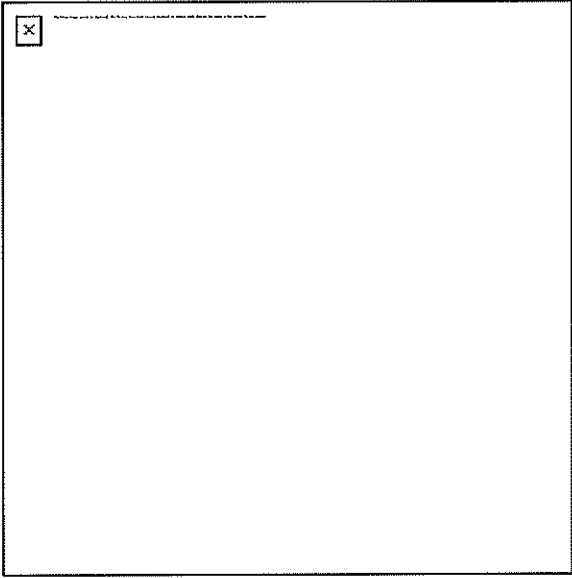


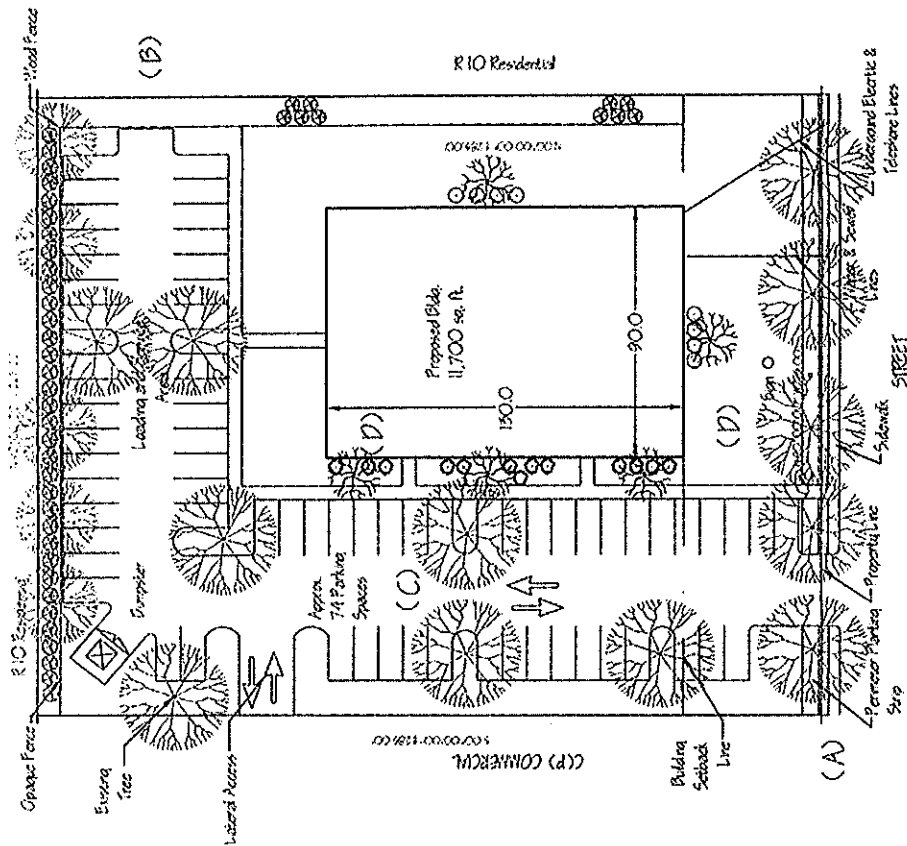
**Required Plant Material:**

1 Small ornamental tree &  
 6 medium shrubs per 100 linear feet  
 of the perimeter of the building visible  
 from the public right-of-way.

**Calculation of Required Plants:**

Example - Total perimeter visible from a public right-of-way =  
 350' divided by 100 = 3.5 (4) trees and  
 $3.5 \times 6 = 21$  shrubs





MINIMUM REQUIRED PLANT MATERIALS

| PLANT LIST                                 |          |                 |          |
|--|----------|-----------------|----------|
| STREETSCAPE PLANT MATERIALS (A)            |          |                 |          |
| BOTANICAL / COMMON NAME                    | QUANTITY | SIZE            | SPACING  |
| Acer rubrum Red Maple                      | 5        | 2" cal. 10" ht. | As shown |
| SCREEN/BUFFER PLANT MATERIALS (B)          |          |                 |          |
| BOTANICAL / COMMON NAME                    | QUANTITY | SIZE            | SPACING  |
| Acer rubrum Red Maple                      | 5        | 2" cal. 10" ht. | As shown |
| Les. umbellata 'Vaporar' Vaporar Red Maple | 44       | 2 1/2" ht.      | As shown |
| PARKING LOT PLANT MATERIALS (C)            |          |                 |          |
| BOTANICAL / COMMON NAME                    | QUANTITY | SIZE            | SPACING  |
| Acer rubrum Red Maple                      | 4        | 2" cal. 10" ht. | As shown |
| BUILDING YARD PLANT MATERIALS (D)          |          |                 |          |
| BOTANICAL / COMMON NAME                    | QUANTITY | SIZE            | SPACING  |
| Ilex verticillata Winterberry              | 13       | 2 1/2" ht.      | As shown |
| Lagerströmia indica Crape Myrtle           | 4        | 2" cal. 10" ht. | As shown |
| Malva centifolia Morn. Maple               | 6        | 2 1/2" ht.      | As shown |


 NORTH  
 SCALE: 1" = 40'  
 TOTAL AREA: 1.47 acres Zones: (CP) Commercial  
 NON-RESIDENTIAL DEVELOPMENT  
 110 POLAR STREET  
 ANNTOWN, NORTH CAROLINA

FIG. 5 EXAMPLE REQUIRED LANDSCAPE PLAN

(Ord. of 11-14-2005, § 156.088.7)

Sec. 42-230. - Existing trees.



Preservation of trees as part of the development of the property shall be encouraged whenever feasible. Credit for existing trees shall be given toward the requirements of this chapter, provided the existing trees satisfy the requirements set forth in section 42-231, concerning planting standards.

(Ord. of 11-14-2005, § 156.088.8)

Sec. 42-231. - Planting standards.

(a) *Size required.*

- (1) Large shade trees shall be a minimum of two inches caliper and have a minimum height of ten feet from the ground surface.
- (2) Small ornamental trees shall be a minimum of two inches caliper and have a minimum height of six feet from the ground surface.
- (3) Large and medium shrubs shall be a minimum height of 24 inches. Dwarf shrubs shall have a minimum height of 12 inches.

(b) *Spacing required.*

- (1) Streetscape trees shall be spaced no greater than 50 feet apart. All other required plant materials shall be installed according to site plan specifications.
- (2) Plant materials shall not be installed within a designated utility or other easement, including rights-of-way.
- (3) The placement of plants shall be designed so that the projected width and height of maturing plants do not obstruct sidewalks, driveways, parking lots, fire hydrants, utility easements or other public way or uses.
- (4) Any planting on any corner of two streets or driveways shall comply with section 42-191(4), concerning corner visibility.

(c) *Planting areas.*

- (1) Perimeter planting strips shall be a minimum of six feet in width. Planting strips adjacent to rights-of-way shall not be paved or used for parking.
- (2) Planting areas within parking lots shall be a minimum of three feet in width.
- (3) Adequate drainage and mulching shall be provided for all planting areas.
- (4) Planting areas shall be protected from damage by vehicular traffic with barriers including, but not limited to, curbs, wheel stops, walls or fences. These measures shall be maintained for protection of the planting areas for as long as the planting areas are required by this article.
- (5) During construction, adequate protection measures shall be provided for all planting areas of existing trees to be saved under the requirements of this chapter to ensure the exclusion of construction activity and storage of materials in them. Trash and debris shall not be buried in planting areas of either existing or proposed trees required by this article.

(d) *Planting, maintenance and replacement.*

- (1) All trees shall be properly guyed or staked in accordance with accepted practices in the landscape industry.
- (2) All plant materials shall conform to the requirements described in the latest edition of Standard for Nursery Stock published by the American Association of Nurserymen.
- (3) The property owner/developer shall be responsible for maintenance on the property on a continuing basis for the duration of the development. All required landscaping shall be maintained in a neat and orderly manner at all times. This shall include, but not be limited to, mowing, edging, pruning, fertilizing, watering, weeding and other practices common to landscape maintenance.

Landscaped areas shall be kept free of trash, litter, weeds, and other materials not part of the landscaping.

- (4) Required landscaping shall be maintained in perpetuity in accordance with provisions set forth in this article. After initial installation it shall be the responsibility of the property owner/developer to maintain all required plantings in a healthy, vigorous and attractive state, or replace dead, diseased or deteriorated plants as specified in other sections of this article. Dead plant materials shall be replaced within 180 days.
  - (5) If after three years following the installation of required buffer plant materials, the plants have not formed an effective buffer or if an effective buffer is not maintained, the administrative officer zoning inspector may require that another type of buffer may be added or additional plantings installed.
- (e) *Existing trees.* Existing trees used to satisfy all or part of the requirements of this chapter shall conform to the following provisions:
- (1) *Large shade trees.* Each tree shall be a minimum of two inches caliper, have a minimum height of ten feet from the ground surface, and not be within the right-of-way.
  - (2) *Small ornamental trees.* Each tree shall be a minimum of one inch caliper, have a minimum height of six feet from the ground surface and not be within the right-of-way.

(Ord. of 11-14-2005, § 156.088.9)

Sec. 42-232. - Plan required and information to be submitted.

- (a) Any site plan pursuant to section 42-359(b), concerning approval of plans, shall include a landscape plan (except all residential development, excluding manufactured home parks and multifamily development). A plan of the property at a scale of one inch equals 50 feet or larger shall be submitted as part of and in accordance with section 42-359(b), concerning approval of plans. The plan shall be labeled "Landscape Plan" and shall include the following:
- (1) All proposed structures, detached signs, drives, walks, parking lots, and other features pertinent to the location and planting of trees or buffers.
  - (2) All existing structures, site features, and service areas to remain, which are pertinent to the location and planting of trees or buffers.
  - (3) All existing and proposed utility and other easements.
  - (4) All proposed trees required by this article and all existing trees proposed to be saved under the requirements of this article. Proposed trees shall be identified by genus, species and installation size. Existing trees to be saved shall be identified by genus, species, size and general condition.
  - (5) The required planting areas for all trees, shrubs, and groundcover including the planting strip along rights-of-way. Critical dimensions for these areas shall be noted.
  - (6) Details of permanent and temporary protection measures.
  - (7) Zoning of the subject property and zoning of adjacent properties.
  - (8) Total linear feet of frontage on rights-of-way.
  - (9) Total number of parking spaces.
  - (10) Total number of large shade trees, small ornamental trees, shrubs and ground cover to be used.
  - (11) Location of required buffers including a description of materials to be used to include types, numbers, spacing and construction details of fences, walls, berms, etc.
  - (12) Location and construction details of an irrigation system. Landscape plans are subject to the appeals procedure as set forth in section 42-368, Appeals.

- (b) Compliance with this chapter shall be required only to the extent that said compliance does not place the property in nonconformance with any other provisions of this chapter at time of compliance. Appeals can be made as set forth in section 42-368, Appeals.

(Ord. of 11-14-2005, § 156.088.10)

Sec. 42-233. - Administrative provisions.

- (a) *Enforcement.* The provisions of this article shall be administered and enforced by the zoning inspector ~~administrative officer~~ as set forth in section 42-358, concerning the enforcement ~~administrative officer~~.
- ~~(b) *Modifications.* Where unusual circumstances exist, the zoning inspector may authorize a modification from the requirements of this article, provided that the purpose and intent of the provisions of this article are substantially met.~~
- (c) *Emergencies.* In case of emergencies such as windstorms, ice storms, fire, or other disasters, the requirements of this article may be suspended by the zoning inspector ~~administrative officer~~ during the period of recovery therefrom, so that the requirements of this chapter would in no way hamper private or public work to restore order within the town and its municipal influence area.
- (d) *Penalties and remedies.* A violation of this article shall be subject to the provisions set forth in section 42-371, Penalty, and section 42-370, Remedies.

(Ord. of 11-14-2005, § 156.088.11)

Secs. 42-234—42-259. - Reserved.

ARTICLE X. - OFF-STREET PARKING AND LOADING

Sec. 42-260. - Provisions for off-street parking and loading.

All uses of land, buildings, or structures shall provide for adequate off-street parking and loading spaces to meet at least the minimum standards in accordance with the provisions of this article.

- (1) *Plan approval.* Each application for a zoning permit, ~~conditional use permit, special use permit, or site plan approval~~ shall include information as to the location and dimensions of off-street parking and loading spaces and the means of ingress and egress to such space. This information shall be in sufficient detail to enable the ~~administrative code enforcement officer~~ to determine whether or not the requirements of this article are met.
- (2) *Certificate of occupancy.* The certificate of occupancy for the use of any building, structure or land where off-street parking spaces or loading spaces are required shall be withheld by the ~~administrative code enforcement officer~~ until the provisions of this article are fully complied with. If at any time such compliance ceases, any certificate of occupancy previously issued for the use of the property shall immediately become void, and further use of the premises shall cease until the property is brought into compliance with this article.
- (3) *Permanency.* The off-street parking and loading spaces required by this article shall be permanent spaces and shall not be used for any other purposes unless other spaces are provided which will fully meet the requirements of this article.
- (4) *Permissive parking and loading facilities.* Off-street parking or loading facilities, which serve any existing nonresidential use of land or buildings, are permitted in any commercial or industrial district provided that all regulations herein governing the location, design, and operation of such facilities are adhered to and provided further that whenever a parking facility serving a

nonresidential use abuts a residential district, a vegetative buffer at least six feet in height shall be established between the parking facility and the residential district.

- (5) *Increased intensity of existing use.* When the intensity of use of any building or premises shall be increased through addition of dwelling units, gross floor area, seating capacity, or other units specified herein for the computation of required parking and loading facilities, parking and loading facilities shall be provided for such increase in intensity of use.
- (6) *Change of existing use.* Whenever the existing use of a structure shall hereafter be changed to a new use, parking and loading facilities shall be provided as required for such new use. However, if the structure was erected prior to the effective date of this chapter, additional parking or loading facilities are mandatory only in the amount by which the requirements for the new use shall exceed those for the existing use.
- (7) *Maintenance of off-street parking, loading spaces/berths and vehicular surface areas.* The property owner shall be fully responsible for the routine maintenance of off-street parking, loading spaces and vehicular surface areas, to include driveways. Proper routine maintenance shall ensure that the original driveway width and profile are retained, operational speed and safety is not reduced by rough or unkempt surfaces, and no damage or deterioration to the public roadway pavement is incurred as a result of driveway conditions, including drainage provisions. The level of maintenance shall also be adequate to ensure that deviation from the intended circulation pattern is not necessary because of surface irregularities. This maintenance responsibility includes the removal of snow and ice and keeping the portion of the driveway within the public right-of-way in a safe condition.

(Code 1978, § 12.103; Code 1995, § 156.100; Ord. of 1-10-1972; Ord. No. 2012-2, § 2, 2-13-2012)

Sec. 42-261. - Off-street parking requirements.

- (a) *Minimum off-street parking requirements.* Off-street parking spaces shall be provided and permanently maintained by the owners or occupants of the following types of property uses on the basis indicated:

| Uses                                  | Required Off-Street Parking Spaces  |
|---------------------------------------|---|
| All dwelling units                    | Two spaces for each dwelling unit, except one and one-half spaces for each dwelling unit in a multi-family complex located in R6, R5A, R5, and mixed use developments |
| Art galleries, libraries, and museums | One space for each 400 square feet of net floor area  |
| Banks                                 | One space for each 200 square feet of net floor area, plus one space for each two employees   |
| Commercial amusement                  | One space for each four persons in design capacity  |
| Farmers' markets                      | One space for each 200 square feet of display area or a minimum of five spaces, whichever is greater  |

|   |   |
|---|---|
| Flex offices  | One space for each three employees on the largest shift, one space for each vehicle used in the conduct of the use, one space for each 300 square feet of classroom space, and five additional spaces |
| Funeral homes   | One space for each four seats in chapel   |
| Furniture stores  | One space for each 400 square feet of net floor area  |
| General, professional, and governmental offices   | One space for each 300 square feet of net floor area  |
| Hospitals   | One space for each two beds intended for patient use, plus one space for each employee on the largest shift   |
| Lodges, fraternal, and social organizations   | One space for each four persons in design capacity  |
| Manufacturing, processing, fabrication, assembly, construction, contracting and building trades | One space for each vehicle used directly in the conduct of the use, plus two additional spaces for each three employees on the largest shift  |
| Manufactured home and travel trailer sales lot  | One space for each employee and one space for each 3,000 square feet of display area  |
| Medical clinics, doctors and dentists offices   | Five spaces for each professional practicing on the premises  |
| Motor vehicle gas stations/convenience stores   | Ten parking spaces  |
| Motor vehicle repair/sales  | One space for each 200 square feet of net floor and/or sales garage area  |
| Nursery, kindergarten, elementary, and junior high/middle schools                               | One space for each employee, plus ten additional spaces   |
| Nursing homes, convalescent and retirement homes  | One space for each four beds intended for resident use, plus one parking space for each employee on the largest shift   |

|  |  |
|--|--|
| Religious worship  | One space for each five seats                            |
| Retail stores, service shops, food and beverage establishments, including planned shopping centers | One space for each 200 square feet of net floor area     |
| Rooming or boarding house  | One space for each bedroom                               |
| Senior high schools  | Four spaces for each classroom and administrative office |
| Vocational, business, post secondary, a vocational and trade schools                               | One space for each four persons in design capacity       |
| Wholesale establishments   | One space for 900 square feet of gross floor area        |

- (b) *Computation.* When determination of the number of off-street parking spaces required by this article results in a requirement of a fractional space, any fraction of one-half or less may be disregarded, while a fraction in excess of one-half shall be counted as one parking space.
- (c) *Size.* All required off-street parking spaces shall be at least nine feet in width and at least 20 feet in length measured at right angles to the axis of the vehicle exclusive of access drives, aisles, or ramps. Such spaces shall have a vertical clearance of at least six feet, six inches. For parallel parking the length of the parking space shall be increased to 23 feet. Compact parking spaces, measuring seven and one-half feet wide and 16 feet in length, are permitted provided that the compact spaces do not exceed more than 25 percent of the total required parking.
- (d) *Design.* All off-street parking areas requiring four or more spaces based on the use of the property shall be surfaced with a permanent material such as asphalt or concrete up to and including the required paved driveway or entrance to the property, and the individual parking spaces shall be clearly marked or striped. This permanent surfacing provision does not apply to single-family residential group developments. Regardless of any other provision of this chapter, off-street parking spaces, drive areas and entrances to any structure shall be designed and constructed to the standards of the N.C. Building Code, or other applicable federal, state or local regulations.

Nonresidential uses that will result in an increase in vehicular surface area of one acre or more or those nonresidential uses with seasonal maximum capacities, such as shopping centers, and with a structure or structures exceeding 10,000 square feet of net floor area shall only permanently surface a maximum of 80 percent of the required vehicular surface area, including the off-street parking area. The remaining 20 percent of parking area shall consist of pervious surfacing material and shall be maintained in such manner as to alleviate stormwater runoff. Regardless of the aforementioned permanent surfacing restriction, the provisions of the N.C. Fire Code, Appendix D shall control if in conflict with this subsection.

- (e) *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space. All off-street parking facilities shall be designed with appropriate means of vehicular access to a street or alley in a manner which will least interfere with traffic movement. All commercial and industrial off-

street parking areas and all off-street parking lots for residential use where three or more spaces are required shall be so arranged that egress from the parking space is by forward motion of the vehicle.

- (f) *Lighting.* Any lighting used to illuminate off-street parking areas shall be directed away from residential districts and public streets.
- (g) *Public area.* No portion of any street right-of-way or public parking facility shall be considered as fulfilling or partially fulfilling area requirements for off-street parking space required by the provisions of this article.
- (h) *Combination and shared parking.* The required parking space for any number of separate uses may be combined on one lot as long as the minimum number of spaces for each separate use is provided, except that the required space assigned to one use within a shopping center may be assigned to another use provided that the hours of operation for each use do not coincide or overlap and one-half of the parking spaces required for religious worship facilities, theaters, or assembly halls whose peak attendance will be at night or on Sundays may be assigned to a use which will be closed at night and on Sundays.
- (i) *Remote parking spaces.* If the off-street parking space required by this article for nonresidential uses cannot be reasonably provided on the same lot on which the principal use is located, such space may be provided on any land within 400 feet of the main pedestrian entrance to such principal use, provided such land is in the same ownership, by deed or long term recorded lease, and that such land is zoned to allow the nonresidential use for which the remote parking is to serve. In such cases, the applicant for a permit for the principal use shall submit with the permit application an instrument duly executed, acknowledged and recorded with the County Register of Deeds that subjects said land to parking use in connection with the principal use. Remote parking spaces in the Central Business District shall observe the front yard setback required in section 42-192.
- (j) *Existing parking facilities.* Accessory off-street parking facilities in existence on the effective date of this chapter or upon being made subject to the provisions of this chapter and located on the same lot as the use served shall not hereafter be reduced below the minimum requirements of this article.
- (k) *Residential parking limitation.* Where parking for motor vehicles is permitted or required in residential districts, the lot may be used only for parking and not for any type of loading, sales, repair work, dismantling, servicing or long-term storage, either of merchandise or vehicles.
- (l) *Handicap parking.* Handicap parking shall be provided in accordance with the standards of the N.C. Building Code and any other applicable federal and/or state regulation. Handicap spaces must be clearly marked and maintained at all times.

(Code 1978, § 12.104; Code 1995, § 156.101; Ord. of 1-10-1972; Ord. of 7-28-2003, § 1; Ord. No. 2012-2, § 2, 2-13-2012)

Sec. 42-262. - Off-street loading.

- (a) *Generally.* Off-street loading spaces accessory to uses permitted in any district shall be provided in accordance with the following regulations. The ~~administrative code enforcement officer~~ shall determine the sufficiency of loading berths and/or loading spaces permitted or required by this article. Off-street loading berths and/or loading spaces shall be provided and permanently maintained by the owners or occupants of the following types of land uses on the basis indicated:

| Uses | Required Space or Berth |
|------|-------------------------|
|------|-------------------------|

|   |   |
|---|---|
| Commercial operations with a gross floor area of less than 20,000 square feet; and all wholesale, manufacturing and light industrial operations with a gross floor area of less than 10,000 square feet | One loading space or berth  |
| Retail operations, (including restaurant and dining facilities within hotels and office buildings) with a total usable floor area of 20,000 square feet or more devoted to such purposes                | One loading space or berth for every 20,000 square feet of gross floor area |
| Office buildings and hotels with a total usable floor area of 100,000 square feet or more devoted to such purposes  | One loading space or berth for every 100,000 square feet of floor area      |
| Industrial and wholesale operations with a gross floor area of 10,000 square feet or over and as follows:   |   |
|   |   |
| <i>Square Feet</i>  |   |
|   |   |
| 10,000 to 40,000  | One space or berth  |
| Above 40,000 to 100,000   | Two spaces or berth   |
| Above 100,000 to 160,000  | Three spaces or berth   |
| Above 160,000 to 240,000  | Four spaces or berth  |
| Above 240,000 to 320,000  | Five spaces or berth  |
| Above 320,000 to 400,000  | Six spaces or berth   |
| Each 90,000 above 400,000   | One additional space/berth  |

- (b) *Location.* One or more loading berths or other space shall be provided for standing, loading and unloading operations either inside or outside a building and on the same or adjoining premises with every structure erected after the enactment of this chapter or upon being made subject to the provisions of this chapter.



- (c) *Screening.* All motor vehicle loading spaces abutting any residential district shall be completely screened from view of the residential property.
- (d) *Size.* A loading berth shall have minimum plan dimensions of 12 feet by 25 feet and 14 feet overhead clearance. A loading berth shall be sufficient in size and design to allow normal loading operations of a kind and magnitude appropriate to the use served thereby.
- (e) *Access.* Each required off-street loading space shall be designed with appropriate means of vehicular access to a street or alley, without hindering the movement of vehicles over a street or alley, and of pedestrians over a sidewalk.
- (f) *Utilization.* Space allocated to any off-street loading space shall not, while so allocated, be used to satisfy the space requirements for any off-street parking spaces or access drives or aisles.

(Code 1978, § 12.105; Code 1995, § 156.102; Ord. of 1-10-1972; Ord. of 7-28-2003, § 1; Ord. No. 2012-2, § 2, 2-13-2012)

Secs. 42-263—42-287. - Reserved.

#### ARTICLE XI. - SIGN REGULATIONS

Sec. 42-288. - Purpose.

The purpose of these regulations is to minimize any detrimental effects of signs on adjacent land uses and to ensure that permitted signs do not become a public nuisance or hazard. All signs erected, altered, relocated or maintained shall be in accordance with the provisions of this article.

(Code 1978, § 12.106; Code 1995, § 156.110; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.110, 2-14-2011)

Sec. 42-289. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Attached sign* means a sign connected to or painted on a wall and including signs connected to or otherwise displayed on or through a facade window. The following are not attached signs: wall identification signs and commemorative plaques not more than two square feet in area, memorial cornerstones or tablets providing information on building erection or commemorating a person or event, or unit identification signs.

*Billboard (off-premises sign)* means a sign which directs attention to a business, commodity, service, entertainment or other message not conducted, sold or offered on the premises where such sign is located.

*Business sign* means a sign that directs attention to a business, industry, profession, commodity, service or entertainment sold, produced or offered upon the premises where such sign is located or to which it is attached.

*Flashing sign* means any illuminated sign on which the artificial light is not maintained stationary or constant in intensity and color at all times when such sign is in use. For the purpose of this article, any moving, illuminated sign shall be considered a "flashing sign;" such signs shall not be deemed to include time and temperature signs, mechanical/digital signs or public message displays using electronic switching, provided the message remains displayed for a minimum of eight seconds.

*Freestanding sign* means any sign supported wholly or in part by some structure other than the building or buildings housing the business to which the sign pertains. For purposes of this article, this definition shall not include the term "billboard" which is defined above.

*Governmental sign* means any sign erected by or on behalf of a governmental body to post a legal notice, identify public property, convey public information, and direct or regulate pedestrian or vehicular traffic.

*Ground sign* means a freestanding sign suspended or supported by one or more uprights or braces anchored in the ground with no more than 30 inches clearance from the bottom of the sign to the ground below.

*Identification sign, directory [sign]*, means a sign used to display only the name, address, crest or trademark of the business, individual, family, organization, or enterprise occupying the premises, the profession of the occupant, the name of the building on which the sign is displayed, or the name of the owners or developers. A [The term] "directory sign" is an identification sign with information on multiple occupants.

*Informational sign* means any on-premises sign containing no other commercial message, copy, announcement or decoration other than instruction or direction to the public. Such signs include, but are not limited to, the following: identifying rest rooms, public telephones, automated teller machines, for lease, for sale, self-service, walkways, entrances and exits, freight entrances, traffic direction and prices.

*Mechanical/digital sign*. Any sign with changeable copy and message changes in increments of at least eight seconds shall be considered as a "sign" under this article.

*Nonprofit, noncommercial entity* as used in section 42-291 means any partnership, association, corporation or other group whose activities are conducted for civic or humanitarian motives, for the benefit of others and not for the gain of any private individual or group, and may include but shall not be limited to patriotic, education, civic, cultural, historical, recreational or religious activities.

*Obscene matter* means any item with a context of a sexual nature depicting, describing or related to anatomical areas and sexual activities.

*Pole sign* means any freestanding sign that is mounted on a hanging from or on a pole or other support structure and is not attached to a building.

*Portable sign* means any sign not permanently attached to the ground or to a building or other structure and which, because of its relatively light weight, is meant to be moved from place to place. Such sign may or may not have changeable copy, may or may not be wired for lighting, and may or may not have wheels. "Sandwich boards" are considered as portable signs.

*Public information sign* means a sign usually erected on public property or right-of-way and maintained by a public agency that provides the public with information and in no way relates to a commercial activity including, but not limited to, speed limit signs, city limit signs, street name signs and directional signs.

*Roof sign* means a sign erected, constructed, or displayed wholly upon or over above the eaves of any building with the principal supports on the roof structure.

#### *Sign.*

- (1) [The term "sign"] means any words, lettering, parts of letters, figures, numerals, phrases, sentences, devices, designs, trade names or trademarks by which anything is made known, such as the designation of any individual, business, commodity, product, service or entertainment, which are visible and used to attract attention.
- (2) [The term] "sign" does not include official notices posted by any public officer in performance of a public duty or by any person in giving legal notice; nor does it include directional, warning, traffic or informational structures required by or authorized by law or by federal, state, other local government or town authority.

#### *Sign area.*

- (1) The area of a sign mounted on a board or within a frame or box shall be the area of the board, frame or box.
- (2) The area of a sign mounted directly on the wall of a building shall be the area within the outline of the actual shape of the sign.
- (3) For individual letters or logos mounted on the wall of a building, the sum of the areas of each letter, measured from the exterior edges of the letter, will be the sign area.
- (4) Sign area does not include support structures unless the coloration, lighting, etc., are designed to attract attention.

*Sign height* means the vertical distance measured from the mean curb level to the level of the highest point of the sign, unless defined differently within this article. In the case of a sign not adjoining a street or highway, the "height of a sign" is the vertical distance of the average elevation of the ground immediately adjoining the sign to the level of the highest point of the sign.

*Wall sign.* Any sign that is mounted directly on any exterior wall of a building or other structure.

(Code 1978, §§ 8.88, 12.107(a); Code 1995, § 156.111; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.111, 2-14-2011; Ord. No. (2013)10, § 1, 8-12-2013)

Sec. 42-290. - Signs exempt from regulation.

The following signs are exempt from regulation under this article, except that any lighted sign shall require an electrical permit:

- (1) Governmental signs;
- (2) Lights and decorations with no commercial message temporarily displayed on traditionally accepted civic, patriotic or religious holidays;
- (3) Signs located on the interior of buildings, courts, lobbies, stadiums, or other structures which are not intended to be seen from the exterior of said buildings or structures;
- (4) Signs affixed to vehicles and trailers used in the normal transport of goods or persons where the sign is incidental and accessory to the primary use of the vehicle or trailer;
- (5) Signs affixed to windows of vehicles displaying information on the terms of sale for said vehicles;
- (6) Signs not legible from a public or private street;
- (7) Flags of the governmental jurisdictions of the United States of America or the State of North Carolina, local governmental jurisdictions, foreign nations having diplomatic relations with the United States, and any other flags adopted or sanctioned by the board of aldermen, subject to U.S. Congressional protocol; and
- (8) Public information signs.
- (9) Fence wraps displaying signage when affixed to perimeter fencing at a construction site per G.S. 160D-908.
- (10) Political signs during the time period under G.S. 163-227.2 shall be permitted without a permit in the right-of-way of the State highway system per G.S. 136-32.

(Code 1978, § 12.107(b); Code 1995, § 156.112; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.112, 2-14-2011)

Sec. 42-291. - Signs permitted in any district.

The following types of signs are permitted in all zoning districts subject to any specific requirement or prohibition provided herein for any particular zoning district.

- (1) *Temporary signs.* For the purpose of advertising a specific property, individual or event, signs not exceeding eight square feet in area are permitted provided the temporary signs are set back a minimum of five feet from a property line, not located within any public right-of-way, do not constitute a hazard to public safety, do not contain obscene matter, and are removed within seven calendar days of cessation of the temporary occasion the sign is purporting to advertise. This provision shall not be construed [construed] to authorize the posting of signs upon trees, utility poles, traffic control signs, lights or devices, or in any place or manner prohibited by any other provision of this Code.
- (2) *Temporary signs advertising real estate developments.* For the purpose of advertising real estate developments for which a plat has been officially recorded, one sign is permitted at each main entrance to the development named on the sign. Such sign shall not exceed 32 square feet in area.
- (3) *Traffic control signs.* Signs which only regulate traffic on private property are permitted.
- (4) *Special information signs.* For the purpose of giving directions and information, on-site signs concerning special uses where not otherwise permitted, and off-premises noncommercial advertising signs may be approved by the ~~board of adjustment~~ administrative officer subject to a special-use permit specifying the size, location, lighting, design, and display, ~~in accordance with section 42-292.~~ Such signs shall be limited to those which are necessary to inform the public as to location and information concerning facilities, institutions, business districts, fraternal orders and service clubs, or such other activity ~~as the board may judge to be beneficial to the total community.~~
- (5) *Special entrance signs.* A permanent sign is permitted as an integral part of a gate or entrance structure which identifies a subdivision, group development or other special development approved under the provisions of this chapter or chapter 36, estate, farm, or other entity, provided there are not more than two signs for each main entrance, with a total sign area for each such entrance not to exceed 32 square feet. Under this provision, if such a special entrance sign is utilized, no other main entrance identification sign is permitted.
- (6) *Nonprofit, noncommercial entity signs .* One permanent sign may be permitted within the town street rights-of-way for nonprofit, noncommercial entities only as allowed herein. The entity proposing the sign shall propose the content and location of the sign to the ~~town board~~ board of aldermen for approval. The entity shall propose a desired location that will not constitute a hazard to public safety and is located a minimum of 20 feet from a street intersection, alley, off-street parking and loading areas including aisle ways and access driveways. Signs permitted under this subsection shall not exceed 12 square feet in area with a maximum height of four feet (including supports) and shall not provide for changeable copy of the contents of the sign. Sign content and location shall be submitted to the ~~town board~~ board of aldermen for approval and the entity seeking approval shall submit to the ~~town board~~ board of aldermen a copy of the proposed sign with proposed content and information as to proposed sign location.

Signs as approved hereunder may not contain any pictures, advertisements, commercial promotion or political opinion or endorsement. Signs shall only contain information relating to the entities name, address, location and directions to same.

The design, support for and structure of the sign may not be constructed in such a manner as to violate any of the other restrictions or conditions herein and sign design shall likewise be submitted to, and approved by, the ~~town board~~ administrative officer.

The location of the sign may not be placed in a location within 200 feet of another nonprofit, noncommercial sign that has been approved pursuant to this section. The location of the sign shall not be in such a location, either in relation to other signs or generally, so as to create unnecessary confusion, interference with other signs, safety hazards or aesthetic conflict or concern. In the event

the location of such a sign is the cause for nonapproval or in the event of concern over the sign location, the proposing entity may request an alternate location either in a separate request or as an administrative modification of the current request.

All signs shall be designed, built and place to be in compliance with the North Carolina International Building Code and shall not be larger than 24 inches x 24 inches. The sign shall also be mounted on a breakaway sign post designed to the standards of the North Carolina Department of Transportation.

Signs shall be maintained in a manner so as to not become in a state of disrepair or pose a hazard to the public. Signs as approved hereunder shall be placed in the location in such a manner as to not be subject to becoming unsecured or dislodged under normal circumstances. Signs that become in a state of disrepair or are subject to becoming dislodged under normal circumstances, or that otherwise violate any of the terms of this section, shall be immediately removed by the town and shall only be replaced upon new approval as outlined herein.

As stated herein, "permanent" shall mean that absent changes to this section or any law, rule, ordinance, code or ~~town board~~administrative officer action on a noncomplying sign may seek removal of said sign for any reasons stated herein or in amendments hereto including, but not limited to, safety issues which may affect same, the sign will be allowed to remain in place 24 hours per day, 365 days per year.

(Code 1978, § 12.109; Code 1995, § 156.113; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.113, 2-14-2011; Ord. No. (2013)10, § 2, 8-12-2013)

Sec. 42-292. - General site and sign specifications.

- (a) *Zoning permit required.* No sign requiring a permit shall hereafter be erected or attached to, suspended from or supported on a structure nor shall any existing sign be enlarged, replaced or relocated until a zoning permit has been issued by the administrative ~~town code enforcement officer~~.
- (b) *Measurement of sign area.* The area of a sign mounted on a board or within a frame box shall be the area of the board, frame or box. The area of a sign mounted directly on the wall of a building shall be the area within the outline of the actual shape of the sign. For individual letters or logos mounted on the wall of a building, the sum of the areas of each letter, measured from the exterior edges of the letter, will be the sign area. Signs that employ moving or extending parts shall be measured when moved or extended to form the largest possible silhouette. The total sign area for a double-faced or "V" type sign shall be measured on the largest face of the sign; however, advertising matter may be posted on both sides of such permitted signs, provided that any "V" type sign with a "V" angle of greater than 45 degrees shall be subject to measurement of sign area on both sides. Sign area does not include support structures unless the coloration, lighting, etc. are designed to attract attention.
- (c) *Freestanding sign location, all districts (excluding billboards).* Freestanding signs shall be set back from the existing road right-of-way (normally the front property line) or proposed future road right-of-way, whichever is the greater distance, according to the tables below. Freestanding signs shall be set back from all other property lines a minimum distance of five feet, except that development signs may be located on a median of a public right-of-way, provided that the town public works director or the state department of transportation, as applicable, permits the sign, and freestanding signs located on a median of a private street shall be located no closer than 20 feet from the street intersection. In no instance shall a sign between the heights of three and 15 feet be permitted within 20 feet of the right-of-way line at the intersection of two streets. Freestanding signs may be placed on the same or separate support structures.
  - (1) *Ground signs.* The following table establishes the minimum setback requirements for ground signs provided that all other requirements of this article are complied with:

| Sign Height                            | Minimum Setback from<br>Right-of-Way Line                      |
|--|--|
| 0—15 feet                              | 5 feet   |
| Greater than 15 feet and up to 30 feet | 10 feet  |
| Greater than 30 feet                   | 10 feet, plus 1 foot for each foot of height exceeding 30 feet |

- (2) *Pole signs.* Pole signs, in addition to all other requirements of this article, shall be set back a minimum of five feet from the existing or proposed right-of-way line, provided that no portion of the sign projects any closer than two feet, measured in horizontal distance, from the proposed or existing right-of-way line. Also, pole signs shall maintain a minimum clearance of nine feet over any pedestrian areas and 14 feet over any vehicular paths. Pole signs shall not exceed a maximum sign height of 30 feet unless specifically otherwise allowed within this article. Pole signs more than 100 feet in height shall be set back from any property line a distance of one foot for each foot of height above ground level when otherwise allowed within this article. Regardless of the foregoing, signs shall not be attached to a building so as to extend more than ten feet above any part of the roof or, if projecting from the outer walls of the building, so as to have any part of the sign ten feet higher than the nearest edge of the roof of the principal structure for which the sign serves.
- (d) *Maintenance and appearance of signs.* All signs together with braces, guys and supports shall at all times be maintained in a safe condition and kept in good repair, free from excessive rust, corrosion, peeling paint or other surface deterioration.
- (e) *Signs facing residential districts.* Illuminated signs shall be so placed as not to be a nuisance to residents of neighboring residential property.
- (f) *On-site interference.* The location and structural design of freestanding signs shall be such as to not interfere with the safe and efficient use of off-street parking and loading areas including aisle ways and access driveways.
- (g) *Unsafe and unlawful signs.* If the ~~administrative code enforcement officer~~ finds that any sign is unsafe or is a menace to the public or has been constructed, erected or is being maintained in violation of this chapter, the ~~administrative code enforcement officer~~ shall give written notice of such violation to the owner of the sign or the owner of the property where the sign is located, or both. If the owner of the sign, or the property owner, fails to remove or alter the structure so as to comply with the required standards within 30 days after receipt of said notice, such sign may be removed or altered to comply by the ~~administrative code enforcement officer~~ at the expense of the property owner of the property where the sign is located. The ~~administrative code enforcement officer~~ may cause any sign or other advertising structure that is an immediate peril to persons or property to be promptly removed by the sign owner or the property owner.
- (h) *Cessation of purpose and removal.* Any sign now or hereafter existing which no longer advertises a bona fide business conducted, or a product sold, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or land or structure upon which such sign may be found. Such sign shall be removed within 30 days after receipt of written notification by the owner of the property on which the sign is located from the ~~administrative code enforcement officer~~, except that temporary activities' sign posting shall be removed by the permittee within seven calendar

days following the date of termination of such events. Upon failure to comply with any notice within the time specified, the ~~administrative code enforcement~~ officer is authorized to cause removal of such sign, and the owner of the property on which the sign is located shall pay expenses incurred.

- (i) *Signs permitted in conjunction with nonconforming uses.* Any nonconforming use in any district may maintain such business signs as would be allowed for such use in the most restrictive district in which the use would be permitted, or such signs as are existing at the time the use becomes nonconforming, whichever is the most restrictive with regard to sign size.

(Code 1978, § 12.107(a)—(f), (h); Code 1995, § 156.114; Ord. of 1-10-1972; Ord. No. 2011-1, § 156.114, 2-14-2011)

Sec. 42-293. - Signs permitted by districts.

In addition to the aforementioned signs, the following are also permitted:

(1) *Residential, conservancy and mixed use or planned neighborhood development districts.*

- a. *Dwelling identification sign.* One identification sign not exceeding two square feet in area is permitted for each residential dwelling unit. For one- and two-family dwelling units, identification signs shall be at least five feet from any street or property line. For multifamily dwelling units, identification signs shall be mounted flat to the main wall of the building. Identification signs may be illuminated but non-flashing and motionless.
- b. *Development signs.* A permanent sign is permitted as an integral part of an entrance structure which identifies a subdivision, group development, estate, farm or other entity, provided there are not more than two signs for each main entrance, with a total sign area for each entrance not to exceed 32 square feet in area. Such signs may be lighted, but non-flashing and motionless, and located according to the criteria of section 42-292.
- c. *Agricultural products signs.* In the rural residential district, signs which advertise handicrafts or agricultural products produced on the premises are permitted, provided there are no more than two such signs, each of which shall not exceed 12 square feet in area. In any instance where the products sold are seasonal or temporary, such signs shall be removed within seven days of cessation of the activity advertised.
- d. *Institutional, commercial and industrial signs located in rural residential, mixed use or planned neighborhood development and conservancy districts.* Any institutional, commercial or industrial use, which is a permitted or special use or an approved use through conditional district rezoning in a rural residential, residential or conservancy district may erect and maintain signs as follows:
  1. One freestanding sign not to exceed 100 square feet in area shall be permitted. If more than one principal use is conducted on the same site, or in the same building, each additional principal use shall be permitted one freestanding sign not to exceed 50 square feet in area. Freestanding signs shall be located in accordance with the criteria found in section 42-292.
  2. Attached signs for all principal uses on the site shall not exceed 50 square feet in area, except where the nonresidential use is located within an approved mixed use or planned neighborhood development. In addition, the attached signs may be placed on any side of the building. If there is more than one principal use, the property owner will determine the allocation of attached sign area. For nonresidential uses within mixed use or planned neighborhood developments, one attached sign per occupant is allowed, provided the attached signage does not exceed two square feet in area for each front foot of structure the occupant occupies. In the event a shopping center is designed in such a manner that the end unit or end units front the right-of-way and the store front faces an internal parking lot, the end unit or end units may place one additional attached sign on the side facing the right-of-way, provided that the overall combined square

footage of the attached signs does not exceed two square feet in area for each front foot of the structure that the occupant occupies.

(2) *Professional, commercial and industrial districts.*

- a. *O & I office and institutional district.* Signs for uses permitted in the O & I district shall be regulated as follows:
  1. One freestanding sign not to exceed 50 square feet in area will be allowed per building. Freestanding signs shall be located in accordance with the criteria found in section 42-292.
  2. One attached sign per occupant not exceeding two square feet in area for each front foot of structure the occupant occupies will be allowed. Attached signs may be placed on any side of the building.
- b. *C-1 Local Business District.* Signs for uses permitted in the C-1 district shall be regulated as follows:
  1. One freestanding sign not exceeding 100 square feet in area is allowed for sites with a maximum of five occupants. Sites with more than five occupants may have an additional ten square feet maximum area for each occupant over five, with a total maximum freestanding sign area not to exceed 200 square feet in area. Freestanding signs shall be located in accordance with the criteria found in section 42-292.
  2. One attached sign per occupant is allowed. Attached signs shall not exceed two square feet in area for each front foot of structure the occupant occupies. Attached signs may be placed on any side of the building.
- c. *CB Central Business District .* Signs for uses permitted in the CB district shall be regulated as follows:
  1. One attached sign is permitted per occupant except on through lots or lots having frontage on two or more streets, in which case one sign per occupant for each frontage shall be permitted. The maximum total area of all signs shall be limited to two square feet per frontage of the lot.
  2. All signs shall be attached to the principal structure or appurtenance in a manner consistent with the provisions of the Façade Improvement Guide for: The Town of Spring Lake, North Carolina <sup>1</sup>. Signs may be placed perpendicular to the building with the lower edge being no less than nine feet above the ground. Signs shall not project over public right-of-way.
- d. *C(P) Planned Commercial, Hs(P) Planned Highway Service and C-3 Heavy Commercial Districts.* Except for billboards (off-premises) which are regulated by section 42-294, signs for uses permitted in the C(P), HS(P) and C-3 districts shall be regulated as follows:
  1. Sites with no more than two occupants may have one freestanding sign. This sign shall have a maximum size of 100 square feet in area.
  2. Sites with more than two occupants but less than ten occupants may have two freestanding signs. Each sign shall have a maximum size of 100 square feet in area.
  3. Sites with more than ten occupants may have two freestanding signs, each with a maximum size of 100 square feet in area; or one freestanding sign with a maximum size of 200 square feet in area. Sites with more than ten occupants may have an additional ten square feet of freestanding sign area for each occupant over ten, with a total maximum freestanding sign area not to exceed 400 square feet.
  4. On corner lots, one additional freestanding sign is allowed on the side street frontage, not to exceed 100 square feet in area.



5. Sites approved as a zero lot line development such as a shopping center, where the site has one primary lot with one or more outlots, shall constitute one integral development for purposes of this subsection.
  6. Freestanding signs shall be located in accordance with the criteria found in section 42-292.
  7. One attached sign is allowed per occupant, not to exceed two square feet in area for each front foot of structure that the occupant occupies. On sites where a canopy exceeds the building size, the canopy size may be used to determine the permitted attached sign area. Attached signs may be placed on any side of the building.
  8. In the event a shopping center is designed in such a manner that the end unit or end units front the right-of-way and the store front faces an internal parking lot, the end unit or end units may place one additional attached sign on the side facing the right-of-way, provided that the overall combined square footage of the attached signs does not exceed two square feet in area for each front foot of the structure that the occupant occupies.
- e. *M-1(P) Planned Light Industrial District.* Signs located in the M-1(P) district shall comply with the dimensional criteria as for signs permitted in the C(P) Planned Commercial District.
- f. *M(P) Planned Industrial and M-2 Heavy Industrial Districts.* Except for billboards (off-premises signs) which are regulated by section 42-294, signs in the M(P) and M-2 districts shall be regulated as follows:
1. One freestanding sign is allowed at each main entrance to the site. The total entrance signage shall not exceed a maximum sign area of 500 square feet with each individual entrance sign not exceeding a maximum sign area of 300 square feet. On corner lots, one additional freestanding sign is allowed on the side street frontage, not to exceed 100 square feet in area. Freestanding signs shall be located in accordance with the criteria found in [section] 42-292.
  2. One attached sign is allowed per occupant, not to exceed two square feet in area for each front foot of structure that the occupant occupies. On sites where a canopy exceeds the building size, the canopy size may be used to determine the permitted attached sign area. Attached signs may be placed on any side of the building.

(Code 1978, § 12.110; Code 1995, § 156.121; Ord. of 1-10-1972; Ord. of 11-25-2002(02); Ord. No. 2011-1, § 156.121, 2-14-2011; Ord. No. (2012)10, §§ 5, 6, 8-13-2012; Ord. No. (2014)17, 9-22-2014)

~~Editor's note —<sup>†</sup> The Façade Improvement Guide For: The Town of Spring Lake, North Carolina (undated) has not been included in the Code but is adopted by reference as if fully set out herein and can be viewed in the office of the city clerk.~~

**Sec. 42-294. - Billboards (off-premises signs).**

In addition to other applicable standards contained within this article, the following provisions shall apply to all billboards:

(1) *General provisions.*

- a. Billboards shall be allowed only along rights-of-way with full-control or limited control of access, such as freeways and major thoroughfares;
- b. Billboards shall not face or be oriented toward any adjoining or abutting residentially-zoned or residentially-used property and shall not be located within 200 feet of a residential zoning district boundary line;

- c. Billboards shall not exceed a sign height of 35 feet;
- d. All billboards are considered as a principal use of property, not accessory, and shall be allowed in the C-3 Heavy Commercial District upon approval of a special use permit by the board of adjustment (section 42-361), and in the M(P) Planned Industrial District upon approval of the site plan by the board of aldermen (section 42-366) as a permitted use, provided that the dimensional criteria outlined below is complied with;
- e. All federal, state, and other local regulations shall be complied with; and
- f. Billboards are exempt from the landscaping and buffering provisions of this chapter.

(2) *Dimensional criteria by district.*

- a. *C-3 Heavy Commercial District.* Billboards constructed and located in this zoning district shall have a maximum sign area of 500 square feet and shall be located at least 50 feet from a street right-of-way line, five feet from any property line not a right-of-way line, 50 feet from any other freestanding sign, building or structure on the same lot, and be a minimum of 500 feet from another billboard.
- b. *M-2 Heavy Industrial District.* Billboards constructed and located in this zoning district shall have a maximum sign area of 700 square feet and shall be located at least 50 feet from a street right-of-way line, five feet from a property line not a right-of-way line, 50 feet from any other freestanding sign, building or structure on the same lot, and be a minimum of 500 feet from another billboard.

(Ord. No. 2011-1, § 156.122, 2-14-2011)

Sec. 42-295. - Prohibited signs.

Erection or maintenance of signs having any of the following characteristics is prohibited:

- (1) *Signs not to constitute traffic hazards.* No sign or advertising structure shall be erected or maintained at the intersection of any street or road so as to obstruct free and clear vision; at any location where, by reason of the position, illumination, shape or color, it may impair, obstruct the view or be confused with any authorized traffic sign, signal, or device; or that makes use of the words "stop," "look," "drive-in," "danger," or any other word, phrase, symbol or character in such manner as to interfere with, mislead or confuse traffic. In any case, signs shall be prohibited within 20 feet of a street intersection measured to the intersection of the two nearest street lines.
- (2) *Signs erected on public streets .* No sign shall be erected or maintained within any public street right-of-way nor be allowed to extend over or into any public street, provided that this section shall not apply to public signs necessary in the performance of a governmental function or required to be posted by law. This section shall also not apply to properly permitted nonprofit noncommercial entity signs. This section does not apply to political signs during the time period under G.S. 163-227.2 in the right-of-way of the State highway system per G.S. 136-32.
- (3) *Obstruction of ingress or egress of building.* No sign shall be erected or maintained that obstructs ingress and/or egress to or from any window, door, fire escape, stairway, ladder, or opening intended to provide light, air, ingress or egress to or from any room or building as required by law.
- (4) *Obscene matter prohibited.* No sign shall be erected or maintained which bears or contains statements, words, or pictures of obscene matter.
- (5) *Signs on private property; consent required.* No sign may be erected by any person on the private property of another person without first obtaining the verbal or written consent of such owner.
- (6) *Portable signs.* Any sign which is manifestly designed to be transported from one place to another, whether on its own trailer, wheels or otherwise, even though the wheels of such sign may be removed and the remaining chassis or support constructed without wheels is converted

to an "A" or "T" frame sign and typically has space provided for advertising messages that may be changed at will by the replacement of lettering or symbols is prohibited.

- (7) *Novelty signs.* Signs which emit visible smoke, vapor particles, odor or noise are prohibited.
- (8) *Signs attached to trees.* No signs, except a "No Trespassing" or "Posted" sign, shall be attached to any tree.

(Ord. No. 2011-1, § 156.123, 2-14-2011; Ord. No. (2013)10, § 3, 8-12-2013)

Secs. 42-296—42-323. - Reserved.

## ARTICLE XII. - BOARD OF ADJUSTMENT

Sec. 42-324. - Establishment; membership.

The board of aldermen, pursuant of G.S. Cch. 160-AD, art. 19, part 3, does hereby establish a board of adjustment. Such board shall consist of at least five members appointed by the aldermen. The appointments and reappointments shall be for three-year terms. All appointments to fill vacancies shall be for the unexpired term. The board of aldermen may also appoint two alternate members at large to serve on the board of adjustment in the absence of any regular member. Alternate members shall be appointed in the same manner as regular members and at the regular times for appointment. Each alternate member, while attending any regular or special meeting of the board of adjustment and serving in the absence of any regular member, shall have and exercise all the powers and duties of any regular member absent from the meeting.

Per G.S. 160D-309, all members appointed to the board of adjustment under this Article shall, before entering their duties, qualify by taking an oath of office as required by G.S. 160A-61.

(Code 1978, § 12.113; Code 1995, § 156.130; Ord. of 1-10-1972)

Sec. 42-325. - Proceedings.

- (a) The board of aldermen shall elect a chairperson and vice-chairperson from among its members, who in turn may appoint a secretary. Meetings of the board of adjustment shall be held at the call of the chairperson and at such other times as the board of adjustment may determine. The chairperson is authorized in his official capacity to administer oaths and compel the attendance of witnesses in any matter coming before the board of adjustment. Any member of the board of aldermen while temporarily acting as chairperson shall have and exercise like authority.
- (b) All meetings of the board of adjustment shall be open to the public. The board of adjustment shall keep minutes of its proceedings, showing the vote of each member upon every question or if absent or failing to vote, indicating such fact. The board of adjustment shall also keep records of its examinations and official actions.
- (c) When hearing an administrative appeal or variance request, the board of adjustment shall hold an evidentiary hearing and make a quasi-judicial decision.
- (d) Notice of an evidentiary hearing conducted pursuant to this Section shall be mailed to the person or entity whose request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board of adjustment may continue an evidentiary

hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement

- (e) A member of the board of adjustment exercising quasi-judicial functions pursuant to this Section shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter

(Code 1978, § 12.114; Code 1995, § 156.131; Ord. of 1-10-1972)

Sec. 42-326. - Powers and duties.

- (a) Administrative review/appeal. The board of adjustment shall have the powers and duty to act in all matters relating to the administrative review—appeal of any order, requirement, decision or determination made by the zoning-inspectoradministrative officer or other administrative official.
- (b) Variance. Per G.S. 160D-705(d), The board of adjustment shall have the power, in passing upon appeals, to vary or modify any of to grant a variance from the regulations or provisions of this chapter. A variance from the terms of this Ordinance shall not be granted by the Board of Adjustment unless and until the following findings are made:
1. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.
  3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance is not a self-created hardship; and
  4. The requested variance is consistent with the spirit, purpose, and intent of the regulation, such that public safety is secured and substantial justice is achieved, relating to the use, construction or alteration of buildings or structures or the use of land, where there are unnecessary hardships in the way of carrying out the strict letter of this chapter, so that the spirit of this chapter shall be observed, public safety and welfare secured, and substantial justice done.
- ~~(e) Special use permit. The board of adjustment shall grant permit exceptions, called "special uses," in the classes or cases of situations and in accordance with the principles, conditions, safeguards, and procedures specified in section 42-364.~~
- (dc) Interpretation. The board of adjustment shall have the responsibility to interpret the official zoning maps in the form of an administrative appeal and pass upon disputed questions of lot lines or district boundary lines and similar questions as they arise in administration of this chapter. The board of adjustment shall hear and decide all matters referred to it or upon which it is required to pass under this chapter.

(Code 1978, § 12.115; Code 1995, § 156.132; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.132, 11-26-2007)

Sec. 42-327. - Concurring vote.

The concurring vote of four-fifths of the members of the board of adjustment shall be necessary to grant a variance. A simple majority of members shall be necessary to reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this chapter. A concurring vote of four-fifths of the board of adjustment is also required to decide in favor of any applicant on any matter which the board of adjustment is required to pass including granting variance from the provisions of this chapter and issuing a special use permit.

(Code 1978, § 12.116; Code 1995, § 156.133; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.133, 11-26-2007)

Secs. 42-328—42-357. - Reserved.

### ARTICLE XIII. - ADMINISTRATION AND ENFORCEMENT

Sec. 42-358. - Administrative Enforcement officer.

Per G.S. 160D-404, the provisions of this chapter shall be administered and enforced by the zoning inspector/administrative officer.

If the Administrative Officer determines work or activity has been undertaken in violation of a development regulation adopted pursuant to this ordinance or other local development regulation or any State law delegated to the town for enforcement purposes in lieu of the State or in violation of the terms of a development approval, a written notice of violation may be issued. The notice of violation shall be delivered to the holder of the development approval and to the landowner of the property involved, if the landowner is not the holder of the development approval, by personal delivery, electronic delivery, or first class mail and may be provided by similar means to the occupant of the property or the person undertaking the work or activity. The notice of violation may be posted on the property. The person providing the notice of violation shall certify to the town that the notice was provided, and the certificate shall be deemed conclusive in the absence of fraud. Except as provided by G.S. 160D-1123 or G.S. 160D-1206 or otherwise provided by law, a notice of violation may be appealed to the board of adjustment pursuant to G.S. 160D-405.

Per G.S. 160D-109(c), the Administrative Officer shall not make a final decision on an administrative decision required by this ordinance if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the Administrative Officer or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the Administrative Officer or such other staff person as may be designated by this ordinance.

The Administrative Officer shall not be financially interested or employed by a business that is financially interested in a development subject to regulation under this ordinance unless the Administrative Officer is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with the Town to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the town, as determined by the town. This official or his representative shall have the right to enter upon the premises necessary to carry out his duties in the enforcement of this chapter. It is the intention of this chapter that all questions arising in connection with enforcement and interpretation shall be presented first to the zoning inspector, who is charged with the enforcement of this chapter. If the zoning inspector finds that he is not authorized to make a determination or judgment or that the question automatically falls within the jurisdiction of the board of adjustment, he shall refer such matters to the board of adjustment for review and decision. From the decision of the board of adjustment, recourse shall be had to the courts as provided by law.

(Code 1978, § 12.119(a); Code 1995, § 156.145; Ord. of 1-10-1972)

Sec. 42-359. - Zoning permit required; approval of plans; issuance.

- (a) It shall be unlawful to commence the excavation for or the construction of any building or other structure, including accessory structures, or to commence the moving, alteration, or repair of any structure or the use of any land or building, including accessory structures, until the administrative officer zoning-inspector has issued a zoning permit for such work or use, including a statement that the plans, specifications, and intended use of such land or structure in all respects conforms with the provisions of this chapter. Application for a zoning permit shall be made in writing to the administrative officer zoning-inspector on forms for that purpose. Zoning permits shall be void after ~~six months~~twelve months from date of issue unless substantial progress on the subject has been made by that time.
- (b) It shall be unlawful for the ~~zoning-inspector~~administrative officer to approve any plans or issue a zoning permit for any purpose regulated by this chapter until he has inspected such plans in detail and found them in conformity with this chapter. To this end, the administrative officer zoning-inspector shall require that every application for a zoning permit be accompanied by a plan or plat drawn to scale and showing the following in sufficient detail to enable the administrative officer zoning-inspector to ascertain whether the proposed activity is in conformance with this chapter:
- (1) The actual shape, location, and dimensions of the lot.
  - (2) The shape, size, and location of all buildings or other structures to be erected, altered, or moved and any buildings or other structures already on the lot.
  - (3) The existing and intended use of all such buildings or other structures.
  - (4) Such other information concerning the lot or adjoining lots as may be essential for determining whether the provisions of this chapter are being observed.
- (c) If the proposed activity as set forth in the application is in conformity with the provisions of this chapter, the administrative officer zoning-inspector shall issue a zoning permit for such purpose. If any application for a zoning permit is not approved, the administrative officer zoning-inspector shall state in writing on the application the cause for such disapproval. Issuance of a permit shall, in no case, be construed as waiving any provision of this chapter.
- (d) All modifications, including changes in use and/or increase in density, to approved plans, other than those listed below, shall be reviewed in the same manner as a new project. The following minor modifications to an existing or approved development may be permitted by the administrative officer zoning-inspector without presentation to the board of aldermen after the inspector's consultation with the county planning staff provided no variance is required, the use does not change to any use not specifically allowed within the zoning district, the intent and layout of the approved plan is generally followed or if an existing development that the site layout does not substantially change, density is not increased, conditions of approval are not violated, and such changes do not cause a significant adverse impact:
- (1) Slight variations in the building dimensions that do not depart from the general approved layout and not exceeding ten percent of the original approved dimensions;
  - (2) Minor changes in parking lot or traffic lane dimensions;
  - (3) Minor dimensional changes to individual lots;
  - (4) Minor site modifications due to necessary engineering requirements;
  - (5) Change of location of elements included on the site plan that generally maintains relative alignment and orientation to the approved site plan;
  - (6) For any proposed change in use to an existing development, the use is specifically listed as a permitted use within this chapter for the district in which the property is located, no exterior structural changes unless otherwise allowed by the terms of this section, and all resultant standards of this chapter are complied with; and
  - (7) Other similar insignificant changes.

In reviewing such changes, the ~~administrative officer zoning inspector and/or county planning staff~~ may require that the modification be handled in the same manner as a new application.

(Code 1978, § 12.119(b); Code 1995, § 156.146; Ord. of 1-10-1972; Ord. No. (2014)17, 9-22-2014)

Sec. 42-360. - Certificate of occupancy required.

No land or structure (except signs) or part thereof hereafter erected, moved, or altered in its use shall be used until the zoning inspector shall have issued a certificate of occupancy stating that such land, structure, or part thereof is found to be in conformity with the provisions of this chapter. Within three days after notification that a structure or premises or part thereof is ready for occupancy or use, it shall be the duty of the ~~building inspector in coordination with the administrative officer zoning inspector~~ to make a final inspection thereof, and to issue a certificate of occupancy, if the building or premises or part thereof is found to conform with the provisions of this chapter or, if such certificate is refused, to state refusal in writing with the cause.

(Code 1978, § 12.119(c); Code 1995, § 156.147; Ord. of 1-10-1972)

Sec. 42-361. - Special use permits.

The various special uses set forth in the district use regulations table, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the board of adjustment ~~aldermen~~ in accordance with the standards and conditions as set forth in this section.

- (1) ~~Purpose.~~ Permitting special uses adds flexibility to this chapter. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties. Per G.S. 160D-102, A special use permit may be issued to authorize development or land uses in a particular zoning district upon presentation of competent, material, and substantial evidence establishing compliance with one or more general standards requiring that judgment and discretion be exercised as well as compliance with specific standards.
- (2) ~~Procedure.~~ Special use permits shall be granted by the board of adjustment ~~aldermen~~ as permitted for only those uses enumerated in section 42-63, concerning district use regulations, as special uses. Uses specified as a special use in the table shall be permitted only upon the issuance of a special use permit by the board of adjustment ~~aldermen~~.
  - a. The owner or owners of all property included in the petition for a special use permit shall submit a complete application and three copies of a site plan (drawn in accordance with the specifications listed in section 42-167 to the ~~planning and inspections staff~~ administrative officer. The ~~staff~~ administrative officer will schedule the application to be heard by the board of adjustment ~~aldermen~~ in accordance with the adopted time schedule. The ~~planning and inspections staff~~ administrative officer shall also notify the commanders of Fort Bragg, Pope Air Force Base, and Simmons Army Airfield of any application affecting the use of property located within five miles or less of the perimeter boundary of said bases in accordance with G.S. 153A-323-160D-601(b).
  - b. Developers are encouraged to discuss their special use plans with the ~~planning and inspections staff~~ administrative officer before submission. The ~~administrative officer~~ staff shall assist the developer upon request by reviewing special use plans to ensure that the technical requirements of this chapter are met before submission to the board of adjustment ~~aldermen~~. All applications and site plans shall provide information indicating

compliance with the development standards for the individual uses as listed in section 42-91 as applicable, and the height and area regulations for the zoning district in which they are located, unless the provisions for the special use provide to the contrary.

- (3) *Consideration of application.* The board of adjustment ~~aldermen~~ shall consider the application, site plan and any other evidence presented in accordance with this chapter at an evidentiary hearing and may grant or deny the special use permit requested based on a quasi-judicial decision.

Notice of evidentiary hearings conducted pursuant to this Section shall be mailed to the person or entity whose appeal, application, or request is the subject of the hearing; to the owner of the property that is the subject of the hearing if the owner did not initiate the hearing; to the owners of all parcels of land abutting the parcel of land that is the subject of the hearing; and to any other persons entitled to receive notice. In the absence of evidence to the contrary, the Town may rely on the county tax listing to determine owners of property entitled to mailed notice. The notice must be deposited in the mail at least 10 days, but not more than 25 days, prior to the date of the hearing. Within that same time period, the town shall also prominently post a notice of the hearing on the site that is the subject of the hearing or on an adjacent street or highway right-of-way. The board of aldermen may continue an evidentiary hearing that has been convened without further advertisement. If an evidentiary hearing is set for a given date and a quorum of the board is not then present, the hearing shall be continued until the next regular board meeting without further advertisement.

Members of the Board of Aldermen exercising quasi-judicial functions pursuant to this Section shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter

In granting a special use permit, the board shall find that:

- a. The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;
  - b. The use meets all required conditions and specifications;
  - c. The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and
  - d. The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with the town's most recent detailed land use ~~town's~~ adopted comprehensive plan.
- (4) *Final disposition.* Per G.S. 160D-705, prior to the granting of any special use, the Board of Aldermen may stipulate, such conditions and restrictions as agreed upon by the applicant. Reasonable and appropriate conditions and safeguards may be imposed upon the special use permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the town does not have authority under statute to regulate nor requirements for which the courts have held to be unenforceable if imposed directly by the town, including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land. In granting approval of a special use permit, the board of adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare and public interest. In granting a special use permit, the board of adjustment shall give due consideration to:



- a. ~~The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;~~
  - b. ~~The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;~~
  - c. ~~The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;~~
  - d. ~~The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;~~
  - e. ~~The added noise level created by activities associated with the proposed use;~~
  - f. ~~The requirement for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;~~
  - g. ~~Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;~~
  - h. ~~The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;~~
  - i. ~~The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;~~
  - j. ~~The impact of a significant amount of hard surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;~~
  - k. ~~The availability of public facilities and utilities;~~
  - l. ~~The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and~~
  - m. ~~The purpose and intent of the most recent land use plan for the physical development of the district, and the protection of the environment.~~
1. ~~All such additional conditions shall be entered in the minutes of the meeting at which the special use permit is granted, on the special use permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the special use permit, their heirs, successors and assigns. The applicant for the special use permit is responsible for the recordation of the "Notice of Special Use Permit" with the county register of deeds prior to application for any zoning permit.~~
  2. ~~If the board denies the special use permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the board of adjustment shall not consider resubmission of the application for the same special use permit on the same property without a substantial material change concerning the property and the application.~~
- (5) *Expiration of permits.* ~~Any special use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one two calendar years from the date of such approval. Furthermore, once the certificate of occupancy has been issued for a special use and then the special use ceases to exist for a time period of one calendar year or more, the special use permit shall become void.~~
- (6) *Modifications to plans.* ~~The board of adjustment shall review any change, enlargement or alteration in site plans submitted as a part of a special use application, and new conditions may be imposed where findings require. The planning and inspections staff administrative officer may authorize minor modifications of the approved plans provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from. may approve minor modifications to special use permits that do not involve a change in uses permitted or the density of overall development permitted. Any other modification~~

or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification. The regulation may require that special use permits be recorded with the register of deeds.

- (7) *Noncompliance.* ~~If for any reason any condition-standard or condition imposed pursuant to this chapter is found to be illegal or invalid, the special use permit shall be null and void and of no effect, and the planning and inspections staffadministrative officer shall institute proceedings for the case to be reheard by the board of adjustmentaldermen.~~
- a. ~~Compliance with all the conditions of a special use permit is an essential element of the special use permit's continued validity and effectiveness. If the administrative officerdirector of planning\_ shall determines\_ that a permittee has failed to comply with a condition of an approved special use permit, he shall so notify the permittee or the permittee's successor in interest and shall place the matter on the board of adjustment's aldermen's agenda for the board's decision whether or not to revoke the special use permit. The town shall follow the same process required for issuance of the special use permit, including any required notice or hearing, in the review and approval of any revocation of that approval.~~
  - b. Special use permits shall be revoked for any substantial departure from the approved application, plans, or specifications; for refusal or failure to comply with the requirements of any applicable town regulation or any State law delegated to the town for enforcement purposes in lieu of the State; or for false statements or misrepresentations made in securing the approval. Any development approval mistakenly issued in violation of an applicable State or local law may also be revoked.
  - b. ~~Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the board of adjustment shall be a final decision, and a decision to revoke the special use permit may be appealed to the superior court of the county within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the board of adjustment's decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the board of adjustment's approved minutes for its meeting at which such decision is made shall constitute written notice and service of the board of adjustment's decision hereunder.~~
- (8) *Appeals.* ~~No appeal may be taken from the action of the board of adjustment aldermen in granting or denying a special use permit except through the county's superior court per G.S. 160D-1402 within 30 days after the special use permit was served. in the same manner as set forth in this chapter for appeal of any board of adjustment decision.~~

(Code 1978, § 12.120(d); Code 1995, § 156.148; Ord. of 1-10-1972; Ord. No. 2007-5, § 156.148, 11-26-2007)

Sec. 42-362. - Fees.

- (a) ~~Each applicant for rezoning either a general or conditional use district, appeals from administrative decisionsappeals, variances or special use permits shall pay a nonrefundable fee in accordance with fee schedule recommended by the planning board and adopted by the board of aldermen. This fee shall be waived for cases initiated and requested by the board of aldermen. The fees are in accordance with the Cumberland County Joint Planning Board's fee schedule.~~
- ~~(b) Filing fees for text amendments to this chapter shall be \$130.00.~~

~~(c) If the general rezoning request is for more than one zoning classification, the fee will be the same as separate rezoning requests.~~

(Code 1978, § 12.122; Code 1995, § 156.149; Ord. of 1-10-1972; Ord. of 5-14-1990; Ord. No. 2007-5, § 156.149, 11-26-2007)

Sec. 42-363. -- Zoning Text and Map Amendments.

The regulations and the number, area, and boundaries of districts established by this chapter may be amended, supplemented, changed, modified, or repealed by the board of aldermen on its own motion or on a petition after a public notice and hearing as provided by law, but no amendment shall become effective unless it is first submitted to and reported on by the planning board. The planning board upon its own initiative may hold legislative public hearings, public notice of which shall be given, for the consideration of any proposed amendment of the provisions of this chapter, or the zoning map, and report its recommendation to the board of aldermen. Failure of the planning board to make a recommendation within a period of 30 days after the amendment has been referred to it shall constitute a favorable recommendation. No application to rezone any property shall be considered more than one time in any 12-month period, provided that this section shall not apply to rezoning proposals originated by the planning board or the board of aldermen.

(a) Legislative public hearings shall provide the following public notices:

(1) Per G.S. 160D-601(a), before action on the amendment, the town shall hold a legislative public hearing. A notice of the hearing shall be given once a week for two consecutive calendar weeks in a newspaper have general circulation in the area. The notice shall be published the first time not more than 25 nor less than ten days before the date fixed for the hearing. In computing such period, the day of publication is not to be included, but the day of the hearing shall be included.

(2) When zoning regulations are changed or property is rezoned (zoning map amendment), the owner of that parcel affected by such rezoning parcels of land as shown on the county tax listing and the owners of all parcels of land abutting that parcel of land as shown on the county tax listing, shall be mailed a notice of a public the hearing on a proposed zoning map amendment by first class mail at the last addresses listed for such owners on the county tax abstracts. For the purpose of this section, properties are "abutting" even if separated by a street, railroad, or other transportation corridor. This notice must be deposited in the mail at least 10 but not more than 25 days prior to the date of the public hearing. If the zoning map amendment is being proposed in conjunction with an expansion of municipal extraterritorial planning and development regulation jurisdiction under G.S. 160D-602, a single hearing on the zoning map amendment and the boundary amendment may be held. In this instance the initial notice of the zoning map amendment hearing may be combined with the boundary hearing notice and the combined hearing notice mailed at least 30 days prior to the hearing.

(3) The property shall also be posted at least ten days but not more than 25 days before the public hearing. When multiple parcels are included within a proposed zoning map amendment, a posting on each individual parcel is not required, but the town shall post sufficient notices to provide reasonable notice to interested persons.

(b) Recommendation by Planning Board.

The Planning Board shall consider and provide written recommendations to the Board of Aldermen concerning each proposed zoning text or map amendment. Per G.S. 160D-604(d), When conducting a review of a proposed zoning text or map amendments pursuant to this section, the planning board shall advise and comment on whether the proposed action is consistent with any comprehensive plan that has been adopted and any other officially adopted plan that is applicable. The planning board shall provide a written recommendation to the Board of Aldermen that addresses plan consistency and other matters as deemed appropriate by the planning board, but a comment by the planning board that a proposed amendment is inconsistent

with the comprehensive plan shall not preclude consideration or approval of the proposed amendment by the town board. If a zoning map amendment qualifies as a "large-scale rezoning" under G.S. 160D-602(b), the planning 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 recommendation made.

A Planning Board member shall not vote on any advisory or legislative decision regarding a development regulation adopted pursuant to this ordinance 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 planning 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.

(c) Action by Board of Aldermen.

Before making a legislative decision, the Board of Aldermen shall consider the planning board's recommendation on each proposed zoning text or map amendment. A board of aldermen member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this ordinance 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 board of aldermen 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

Per G.S. 160D-605, when adopting or rejecting any zoning text or map amendment, the board of aldermen 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 board of aldermen that at the time of action on the amendment the board of aldermen 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 board of aldermen shall provide a 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 board of aldermen. 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 board of aldermen statement on reasonableness may address the overall rezoning.

(Code 1978, § 12.121; Code 1995, § 156.150; Ord. of 1-10-1972)

Sec. 42-364. - Variance.

(a) ~~The board of adjustment may authorize in specific cases such variances from the terms of this chapter upon request of a property owner or his authorized agent and may require any evidence necessary to~~

~~make a determination of the case. Before any variance may be granted by the board of adjustment, the board must find that all of the following conditions exist for an individual case:~~

- ~~(1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.~~
  - ~~(2) Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents in the district in which the property is located.~~
  - ~~(3) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located.~~
  - ~~(4) The requested variance will be in harmony with the purpose and intent of this chapter and will not be injurious to the neighborhood or to the general welfare.~~
  - ~~(5) The special circumstances are not the result of the actions of the applicant.~~
  - ~~(6) The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.~~
  - ~~(7) The variance is not a request to permit a use of land, building, or structure which is not permitted by right or by special exception in the district involved and will not constitute any change in district boundaries.~~
  - ~~(8) The existence of a nonconforming use of neighboring land, buildings, or structures in the same district or of permitted or nonconforming uses in other districts does not constitute a reason for the requested variance.~~
- ~~(b) In granting a variance, the board of adjustment may attach and the record reflect such conditions regarding the location, character, and other features of the proposed building, structure or use as it may deem advisable. The record shall also state in detail any exceptional difficulty or unnecessary hardship upon which the appeal was based and which the board of adjustment finds to exist.~~
- ~~(c) Any variance granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one year from the date of such approval. Reserved.~~

~~(Code 1978, § 12.120(c); Code 1995, § 156.151; Ord. of 1-10-1972)~~

~~Sec. 42-365. - Zoning advertisement permits.~~

~~Any individual, person, firm, or corporation seeking a rezoning of his property shall, for the purpose of having said rezoning request advertised, pay to the town a fee of \$5.00 for each and every tract of land sought to be rezoned. Reserved.~~

~~(Code 1978, § 8.42; Code 1995, § 156.152; Ord. of 7-19-1979)~~

~~Sec. 42-366. - Planned commercial and industrial districts to conform with development plans.~~

- ~~(a) In any planned commercial or industrial district, no zoning permit or certificate of occupancy shall be issued by the zoning inspector except in conformance with a plan approved by the board of aldermen. Plans for developments shall be submitted to the building inspector at least 30 days prior to a regularly scheduled meeting. The building inspector shall study the plan to determine its compliance with this chapter and chapter 36, if applicable, and shall negotiate with the developer for required changes in order that the development shall comply with the intent of such ordinances. One copy of the plans shall be forwarded to the county planning department for review. The board may approve alternate yard requirements if such approval will provide a more logically planned development.~~

- (b) ~~Plans submitted for approval shall be in six copies, drawn to scale of not less than one inch equals 100 feet, and shall show all information necessary to properly evaluate the plan including:~~
- ~~(1) The dimensions and locations of the property, buildings, and existing and proposed streets.~~
  - ~~(2) The parking and general circulation plan, including entrances, exits and pedestrian ways.~~
  - ~~(3) The service area, including off-street loading facilities, service drives, and dimensions thereof, and proposed uses of all buildings.~~
  - ~~(4) The proposed location and material of fences, walls, buffer strips and landscaping.~~
  - ~~(5) The name of the developer, the date, the scale, and the north arrow, and the person or firm preparing the plan.~~
- (c) ~~After such review and negotiation by the building inspector, the board may approve the plan and state the conditions of such approval, if any, or shall disapprove the plan and state its reasons. Where a development plan meets the provisions of chapter 36, approval of the development plan shall constitute preliminary subdivision plat approval for the purposes of chapter 36.~~
- (d) ~~The plan approved by the board of aldermen and on file with the zoning inspector may be amended in the same manner as provided for original plan approval. Reserved.~~

(Code 1978, § 12.120(e); Code 1995, § 156.153; Ord. of 1-10-1972; Ord. of 11-25-1991)

#### Sec. 42-367. - Hearings.

- (a) ~~Any case involving an appeal, variance, or a conditional use permit requires a public hearing to be held by the board of adjustment, and any case involving a change of zoning district classification and other ordinance changes requires a public hearing to be held by the board of aldermen.~~
- (b) ~~The board of adjustment and the board of aldermen shall fix a reasonable time for hearing and give public notice as well as due notice to the parties in interest. At the hearing any person or party may appear in person or by agent or attorney. The board of adjustment and the board of aldermen shall take action on a matter within a reasonable time after the termination of the proceedings.~~
- (c) ~~After a public hearing has been held and approval granted for a conditional use or variance, the board of adjustment may reverse any decision without a public hearing upon finding:~~
- ~~(1) That the approval was obtained by fraud.~~
  - ~~(2) That the use for which such approval was granted is not being executed.~~
  - ~~(3) That the use for which such approval was granted has ceased to exist or has been suspended for one year or more.~~
  - ~~(4) That the permit granted is being or recently has been exercised contrary to the terms or conditions of such approval or in violation of any ordinance or statute.~~
  - ~~(5) That the use for which such approval was granted was so exercised as to be detrimental to the public health or safety, or so as to constitute a nuisance. Reserved.~~

(Code 1978, § 12.120(a); Code 1995, § 156.155; Ord. of 1-10-1972)

#### Sec. 42-368. - Appeals.

~~Appeals may be taken to the board of adjustment by any person aggrieved, by any officer, department, board, or bureau of the town or the county's joint planning board affected by any decision of an administrative official charged with the enforcement or interpretation of this chapter thought to be in~~

~~error. Such appeals shall be filed with the board of adjustment by notice specifying the grounds for appeal. Appeals shall be filed within six months from the date of the action being appealed. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken, together with any additional written reports or documents as he deems pertinent. The board of adjustment may after public hearing, so long as such action in conformity with the terms of this chapter, reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination as ought to be made, and to that end shall have the powers of the administrative official from whom the appeal is taken. Reserved.~~

(Code 1978, § 12.120(b); Code 1995, § 156.156; Ord. of 1-10-1972)

Sec. 42-369. - Conflicting regulations.

In their interpretation and application, the provisions of this chapter shall be considered minimum requirements adopted for the promotion of the public health, safety, morals, convenience, order, prosperity, general welfare and protection of the property rights of the community. Where other ordinances or regulations heretofore adopted hereafter impose greater restrictions than those specified in this article, compliance with such other ordinances or regulations is mandatory.

(Code 1978, § 12.123; Code 1995, § 156.157; Ord. of 1-10-1972)

Sec. 42-370. - Remedies.

In case any structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any structure or land use is in violation of this chapter, the town, in addition to other remedies, may institute any appropriate action or proceedings:

- (1) To prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use.
- (2) To restrain, correct, or abate such violation.
- (3) To prevent the occupancy of said building, structure or land.
- (4) To prevent any illegal act, conduct, business, or use in or about such premises.

(Code 1978, § 12.119(d)(1); Code 1995, § 156.158; Ord. of 1-10-1972)

Sec. 42-371. - Penalty.

A violation of this chapter shall constitute a misdemeanor, punishable upon conviction thereof, by a fine not exceeding \$50.00 or imprisonment not exceeding 30 days. Each day that the violation continues to exist shall be considered a separate offense.

(Code 1978, § 12.119(d)(2); Code 1995, § 156.999; Ord. of 1-10-1972)



# CUMBERLAND COUNTY

NORTH CAROLINA

PLANNING & INSPECTIONS

PLANNING STAFF REPORT

REZONING CASE # P21-26

Planning Board Meeting: June 15, 2021

Location: 2120 Smith Road

Jurisdiction: County-Unincorporated

**REQUEST** **Rezoning A1 to R20**

Applicant requests a rezoning of approximately 14.04 acres from A1 Agriculture to R20 Residential for property located at 2120 Smith Road. This request would increase the allowed density from 1 unit per 2 acres (67,120 sq. ft.) to 1 unit per 20,000 sq. ft. This is a conventional rezoning, and no conditions are proposed at this time. Location of the subject property is illustrated in Exhibit "A".

**PROPERTY INFORMATION**

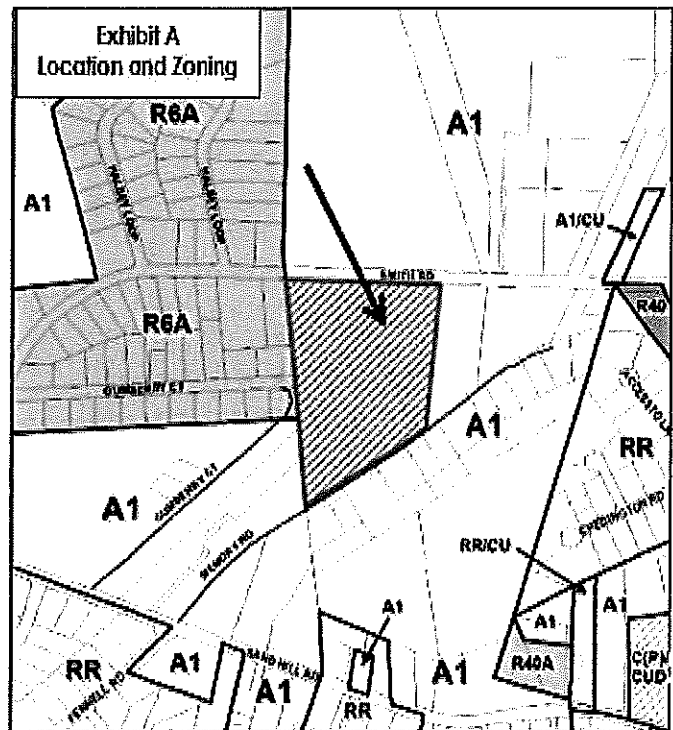
**OWNER/APPLICANT:**

Northwood Investment, LLC (owner)/ Gallberry Run Land and Development, LLC. (agent).

**ADDRESS/LOCATION:** 2120 Smith Road. Refer to Exhibit "A", Site Location.

**SIZE:** 14.04+/- acres within one parcel. The property has approximately 700+/- feet of street frontage along southside of Smith Road. The property has a depth extending about 715'.

**EXISTING ZONING:** The site is zoned A1 Agricultural District. This district is designed to promote and protect agricultural lands, including woodland, within the County. The general intent of the district is to permit all agricultural uses to exist free from most private urban development except for large lot, single-family development. Some public and/or semi-public uses as well as a limited list of convenient commercial uses are permitted to ensure essential services for the residents.



**EXISTING LAND USE:** The parcel is vacant and wooded. Exhibit "B" shows the existing use of the subject property.

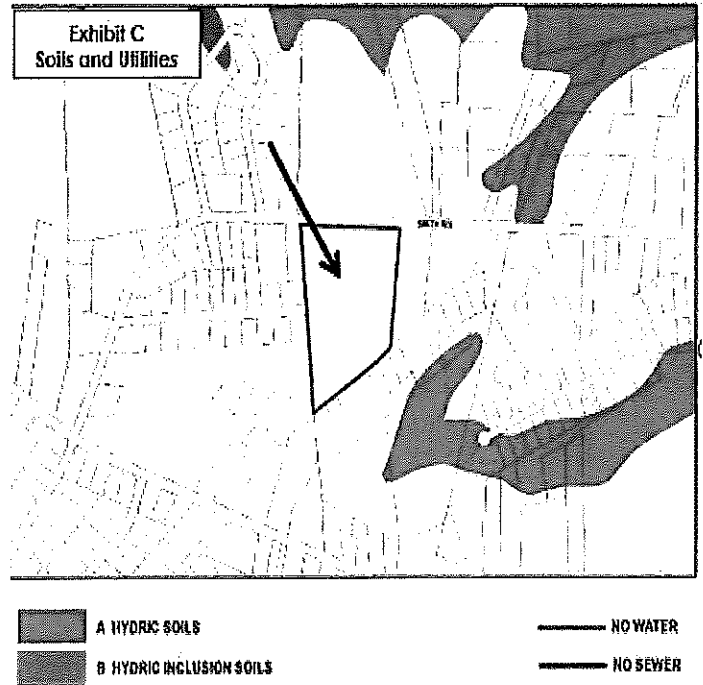
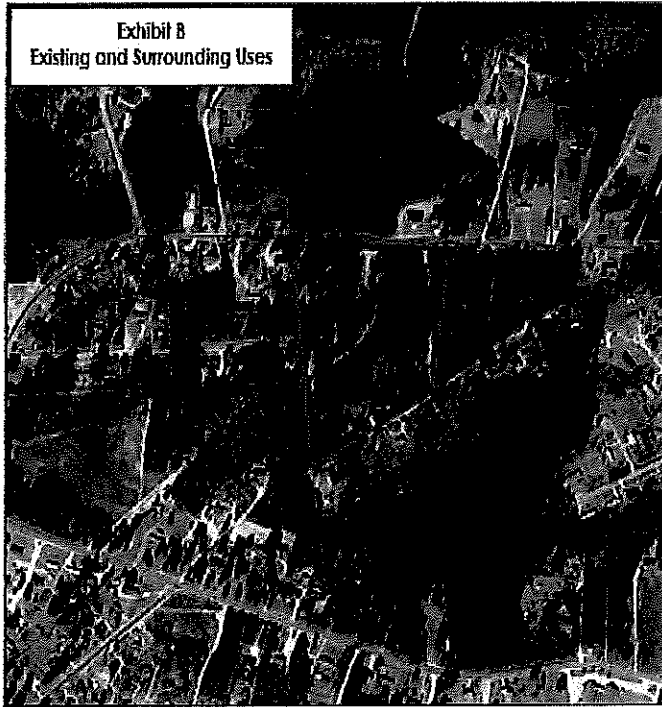
**SURROUNDING LAND USE:** Exhibit "B" illustrates the following:

- North: Across the Smith Road is a church and wooded.
- East: Vacant parcel and wooded.
- West: Vacant parcel, ROW of Gumberry Road, consisting of both stick built and single wide mobile homes on both sides of Gumberry Road.
- South: Across Memory Road is Single Family Residential homes stick built and vacant parcels.

**OTHER SITE CHARACTERISTICS:** The site is not located in a Watershed or a Special Flood Hazard Area. The subject property, as delineated in Exhibit "C", illustrates no presence of hydric or hydric inclusion soils.

**DEVELOPMENT REVIEW:** Subdivision review will be required prior to any division of land.





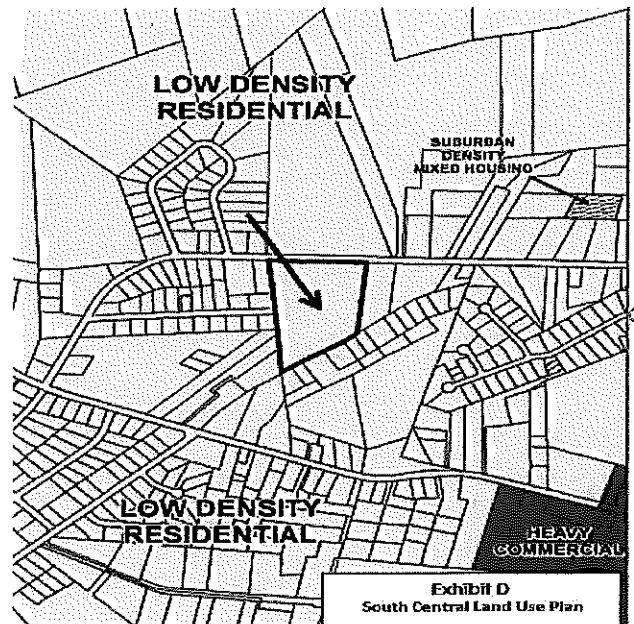
**DIMENSIONAL PROVISIONS FOR REQUESTED DISTRICT:**

| Minimum Standard   | A1 (Existing Zoning)                    | R20 (Proposed) |
|--------------------|---|----------------|
| Front Yard Setback | 50 feet                                 | 30 feet        |
| Side Yard Setback  | 20 feet (one story) 25 feet (two story) | 15 feet        |
| Rear Yard Setback  | 50 feet                                 | 35 feet        |
| Lot Area           | Two acres (87,120 sq. ft.)              | 20,000 sq. ft. |
| Lot Width          | 100'                                    | 100'           |

**COMPREHENSIVE PLANS:** Located in the South Central Land Use Plan area (adopted in 2015), the subject property is designated as Low Density Residential, (density associated with low density residential consists of 2.2 to 6.0 units per acre), as shown within Exhibit "D". The Suburban Density designation, in the South Central Land Use Plan, calls for associated zoning districts of R20, R15, and R7.5. **Request is consistent with the adopted land use plan.**

**APPLICABLE PLAN GOALS/POLICIES:**

- Encourage the use of low impact developments techniques.
- Promote sidewalks and pedestrian facilities, where appropriate to provide access to facilities such as schools, commercial areas, and recreation facilities.
- Provide and preserve natural vegetative buffer areas between single and multistory residential development and non-residential uses.



## IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES

**UTILITIES:** No utilities for water and sewer are shown on Exhibit "C". The site would have to be served by septic and well. Public or community water and sewer are required for any residential development greater than two units per acre per plan policies.

**TRAFFIC:** The subject property sits on Smith Road and is identified as an existing thoroughfare in the Metropolitan Transportation Plan. No construction projects are planned, and the subject property will have no impact on the Transportation Improvement Plan.

### SCHOOLS CAP/ENROLL:

| School            | Capacity | Enrollment |
|-------------------|----------|------------|
| Alderman Rd Elem  | 750      | 601        |
| Gray's Creek Mid  | 1200     | 1096       |
| Gray's Creek High | 1470     | 1343       |

**ECONOMIC DEVELOPMENT:** Fayetteville Cumberland County Economic Development Corporation has reviewed the request and had no comment at this time.

**EMERGENCY SERVICES:** Cumberland County Fire Marshal's office has reviewed the request and stated ensure that all fire department access roads requirements are met in accordance with section 503 of the NC 2018 Fire Code where required.

**SPECIAL DISTRICTS:** The property is not located within the Fayetteville Regional Airport Overlay District or within five miles of Fort Bragg Military Base.

**CONDITIONS OF APPROVAL:** N/A

**CODE DEVIATIONS:** N/A

## STAFF RECOMMENDATION

For Case P21-26, the Planning and Inspections staff **recommends approval** of the rezoning request from A1 Agriculture to R20 Residential District and finds the request consistent with the South Central Land Use Plan designation of Low Density Residential. Approval of the request is reasonable and in the public interest. Should this rezone be approved, a Subdivision Plan or Preliminary Plat must be submitted for review and approval to the Cumberland County Planning and Inspections Department in accordance with Cumberland County Zoning, Subdivision, or other applicable Ordinance requirements.

Attachments:  
Notification Mailing List  
Zoning Application

**ATTACHMENT – MAILING LIST**

| owner_name                                      | address                     | citystatezip           |
|---|-----------------------------|------------------------|
| EDWARDS, GLEN                                   | 2245 SAND HILL RD           | HOPE MILLS, NC 28348   |
| EDWARDS, CORENIA M                              | PO BOX 65323                | FAYETTEVILLE, NC 28306 |
| CHAVIS, RONALD D                                | 1986 MEMORY RD              | HOPE MILLS, NC 28348   |
| BLOUNT, DEJEANETTA;BLOUNT, LINWOOD ROOSEVELT JR | 2043 GUMBERRY CT            | HOPE MILLS, NC 28348   |
| DAVIS, JANICE R;LAVADA, LORAIN RS               | 1967 MEMORY RD              | FAYETTEVILLE, NC 28306 |
| JOHNSON, HELEN D                                | PO BOX 426                  | FAYETTEVILLE, NC 28302 |
| JOHNSON, WILLIAM A JR                           | 2232 HUNTINGTON POINT RD 55 | CHULA VISTA, CA 91914  |
| ROBINSON, EMILY D                               | 2065 SMITH RD               | HOPE MILLS, NC 28348   |
| LEE, DORA E                                     | 14092 W NC 53 HWY           | WHITE OAK, NC 28399    |
| CHAVIS, RONALD;CHAVIS, PHYLLIS                  | 1986 MEMORY LN              | HOPE MILLS, NC 28348   |
| NORTHWOOD INVESTMENTS LLC                       | PO BOX 306                  | FAYETTEVILLE, NC 28302 |
| TROY, MARY HILLS LIFE ESTATE                    | 1805 ARMSTRONG ST           | FAYETTEVILLE, NC 28301 |
| PRESLAR, AUDRA D                                | 2032 MEMORY RD              | HOPE MILLS, NC 28348   |
| HAMMONDS, GRADY RAY                             | 1943 SMITH RD               | HOPE MILLS, NC 28348   |
| NICHOLS, SHIRLEAN WILLIAMS                      | 6570 ROSLIN FARM RD         | HOPE MILLS, NC 28348   |
| SANDERSON, CHRISTIAN E                          | 3335 STATE ST               | FAYETTEVILLE, NC 28304 |
| CABALLERO, JOSE V;CABALLERO, ANA INES           | 8009 HAMMOND ST             | ALEXANDRIA, VA 22309   |
| FAITH BAPTIST CHURCH OF FAY INC                 | 2728 CREEKDEW CT            | FAYETTEVILLE, NC 28306 |

| owner_name  | address                     | citystatezip           |
|---|-----------------------------|------------------------|
| BAKER, ROAMY HEIRS;PERREPPER, BAKER HEIRS                   | 2023 SAND HILL RD           | HOPE MILLS, NC 28348   |
| LEWIS, ROGER W;LEWIS, BERNADETTE M                          | 1933 MEMORY RD              | FAYETTEVILLE, NC 28306 |
| MCLAURIN, WILLIAM E;MCLAURIN, MATTIE N                      | 2315 SAND HILL RD           | FAYETTEVILLE, NC 28306 |
| EDWARDS, GLEN   | 2245 SAND HILL RD           | HOPE MILLS, NC 28348   |
| EDWARDS, CORENIA M  | PO BOX 65323                | FAYETTEVILLE, NC 28306 |
| MCLAUGHLIN, ROY M;MCLAUGHLIN, ANNIE G                       | 2351 SAND HILL RD           | FAYETTEVILLE, NC 28306 |
| CHAVIS, RONALD D  | 1986 MEMORY RD              | HOPE MILLS, NC 28348   |
| BAKER, MAE  | PO BOX 982                  | HOPE MILLS, NC 28348   |
| BAKER, MAE F, SAMANTHA;ALEX, .;LEE, ROGERS;JANERIA, B BLAIR | 2024 GUMBERRY CT            | HOPE MILLS, NC 28348   |
| MCMILLIAN, ODESSA   | 3438 JAVA DR                | FAYETTEVILLE, NC 28311 |
| JOHNSON, WILLIAM A  | 13 H FOREST ACRES DR        | BRADFORD, MA 01835     |
| BLOUNT, DEJEANETTA;BLOUNT, LINWOOD ROOSEVELT JR             | 2043 GUMBERRY CT            | HOPE MILLS, NC 28348   |
| CALDWELL, JEFFREY   | 1112 OAKSTONE DR            | FAYETTEVILLE, NC 28314 |
| JOHNSON, VALERIE A  | 21 EISENHOWER RD            | NORWOOD, MA 02062      |
| JOHNSON, VALERIE A  | 21 EISENHOWER RD            | NORWOOD, MA 02062      |
| BREWINGTON, SHIRLEY ANN;BREWINGTON, RONALD                  | 1112 OAK STONE DR           | FAYETTEVILLE, NC 28314 |
| JOHNSON, WILLIAM A  | 13 H FOREST ACRES DR        | BRADFORD, MA 01835     |
| DAVIS, JANICE R;LAVADA, LORAIN E                            | 1967 MEMORY RD              | FAYETTEVILLE, NC 28306 |
| JOHNSON, VALERIE A  | 21 EISENHOWER RD            | NORWOOD, MA 02062      |
| JOHNSON, HELEN D  | PO BOX 426                  | FAYETTEVILLE, NC 28302 |
| JOHNSON, WILLIAM A JR                                       | 2232 HUNTINGTON POINT RD 55 | CHULA VISTA, CA 91914  |
| COVINGTON, SHIRLEY TUCK LIFE ESTATE                         | 455 ABBEYDALE WAY           | COLUMBIA, SC 29229     |
| MATHIS, KIM SCOTT   | 1043 CRAYTON CIR            | FAYETTEVILLE, NC 28314 |
| COVINGTON, LESLIE M   | 2018 SMITH RD               | HOPE MILLS, NC 28348   |
| HOLY HOUSE OF GOD IN CHRIST INC                             | 3905 DOOLITTLE RD           | FAYETTEVILLE, NC 28306 |
| PAUL, JEAN EGENS  | 75 SYCAMORE AVE             | BROCKTON, MA 02301     |
| REILLY, MIKE;REILLY, KAREN                                  | 2955 GILLESPIE ST           | FAYETTEVILLE, NC 28306 |
| MARSHALL, BEULAH  | 2028 SMITH RD               | HOPE MILLS, NC 28348   |
| MCNEILL, EVA MAE  | 1972 SMITH RD               | HOPE MILLS, NC 28348   |
| FREEMAN, HERBERT  | 5405 HWY 87 S               | FAYETTEVILLE, NC 28306 |
| MCLEAN, FREDDIE;MCLEAN, KANICE                              | PO BOX 58375                | FAYETTEVILLE, NC 28305 |
| COVINGTON, CARL V   | 1613 HALSEY LP              | HOPE MILLS, NC 28348   |
| MCLAUGHLIN, ALECIA MARIE;DAVID, LEON                        | PO BOX 65563                | FAYETTEVILLE, NC 28306 |
| WADE, MARTHA  | 1605 HALSEY LP              | HOPE MILLS, NC 28348   |
| BRADY, CYNTHIA FOY  | 2038 SMITH RD               | HOPE MILLS, NC 28348   |
| ROBINSON, EMILY D   | 2065 SMITH RD               | HOPE MILLS, NC 28348   |
| LEE, DORA E   | 14092 W NC 53 HWY           | WHITE OAK, NC 28399    |
| COVINGTON, ALISA D LIFE ESTATE;KEISHA, HAYWOOD              | 2405 SANDHILL RD            | FAYETTEVILLE, NC 28306 |
| CHAVIS, RONALD;CHAVIS, PHYLLIS                              | 1986 MEMORY LN              | HOPE MILLS, NC 28348   |
| BEVEL, FELICIA JANINE                                       | 1600 NORTH ST               | HARRISBURG, PA 17103   |
| BEVEL, FELICIA JANINE                                       | 1600 NORTH ST               | HARRISBURG, PA 17103   |
| CHAVIS, RONALD;CHAVIS, PHYLLIS                              | 1986 MEMORY LN              | HOPE MILLS, NC 28348   |
| NORTHWOOD INVESTMENTS LLC                                   | PO BOX 306                  | FAYETTEVILLE, NC 28302 |
| TROY, MARY HILLS LIFE ESTATE                                | 1805 ARMSTRONG ST           | FAYETTEVILLE, NC 28301 |
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| NICHOLS, SHIRLEAN WILLIAMS                                  | 6570 ROSLIN FARM RD         | HOPE MILLS, NC 28348   |
| NICHOLS, SHIRLEAN WILLIAMS                                  | 6570 ROSLIN FARM RD         | HOPE MILLS, NC 28348   |
| SANDERSON, CHRISTIAN E                                      | 3335 STATE ST               | FAYETTEVILLE, NC 28304 |

600' Rad

P21-26 3<sup>rd</sup> class

CABALLERO, JOSE V;CABALLERO, ANA INES  
SANDERSON, CHRISTIAN E  
CABALLERO, RAFAEL R;CABALLERO, ANA G  
MELVIN, KENNETH EARL;MELVIN, SARAH  
WAY, PHYLLIS L, REGINALD C, THADDEUS B;VERONICA, PHILLIPS  
EVERETT, BOBBY RAY;EVERETT, WIFE  
RAY, WILLIE MAE  
HANDFORTH, GEORGE K  
FAITH BAPTIST CHURCH OF FAY INC  
FULTON, GLENICE  
RAY, WILLIE MAE  
WOODS, GERTRUDE;TERRY, .  
HAYES, MAURICE B;HAYES, HAZELI  
MCGIRT, DAVID E;MCGIRT, LINDA M  
JONES, JIMMY MARSHALL;ANTHONY, JAMES JACKSON;ISRAEL, .  
WATERS, JANICE MARIE  
RAY, SHARISSE YVONNE

8009 HAMMOND ST  
3335 STATE ST  
8009 HAMMOND ST  
1451 SANDHILLS RD  
PO BOX 70238  
1182 LOWERY RD  
2165 SMITH RD  
2217 SMITH RD  
2728 CREEKDEW CT  
985 BRISSON RD  
2165 SMITH RD  
PO BOX 43201  
3504 ROLLS AVE  
5698 PLAYER CIR  
2258 SMITH RD  
2237 SMITH RD  
702 EAST 6TH AVE UNIT 303

ALEXANDRIA, VA 22309  
FAYETTEVILLE, NC 28306  
ALEXANDRIA, VA 22309  
HOPE MILLS, NC 28348  
FORT BRAGG, NC 28307  
RED SPRINGS, NC 28377  
HOPE MILLS, NC 28348  
HOPE MILLS, NC 28348  
FAYETTEVILLE, NC 28306  
PARKTON, NC 28371  
HOPE MILLS, NC 28348  
FAYETTEVILLE, NC 28309  
FAYETTEVILLE, NC 28311  
HOPE MILLS, NC 28348  
HOPE MILLS, NC 28348  
HOPE MILLS, NC 28348  
BRANDENTON, FL 34208

600' Rad

P21-26 3<sup>rd</sup> CLASS



**County of Cumberland**  
**Planning & Inspections Department**

|                              |                     |
|------------------------------|---------------------|
| CASE #:                      | <u>P21-26</u>       |
| PLANNING BOARD MEETING DATE: | <u>MAY 18, 2021</u> |
| DATE APPLICATION SUBMITTED:  | <u>4-13-21</u>      |
| RECEIPT #:                   | <u>77005</u>        |
| RECEIVED BY:                 | <u>JB</u>           |

TOTAL Price \$510.00

**APPLICATION FOR  
REZONING REQUEST  
CUMBERLAND COUNTY ZONING ORDINANCE**

The following items are to be submitted with the completed application:

1. A copy of the *recorded* deed and/or plat.
2. If a portion(s) of the property is being considered for rezoning, an accurate written legal description of only the area to be considered;
3. A check made payable to "Cumberland County" in the amount of \$ ~~400.00~~ <sup>\$</sup> 510.00.  
(See attached Fee Schedule).

Rezoning Procedure:

1. Completed application submitted by the applicant.
2. Notification to surrounding property owners.
3. Planning Board hearing.
4. Re-notification of interested parties / public hearing advertisement in the newspaper.
5. County Commissioners' public hearing (approximately four weeks after Planning Board public hearing)
6. If approved by the County Commissioners, rezoning becomes effective immediately.

The Planning & Inspections Staff will advise on zoning options, inform applicants of development requirement and answer questions regarding the application and rezoning process. For further questions, call (910)678-7603 or (910)678-7609. Hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.

**NOTE:** Any revisions, inaccuracies or errors to the application may cause the case to be delayed and will be scheduled for the next available board meeting according to the board's meeting schedule. Also, the application fee is *nonrefundable*.

**TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD AND THE BOARD OF COUNTY COMMISSIONERS OF CUMBERLAND COUNTY, NC:**

I (We), the undersigned, hereby submit this application, and petition the County Commissioners to amend and to change the zoning map of the County of Cumberland as provided for under the provisions of the County Zoning Ordinance. In support of this petition, the following facts are submitted:

1. Requested Rezoning from A-1 to ~~R-40~~ R-20
2. Address of Property to be Rezoned: 2120 Smith Rd. Hope Mills NC.
3. Location of Property: HALF WAY BETWEEN HWY 87S AND SANDHILL RD.
4. Parcel Identification Number (PIN #) of subject property: 0443-11-1724  
(also known as Tax ID Number or Property Tax ID)
5. Acreage: 18.00 Frontage: 700' Depth: 715'
6. Water Provider: Well:  PWC: \_\_\_\_\_ Other (name): \_\_\_\_\_
7. Septage Provider: Septic Tank  PWC \_\_\_\_\_
8. Deed Book 7134, Page(s) 0888, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: \_\_\_\_\_
10. Proposed use(s) of the property: Single Family Dwelling
11. Do you own any property adjacent to or across the street from this property?  
Yes \_\_\_\_\_ No  If yes, where? \_\_\_\_\_
12. Has a violation been issued on this property? Yes \_\_\_\_\_ No

A copy of the recorded deed(s) and/or recorded plat map(s) must be provided. If the area is a portion of a parcel, a written legal description by metes and bounds, showing acreage must accompany the deeds and/or plat. If more than one zoning classification is requested, a correct metes and bounds legal description, including acreage, for each bounded area must be submitted.

*The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application.*



The undersigned hereby acknowledge that the County Planning Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

Northwood Investments LLC Pedro Emiliano Osornio  
NAME OF OWNER(S) (PRINT OR TYPE)

P.O. Box 306 Fay. N.C. 28302  
ADDRESS OF OWNER(S)

\_\_\_\_\_  
HOME TELEPHONE # 910 494-6876  
WORK TELEPHONE #

Gallberry Run Land and Development, LLC.  
NAME OF AGENT, ATTORNEY, APPLICANT (PRINT OR TYPE)

4239 Cameron Rd. Fay. N.C. 28306  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

Steve@Longleafproperties.com  
E-MAIL

\_\_\_\_\_  
HOME TELEPHONE # 910 273-5016  
WORK TELEPHONE #

[Signature]  
SIGNATURE OF OWNER(S)

[Signature]  
SIGNATURE OF AGENT, ATTORNEY OR APPLICANT

\_\_\_\_\_  
SIGNATURE OF OWNER(S)

The contents of this application, upon submission, become "public record."

004662

(N.P. SEAL)

20PN

CUMBERLAND COUNTY NC 01/31/2006  
\$350.00



RECEIVED

1-31-2006 PM 2:47:24

J. LEE WARREN JR.  
REGISTER OF DEEDS  
CUMBERLAND CO., N.C.

### NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax: \$350.00

Tax Lot No. \_\_\_\_\_ Parcel Identifier No. 0443-11-1724  
Verified by \_\_\_\_\_ County on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_  
by \_\_\_\_\_

Mail after recording to McGeachy, Hudson & Zuravel  
AMC/33531 555 Executive Place, Fayetteville, NC 28305

This instrument was prepared by Donald C. Hudson

Brief Description for the index:

M & B

THIS DEED made this January 23, 2006, by and between

| GRANTOR                                  | GRANTEE   |
|--|---|
| BILLY V. CAIN and wife<br>YVONNE L. CAIN | NORTHWOOD INVESTMENTS, LLC                                    |
|  | MAILING ADDRESS:  |
|  | PROPERTY ADDRESS:<br>2013 MEMORY ROAD<br>HOPE MILLS, NC 28348 |

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in or near the City of FAYETTEVILLE, GRAYS CREEK Township, CUMBERLAND County, North Carolina and more particularly described as follows:

SEE EXHIBIT "A" HERETO ATTACHED AND MADE A PART OF.

0889

The property hereinabove described was acquired by Grantor by instrument recorded in Book 6972, Page 255.

A map showing the above described property is recorded in Plat Book , Page .

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated.

Title to the property hereinabove described is subject to the following exceptions:

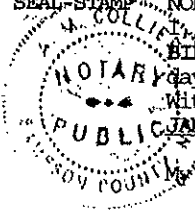
Restrictive covenants, easements and rights-of-way which appear of record.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

Billy V. Cain (SEAL)  
BILLY W CAIN

Yvonne L. Cain (SEAL)  
YVONNE L. CAIN

SEAL-STAMP NORTH CAROLINA, CUMBERLAND County.  
I, a Notary Public of the County and State aforesaid, certify that BILLY V. CAIN and YVONNE L. CAIN personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 31st day of JANUARY, 2026.



commission expires: 02/24/2009

A. M. Collins Notary Public

EXHIBIT "A"

BEGINNING AT A STAKE IN THAMES LINE RUNS WITH HIS LINE 19 CHAINS AND 64 LINKS TO SCHOOL HOUSE CORNER THEN WITH SCHOOL HOUSE LINE 3 CHAINS 10 LINKS TO A STAKE THEN WITH SCHOOL HOUSE 3.16 CHAINS TO THAMES LINE WITH THAMES LINE 15 CHAINS AND 80 LINKS, TO THE MEMORY ROAD, NORTHWEST WITH ROAD 22 CHAINS AND 29 LINKS TO A STAKE IN THE EDGE SAID ROAD THEN 4 CHAINS AND 5 LINKS TO THE BEGINNING. FOR TITLE REFERENCE, SEE DEED RECORDED IN BOOK 2917, PAGE 773, CUMBERLAND COUNTY REGISTRY, AND THE LAST WILL OF CARRIE B. PENDIVERS, PROBATED AND AS RECORDED IN THE OFFICE OF THE CUMBERLAND COUNTY CLERK OF SUPERIOR COURT, FILE NO. 84 E 692. CARRIE B PENDIVERS WAS THE DAUGHTER AND SURVIVING HEIR OF JOHN HENRY JESSUP; AND CARRIE B. PENDIVERS WAS THE SISTER AND SURVIVING HEIR OF MARY A. DEVANE.

EXCEPTED FROM THE ABOVE DESCRIBED PROPERTY IS THE PROPERTY DESCRIBED IN DEED RECORDED IN BOOK 191, PAGE 83, CUMBERLAND COUNTY, NORTH CAROLINA, REGISTRY, CONSISTING OF EIGHT ACRES CONVEYED TO MCLAUCHLIN.



# CUMBERLAND COUNTY

NORTH CAROLINA

PLANNING & INSPECTIONS

PLANNING STAFF REPORT  
REZONING CASE # P21-29  
Planning Board Meeting: June 15, 2021

Location: Baywood Rd/ Tobacco Rd  
Jurisdiction: Eastover

## REQUEST

Rezoning RR to RR/CZ

This is a request for rezoning of RR Rural Residential District to RR Rural Residential District/CZ Conditional Zoning for three lots East of Baywood Road and north of Tobacco Rd. This is a conditional rezoning with a subdivision plan proposal provided with conditions. This subdivision proposal would accommodate an additional building lot. The proposed subdivision plan and condition sheet are proposed. (Exhibit "E" and "F" at the end of the Staff Report present the subdivision plan and condition sheet).

## PROPERTY INFORMATION

**OWNER/APPLICANT:** Linda Smith and Linda D. Black.

**ADDRESS/LOCATION:** East side of Baywood Rd, and north and west of Tobacco Rd within the Town limits of Eastover; more specifically REIDs 0478154541000, 0478157551000, and 0478250515000 (refer to Exhibit A).

**SIZE:** This request includes three parcels totaling approximately 5.16 acres.

**EXISTING ZONING:** Site is zoned RR Rural Residential District. This district is designed for traditional rural use with lots of 20,000 square feet or above. The principal use of the land is for suburban density residential, including manufactured housing units, and agricultural purposes. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide for a healthful environment. Exhibit "B" shows the zoning assigned to the subject property and area.

**EXISTING LAND USE:** The flag shaped lot is vacant, the parcel beside directly to the east has a double wide and the lot fronting Baywood has a wood frame home. Exhibit "B" illustrates the existing use of the subject site and that of the surrounding area.

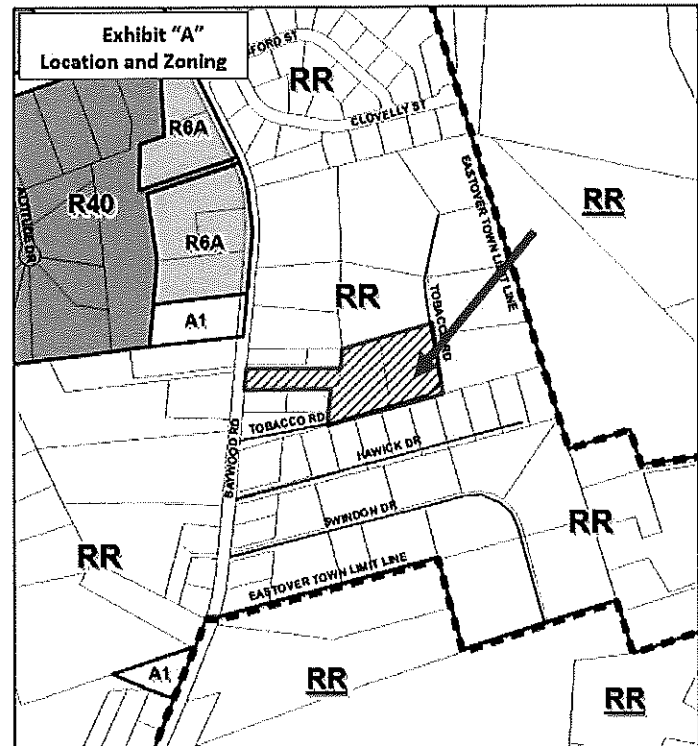
### SURROUNDING LAND USE:

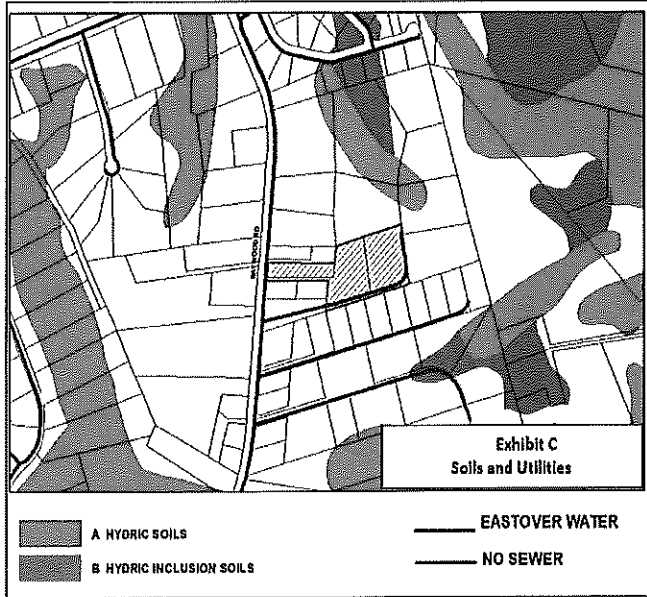
North: Several Single wide dwellings.

East: Stick homes.

West: Stick homes and across Baywood Rd.

South: Several single wide dwellings.





**OTHER SITE CHARACTERISTICS:** The properties are not located within the watershed or in the Special Flood Hazard Area. Additionally, there are no hydric or hydric inclusion soils on the property as illustrated in Exhibit "C".

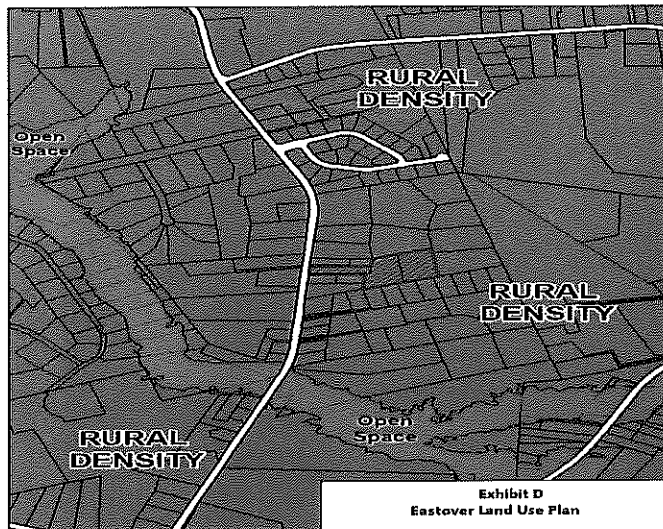
**DEVELOPMENT REVIEW:** The middle property will be taking it's access off Baywood and is the only one proposed to do so via the 20' flag strip. The other properties already have legal access off Baywood and Tobacco Rd.

**DIMINSIONAL PROVISIONS FOR REQUESTED DISTRICT:**

| Minimum Standard   | RR (Existing Zoning)                | RR (Proposed)*         |
|--------------------|-------------------------------------|------------------------|
| Front Yard Setback | 30 feet                             | 30 feet                |
| Side Yard Setback  | 15 feet (one story) and (two story) | 15 feet                |
| Rear Yard Setback  | 35 feet                             | 35 feet                |
| Lot Area           | 20,000 sq. ft.                      | 20,000 sq. ft. or more |
| Lot Width          | 100'                                | 100'                   |

(\* ) Same standards as the RR zoning category.

**COMPREHENSIVE PLANS:** The subject site is in the Eastover Land Use Plan (adopted in 2018). The subject site is classified as Rural Density Residential, as shown in Exhibit "D". Rural Density Residential allows a residential development with a density of 1 to 2.2 units/acre, with a minimum lot size of 20,000 sf. Stick-built or manufactured housing allowable in this land use classification and zoning district. Soils for this area are considered non-hydric and are therefore suitable for septic tanks. Associated zoning districts with applicable land use designation: Rural Density (R20, R20A, RR, R30, R30A, R40 and R40A). **Request is consistent with the adopted land use plan.**



**APPLICABLE PLAN GOALS/POLICIES:**

- Improve and/or add street lighting in residential areas.
- Locate sidewalks and pedestrian facilities, where appropriate, to provide access to schools, recreation areas and commercial centers.
- Use development techniques that preserve the rural character of the area.
- Encourage more than one means of ingress/egress in new residential subdivisions and connectivity to existing subdivisions.
- Require all new utilities to be placed underground and research funding options to have existing above ground utilities located underground.

**IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES**

**UTILITIES:** The properties are served by water along both Baywood Rd and Tobacco Rd (refer to Exhibit C). No sewer is available.

**TRAFFIC:** subject properties sit on Baywood Road and Tobacco Road. Baywood Road is identified as a thoroughfare needing improvement in the Metropolitan Transportation Plan. Tobacco Road is identified as a local road in the Metropolitan Transportation Plan. There are no construction projects planned, and the subject property will have no impact on the Transportation Improvement Plan.

**SCHOOLS CAPACITY/ENROLLMENT:**

| School                | Capacity | Enrollment |
|-----------------------|----------|------------|
| Eastover Central Elem | 540      | 334        |
| Mac Williams Mid      | 1270     | 1076       |
| Cape Fear High        | 1425     | 1400       |

**ECONOMIC DEVELOPMENT:** No concerns were identified.

**EMERGENCY SERVICES:** Current road will need to be upgraded to meet fire department access requirements in accordance with section 503 of the 2018 NC fire code. If access to lots is gained directly from Baywood Rd, no more than two residential occupancies may use that access.

**SPECIAL DISTRICTS:** The property is not located within the Fayetteville Regional Airport Overlay District or within five miles of Fort Bragg Military Base.

**CONDITIONS OF APPROVAL:** As the rezoning request is for Conditional Zoning, Exhibit "F" includes conditions that the property must meet through an approved site plan, site development, and use of the property should this request be approved.

**CODE DEVIATIONS:** To the best of the staff knowledge, applicant has not requested any deviations or site-specific design standards. Staff added a condition to provide zero lot line setback provision for the western lot, abutting Baywood Road with the existing home to accommodate the subdivision of the middle lot. The remaining parcels will be subject to the RR zoning district setback requirements.

**STAFF RECOMMENDATION**

In Case P21-29, the Planning and Inspections staff **recommends approval** of the rezoning request from RR Rural Residential District to RR Rural Residential District/CZ Conditional Zoning for three lots and find the request is consistent with the Eastover Land Use Plan (2018) which calls for Rural Density at this location. Staff further finds that recommending approval of the request is reasonable and in the public interest because the RR Rural Residential District would allow dwelling types and a density that would be compatible with the surrounding area.

Attachments:

Notification Mailing List  
Zoning Application



**EXHIBIT "E"**

**SUBDIVISION PLAN**

(Full scale subdivision plan is available in the office of the Current Planning Division of the Planning & Inspections Department.)



**EXHIBIT "F"**  
**CONDITION SHEET**

**EXHIBIT F**  
**CONDITIONAL ZONING TERMS**

**RR/CZ RESIDENTIAL/CONDITIONAL ZONING DISTRICT**

Draft

**Ordinance Related Conditions**

*For up to a 3 Lot Zero Lot Line Subdivision*

**Pre- Permit Related:**

1. The owner/developer(s) of this subdivision proposal must obtain detailed instructions from the County Current Planning Section in the Historic Courthouse at 130 Gillespie Street on provisions of the Town of Eastover Zoning and Subdivision Ordinances regarding the Preliminary Plat submittal requirements.
2. If any right-of-way dedication is required by NCDOT, a recorded plat referenced above shall identify any such right-of-way dedication and sight distance easements.
3. Prior to permit application, the developer must provide to the Code Enforcement Section documentation of NC Department of Environmental Quality Division of Energy, Mineral and Land Resources' (NCDEQ DEMLR) approval of the Sedimentation and Erosion control plan for this project. NCDEQ DEMLR requires a Sedimentation and Erosion control plan be submitted and approved 30 days prior to land disturbing activities if said land disturbing activity will exceed one acre.
4. Authorization for wastewater system construction required before other permits to be issued. The County Health Department must approve sewer plans/septic tanks. Lots not served by public sewer systems are required to be large enough and of such physical character to comply with the Health Department's minimum standards. Site and soil evaluations must be conducted on the property by the County Environmental Health Department. A copy of the Health Department approval must be provided to Code Enforcement. (Note: All Health Department requirements must be met prior to issuance of final permits.) (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

**Permit-Related:**

5. The owner/developer(s) of this property must obtain detailed instructions from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street on provisions of the Town of Eastover Zoning Ordinance and any permits that may be required to place any structure within this development or to commence any use of the subject property. For additional information, the developer should contact a Code Enforcement Officer.
6. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application.
7. **Driveway Permit Required.** Construction of any new connection or alteration of any existing connection may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.

Change of use of subject properties shall require an approved Driveway Permit. Permits MUST be secured prior to the change or alteration of existing or proposed property use. Failure to secure required permits prior to construction or change in property usage may result in the removal of the driveway or street connections at the property owner's expense. For additional information contact the Division 6/District 2 office.

In the event that a structure (house) is built by a contractor for commercial gain and/or if property changes ownership from existing owner to builder, an approved Driveway Permit must be secured.

**Note: In the event the NCDOT driveway permit process alters the site plan in any manner, three copies of a revised site plan (and revision fee) must be submitted for staff review and approved prior to permit application.**

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

[§ 136-18(29), NCGS]

8. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)
9. The County Health Department must approve water plans if not connected to central water system. Property not served by public water system is required to be large enough and of such physical character to comply with the Health Department's minimum standards. A copy of the Health Department approval must be provided to Code Enforcement. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

**Site-Related:**

10. All uses, dimensions, setbacks and other related provisions of the Town of Eastover Zoning Ordinance for the RR/CZ Conditional Zoning must be complied with the standards set forth in the Zoning Code. Any conditions set forth herein this ordinance, including Exhibit "E", shall supersede the Zoning Code. If not specifically addressed within this Ordinance, all requirements of the Zoning and Subdivision Codes shall be met. Additionally, the western most lot with the existing home fronting Baywood Road shall be granted zero lot line setback provision, the remaining two lots (middle, and eastern most lot) shall be subject to the RR zoning district setback requirements.
11. This conditional approval is not approval of any freestanding signs. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the Town of Eastover Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is **not** approval of the size, shape, or location of any signs.) (Art. XIII, County Zoning Ord.)
12. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environmental Quality (NCDEQ) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2307.A, County Subdivision Ord.)
13. This review does not constitute a "subdivision" approval by NC Department of Transportation (NCDOT). The NC Department of Transportation's (NCDOT) approval of the driveway plans is required and any street improvements are required to be constructed to the NCDOT standards for secondary roads. (Sec. 2304B, County Subdivision Ord. & NCGS §136-102.6). If buildings permits are issued by Cumberland County prior to NCDOT acceptance of the streets, the developer is responsible that roads shall meet conditions suitable for safe passage for vehicles used by County inspection personnel. The County

Building Official may delay inspections if determined that road conditions do not provide safe passage for vehicles used by County inspectors.

**Plat-Related:**

14. The builder/developer must provide the buildable envelopes on the final plat: providing a five-foot maintenance easement along each side of all common internal lines with all other applicable setbacks being provided for; or at the time of permit application, the individual plot plans must be approved by the Current Planning Section prior to issuance of any permits.
15. Any/All easements must be reflected on the final plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
16. The NC Department of Transportation (NCDOT) stamp must be affixed to the final plat prior to submission for final plat approval by the Current Planning Section.

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

17. The final plat must be submitted to the Current Planning Section for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.
18. The developer should be aware that any addition and/or revision to this plat may require an additional review and approval by the Planning & Inspections Department prior to submission for final plat approval of any portion of this development.

**Plat-Required Statements:**

19. If/Since this development does not have public water/sewer, the following disclosure statement is required to be provided on the final plat. (Section 2504 C, On-Site Water and/or Sewer Disclosure, County Subdivision and Development Ordinance):

“The individual lots in this development do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private wells at the date of this recording.”

**Advisories:**

20. The applicant is advised to consult an expert on wetlands before proceeding with any development.
21. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
22. Any revision or addition to this plan necessitates re-submission for review and approval prior to the commencement of the change.
23. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.

24. The US Postal Service most likely will require this development to have centralized cluster boxes for postal service to each lot or unit. The developer is advised contact the US Postal Growth Coordinator for the Mid-Carolinas District to determine the appropriate location for the cluster boxes. If the cluster box location requires changes to the subdivision or site plan, a revised preliminary/plan must be submitted to the Planning & Inspections Department for review and approval.
25. This conditional approval is not to be construed as all- encompassing of the applicable rules, regulations, etc. which must be complied with for any development. Other regulations, such as building, environmental, health and so forth, may govern the specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.
26. The developer(s) and any future lot owners are responsible for the maintenance and upkeep of the streets until such time the streets are added to the State system by the NC Department of Transportation (NCDOT) for maintenance purposes. The developer is advised to give notice of the street status to any future lot owners in the event the lots are conveyed prior to the NCDOT's acceptance.
27. Current road will need to be upgraded to meet fire department access requirements in accordance with section 503 of the 2018 NC fire code. If access to lots is gained directly from Baywood Rd, no more than two residential occupancies may use that access.

**Other Relevant Conditions:**

28. This conditional approval is contingent upon continued compliance with the Town of Eastover's Zoning and Subdivision Ordinances and the conditions set forth herein.

| owner_name  | address           | citystatezip           |
|---|-------------------|------------------------|
| ELLIS, GLENDA JO                                  | 2189 BAYWOOD RD   | EASTOVER, NC 28312     |
| DORMAN, THOMAS D                                  | 2181 BAYWOOD RD   | EASTOVER, NC 28312     |
| ELLIS, GLENDA JO                                  | 2189 BAYWOOD RD   | EASTOVER, NC 28312     |
| HOLMES, LAURA MARIE, MICHAEL LYNN;VINCENT SHERROD | PO BOX 163        | WADE, NC 28395         |
| BARBOUR, RONALD WADE                              | 2176 BAYWOOD RD   | EASTOVER, NC 28312     |
| GLASS, SANDRA HAUGH                               | 2196 BAYWOOD RD   | FAYETTEVILLE, NC 28312 |
| SMITH, MAJOR DARRELL;SMITH, LINDA LIFE ESTATE     | 2186 BAYWOOD RD   | EASTOVER, NC 28312     |
| BROWN, RICHARD C                                  | 2212 BAYWOOD RD   | EASTOVER, NC 28312     |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395         |
| BARBOUR, RONALD WADE;BARBOUR, WIFE                | 2176 BAYWOOD RD   | EASTOVER, NC 28312     |
| GLASS, SANDRA HAUGH                               | 2196 BAYWOOD RD   | FAYETTEVILLE, NC 28312 |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395         |
| SMITH, MAJOR DARRELL;SMITH, LINDA LIFE ESTATE     | 2186 BAYWOOD RD   | EASTOVER, NC 28312     |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395         |
| COCKRELL, MARY L                                  | 2228 BAYWOOD RD   | EASTOVER, NC 28312     |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395         |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395         |
| BLACK, LINDA DENISE                               | 4079 TOBACCO RD   | EASTOVER, NC 28312     |
| TART, SHELBY JEAN                                 | 4470 GOLDSBORO RD | WADE, NC 28395         |
| TART, SHELBY JEAN                                 | 4470 GOLDSBORO RD | WADE, NC 28395         |
| PARHAM, RONNIE WAYNE;PARHAM, ANITA GRAY           | 4146 TOBACCO RD   | EASTOVER, NC 28312     |

First Class

p21-29



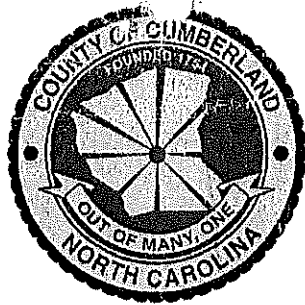
| owner_name  | address           | citystatezip            |
|---|-------------------|-------------------------|
| NORRIS, NELLIE HEIRS                              | 2077 BAYWOOD RD   | EASTOVER, NC 28312      |
| NORRIS, AVERTT ALPHA;MICHAEL, AVERITT NORRIS      | 2077 BAYWOOD RD   | EASTOVER, NC 28312      |
| ELLIS, GLENDA JO                                  | 2189 BAYWOOD RD   | EASTOVER, NC 28312      |
| NORRIS, AVERTT ALPHA;MICHAEL, AVERITT NORRIS      | 2077 BAYWOOD RD   | EASTOVER, NC 28312      |
| DORMAN, THOMAS D                                  | 2181 BAYWOOD RD   | EASTOVER, NC 28312      |
| ELLIS, GLENDA JO                                  | 2189 BAYWOOD RD   | EASTOVER, NC 28312      |
| NUNNERY, RICHARD B                                | 2219 BAYWOOD RD   | EASTOVER, NC 28312      |
| SMITH, PHILIP N                                   | PO BOX 156        | WADE, NC 28395          |
| TALLEN HOMES LLC                                  | 6220 CASS HOLT RD | HOLLY SPRINGS, NC 27540 |
| 2000 LS LLC                                       | 119 LUCKNOW SQ    | DUNN, NC 28334          |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| GOODRICH, ROBERT H;GOODRICH, EDNA B               | 4308 SWINDON DR   | EASTOVER, NC 28312      |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| GOODRICH, ROBERT HANS                             | 4308 SWINDON DR   | EASTOVER, NC 28312      |
| TART, SHELBY                                      | 4470 GOLDSBORO RD | WADE, NC 28395          |
| HOLMES, LAURA MARIE, MICHAEL LYNN;VINCENT SHERROD | PO BOX 163        | WADE, NC 28395          |
| BARBOUR, RONALD WADE                              | 2176 BAYWOOD RD   | EASTOVER, NC 28312      |
| GLASS, SANDRA HAUGH                               | 2196 BAYWOOD RD   | FAYETTEVILLE, NC 28312  |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| SMITH, MAJOR DARRELL;SMITH, LINDA LIFE ESTATE     | 2186 BAYWOOD RD   | EASTOVER, NC 28312      |
| BROWN, RICHARD C                                  | 2212 BAYWOOD RD   | EASTOVER, NC 28312      |
| COCKRELL, MARY LEE                                | 2228 BAYWOOD RD   | EASTOVER, NC 28312      |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| BARBOUR, RONALD WADE;BARBOUR, WIFE                | 2176 BAYWOOD RD   | EASTOVER, NC 28312      |
| GLASS, SANDRA HAUGH                               | 2196 BAYWOOD RD   | FAYETTEVILLE, NC 28312  |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| SMITH, MAJOR DARRELL;SMITH, LINDA LIFE ESTATE     | 2186 BAYWOOD RD   | EASTOVER, NC 28312      |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| COCKRELL, MARY L                                  | 2228 BAYWOOD RD   | EASTOVER, NC 28312      |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| SMITH, KAYE;SMITH, JAMES                          | 2112 DANIELS ST   | EASTOVER, NC 28312      |
| COCKRELL, MARY LEE                                | 2228 BAYWOOD RD   | EASTOVER, NC 28312      |
| COCKRELL, MARY L                                  | 2228 BAYWOOD RD   | EASTOVER, NC 28312      |
| MACKENZIE, SCOTT A;MACKENZIE, MARGARET N          | 4326 SWINDON DR   | EASTOVER, NC 28312      |
| TART, SHELBY STRICKLAND                           | 4470 GOLDSBORO RD | WADE, NC 28395          |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| TART, SHELBY S                                    | 4470 GOLDSBORO RD | WADE, NC 28395          |
| BLACK, LINDA DENISE                               | 4079 TOBACCO RD   | EASTOVER, NC 28312      |
| TART, SHELBY JEAN                                 | 4470 GOLDSBORO RD | WADE, NC 28395          |
| TART, SHELBY JEAN                                 | 4470 GOLDSBORO RD | WADE, NC 28395          |

600' Rad

P21-29

TART, SHELBY JEAN  
PARHAM, RONNIE WAYNE;PARHAM, ANITA GRAY  
TART, SHELBY  
TART, SHELBY JEAN  
TART, SHELBY J  
COLEMAN, WILLIE GORDON;COLEMAN, CINDY LAFRANCE  
PARHAM, RONNIE W;PARHAM, ANITA G  
MAYNOR, HENRY H;MAYNOR, KATHY J

4470 GOLDSBORO RD WADE, NC 28395  
4146 TOBACCO RD EASTOVER, NC 28312  
4470 GOLDSBORO RD WADE, NC 28395  
4470 GOLDSBORO RD WADE, NC 28395  
4470 GOLDSBORO RD WADE, NC 28395  
4719 MURPHY RD FAYETTEVILLE, NC 28312  
4146 TOBACCO RD EASTOVER, NC 28312  
4217 TOBACCO RD EASTOVER, NC 28312



## County of Cumberland

### Planning & Inspections Department

CASE #: P21-029  
PLANNING BOARD  
MEETING DATE: \_\_\_\_\_  
DATE APPLICATION  
SUBMITTED: 4-26-21  
RECEIPT #: 77207  
RECEIVED BY: JB

#### APPLICATION FOR CONDITIONAL ZONING DISTRICT REZONING REQUEST CUMBERLAND COUNTY ZONING ORDINANCE

Upon receipt of this application (petition), the Planning and Inspections Staff will present to the Planning Board the application at a hearing. In accordance with state law and board's policy, a notice of the hearing will be mailed to the owners of the adjacent and surrounding properties, which may be affected by the proposed Conditional Zoning. In addition, a sign will be posted on the property.

The Planning Board will make a recommendation to the Cumberland County Board of Commissioners concerning the request. The Board of Commissioners will schedule a public hearing and issue a final decision on the matter. Generally, the Commissioners will hold the public hearing four weeks following the Planning Board meeting. The Conditional Zoning District is not effective until the request is heard and approval granted by the Board of Commissioners.

The following items are to be submitted with the completed application:

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract is/are being submitted for rezoning, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to an engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. A check made payable to the "Cumberland County" in the amount of \$ 400<sup>00</sup> (See attached Fee Schedule)

**NOTE:** Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board meeting according to the Board's meeting schedule. Also, the application fee is *nonrefundable*.

*The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application or preparation of the site plan. For questions call (910)678-7603 or (910) 678-7602. Hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.*

**TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD AND THE BOARD OF COUNTY COMMISSIONERS OF CUMBERLAND COUNTY, NC:**

I (We), the undersigned, hereby submit this application, and petition the County Commissioners to amend and to change the zoning map of the County of Cumberland as provided for under the provisions of the County Zoning Ordinance. In support of this petition, as hereinafter requested, the following facts are submitted:

1. Applicant/Agent Brandon Black, Melinda Black
2. Address: 1084 W. Thornton Rd. Dunn Zip Code 28334
3. Telephone: (Home) 910 978-7290 (Brandon) (Work) 910-578-0597 (Melinda)
4. Location of Property: 2182 Baywood Rd. Eastover NC 28312
5. Parcel Identification Number (PIN #) of subject property: 0478-15-4541  
 (also known as Tax ID Number or Property Tax ID) 0478-15-7551 (3 lots)  
0478-25-0515
6. Acreage: 5.09 Frontage: \_\_\_\_\_ Depth: \_\_\_\_\_
7. Water Provider: ESD Septage Provider: Septic  
 ① 5316-0026 ① 5316-0026  
 ② 0056-0035 ② 0056-0035
8. Deed Book 0056-0035, Page(s) 0056-0035, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: Residential
10. Proposed use(s) of the property: Residential, primary residence

**NOTE: Be specific and list all intended uses.**

11. Do you own any property adjacent to, including across the street from, the property being submitted for rezoning? Yes \_\_\_\_\_ No
12. Has a violation been issued on this property? Yes \_\_\_\_\_ No
13. It is requested that the foregoing property be rezoned FROM: RR

TO: (Select one)

- Conditional Zoning District, with an underlying zoning district of RR  
(Article V)
- \_\_\_\_\_ Mixed Use District/Conditional Zoning District (Article VI)
- \_\_\_\_\_ Planned Neighborhood District/Conditional Zoning District (Article VII)
- \_\_\_\_\_ Density Development/Conditional Zoning District, at the \_\_\_\_\_ Density  
(Article VIII)

APPLICATION FOR  
CONDITIONAL ZONING

1. PROPOSED USE(S):

- A. List the use(s) proposed for the Conditional Zoning. (Use of the underlying district will be restricted only to the use(s) specified in this application if approved.)

Zero lot line subdivision

- B. Density: List the amount of acreage that will be residential, commercial, and/or open space, and the number of lots and/or dwelling units proposed, and the square footage of the non-residential units.

5.09 acres ; 3 residential lots

2. DIMENSIONAL REQUIREMENTS:

- A. Reference either the dimensional requirements of the district, Sec. 1104 or list the proposed setbacks.

See preliminary plat

- B. Off-street parking and loading, Sec. 1202 & 1203: List the number of spaces, type of surfacing material and any other pertinent information.

N/A

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIII.

N/A

4. LANDSCAPE AND BUFFER REQUIREMENTS:

- A. For all new non-residential and mixed use development abutting a public street, indicate the number and type of large or small ornamental trees used in the streetscape, yard space, and/or parking areas, plus the number and type of shrubs. (Sec. 1102N). **NOTE: All required landscaping must be included on the site plan.**

N/A

- B. Indicate the type of buffering and approximate location, width and setback from the property lines. (Sec. 1102G). **NOTE: All required buffers must be included on the site plan.**

N/A

5. MISCELLANEOUS:

List any information not set forth above, such as the days and hours of the operation, number of employees, exterior lighting, noise, odor and smoke, emission controls, etc.

N/A

6. SITE PLAN REQUIREMENTS:

The application must include a site plan drawn to the specifications of Sec. 1402. If the proposed uses involve development subject to the County Subdivision Ordinance, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to the Subdivision Ordinance, the site plan must be of sufficient detail to allow the Planning and Inspections Staff, Planning Board and County Commissioners to analyze the proposed uses and arrangement of uses on the site. It also must include the footprints of all buildings (proposed and existing), the proposed number of stories, location and number of off-street parking and loading spaces, proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences and landscaping shall be included on the site plan.

7. STATEMENT OF ACKNOWLEDGMENT:

It is understood by the undersigned that the official zoning map, as originally adopted and subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment (rezoning) rest with the petitioner.

It is the responsibility of the petitioner (personally or by agent) to submit to the Planning and Inspections Department a valid request within a complete application.

I further understand I must voluntarily agree to all ordinance related conditions prior to the first hearing on the case or any disagreement may be cause for an unfavorable recommendation. The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

|   |  |
|---|--|
| <p>✓ Linda Smith</p> <p>NAME OF OWNER(S) (PRINT OR TYPE)<br/>2186 Baywood Rd<br/>Eastover NC, 28312</p> <hr/> <p>ADDRESS OF OWNER(S)</p> <p>L1Smith43@aol.com</p> <hr/> <p>E-MAIL 910-306-0802(h)</p> <hr/> <p>910-489-4681 (cell)</p> <hr/> <p>HOME TELEPHONE</p> <p><i>Linda Smith</i></p> <hr/> <p>SIGNATURE OF OWNER(S)</p> | <p>Linda D. Black</p> <p>4079 Tobacco Rd<br/>Eastover NC 28312</p> <hr/> <p>Fast+7@aol.com</p> <hr/> <p>910-429-5207 (cell)</p> <hr/> <p>WORK TELEPHONE Linda (Denise) Black</p> <hr/> <p><i>Linda D. Black</i></p> <hr/> <p>SIGNATURE OF OWNER(S)</p> |
|---|--|

|  |  |
|--|--|
| <p>✓ Brandon Black , Melinda Black</p> <p>NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)</p> <p>1084 W. Thornton Rd. Dunn NC 28334</p> <hr/> <p>ADDRESS OF AGENT, ATTORNEY, APPLICANT</p> <p>910-978-7290 (cell)</p> <hr/> <p>HOME TELEPHONE Brandon</p> <p>b.black52111@gmail.com</p> <hr/> <p>E-MAIL ADDRESS</p> <p><i>Brandon Black</i></p> <hr/> <p>SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT</p> | <p>910-578-0597 (cell)</p> <hr/> <p>WORK TELEPHONE Melinda</p> <p>black52111@gmail.com</p> <hr/> <p>FAX NUMBER email (Melinda)</p> <p><i>Melinda Black</i></p> <hr/> <p>SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT</p> |
|--|--|

\* ALL record property owners must sign this petition.

\* The contents of this application, upon submission, becomes "public record."



BK5316PG0026

30847

RECEIVED  
8-11-2000 AM 10:55:33  
GEORGE E. TATUM  
REGISTER OF DEEDS  
CUMBERLAND CO., N.C.

Excise Tax -0-

Recording Time, Book and Page

Tax Lot No. .... Parcel Identifier No. ....  
Verified by ..... County on the ..... day of ....., 19.....  
by .....

Mail after recording to Grantor Wanted

This instrument was prepared by Major Darrell Smith

Brief description for the Index 0.885 Ac Eastover Township

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this ..... day of ....., 19....., by and between

GRANTOR

GRANTEE

Major Darrell Smith and wife, Linda Smith

Dana Marie Smith *Thurmond - M.D. S. J.S.*  
*2122 Baywood Road 2/86 M.D. S. J.S.*  
Fayetteville, NC 28301

(Subject to the Life Estate of the Grantors)

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated <sup>near</sup> ~~in~~ the City of ..... Fayetteville....., ..... Eastover..... Township, ..... County, North Carolina and more particularly described as follows:

Beginning at an existing iron stake in the eastern margin of S.R. 1831 - Baywood Road, said also being the northeast corner of a tract conveyed in Deed Book 2328, Page 335, Cumberland County Registry, thence with the northern line of said tract and beyond South 85 degrees 09

BK5316PG0027

0490

The property hereinabove described was acquired by Grantor by instrument recorded in 2328-335 & 2454-468

A map showing the above described property is recorded in Plat Book ..... page.....

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

.....  
(Corporate Name)

By: .....

..... President

ATTEST: .....

..... Secretary (Corporate Seal)

USE BLACK INK ONLY

*Major Darrell Smith* ..... (SEAL)  
MAJOR DARRELL SMITH

*Linda Smith* ..... (SEAL)  
LINDA SMITH

..... (SEAL)

..... (SEAL)

NORTH CAROLINA, CUMBERLAND County.

I, a Notary Public of the County and State aforesaid, certify that *Major Darrell Smith and Linda Smith* Grantors

personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this *14th* day of *June*, 19 *2000*

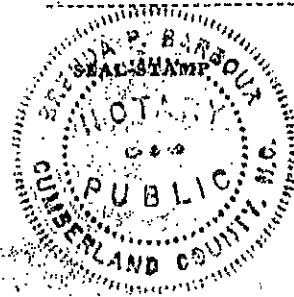
My commission expires: *12-21-2003* *Brenda P. Barbour* Notary Public

NORTH CAROLINA, ..... County.

I, a Notary Public of the County and State aforesaid, certify that .....

personally came before me this day and acknowledged that ..... he is ..... Secretary of

..... a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its .....

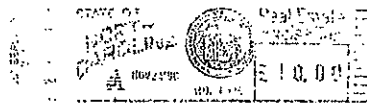


SEAL-STAMP

Black Ink



41812



BOOK 3228 PAGE 601

Excise Tax \$10.00

Recording Time, Book and Page

Tax Lot No. Parcel Identifier No. Verified by County on the day of 19 by

Mail after recording to COFFEY & ROUSE P.O. Box 35355 Fayetteville, NC 28303

This instrument was prepared by J.B. ROUSE, III

Brief description for the Index

NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 21st day of November, 1986, by and between

Table with 2 columns: GRANTOR (DEDRA RAE TART, single) and GRANTEE (MAJOR DARRELL SMITH and wife, LINDA SMITH, 2122 Bayswood Road, Fayetteville, NC 28301)

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of Cumberland County, North Carolina and more particularly described as follows:

TITLE NOT CERTIFIED

BEGINNING at a stake in the southern margin of the sixty foot private road, the southeast corner of Lot #10 and running thence North 09 degrees 56 minutes East 233.58 feet to a stake; thence North 10 degrees 03 minutes East 104.45 feet to a stake, thence South 85 degrees 00 minutes East 35.40 feet to a stake; thence North 10 degrees 03 minutes East 95.45 feet to a stake; thence North 79 degrees 53 minutes East 433.86 feet to a point in the center line of an unnamed road; thence with said center line South 04 degrees 07 minutes East 339.29 feet to a point in the intersection of the center line of said unnamed road with the southern margin of the sixty foot private road; thence with said southern margin of said private road South 79 degrees 53 minutes West 579.55 feet to the BEGINNING, containing 4.07 acres, more or less, and being all of Lot #9, according to a plat entitled "Property of J. Franklin Cain" recorded in Map Book 56, at page 35, Cumberland County Registry. Subject to the sixty foot private road easements as shown on said plat.

This property is being conveyed subject to Restrictive Covenants, Easements and rights-of-way of record, if any.

The property hereinabove described was acquired by Grantor by instrument recorded in .....

A map showing the above described property is recorded in Plat Book ..... page.....

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

(Corporate Name) BY: President ATTEST: Secretary (Corporate Seal) USE BLACK INK ONLY X. DEDRA RAE TACT (SEAL) (SEAL) (SEAL)



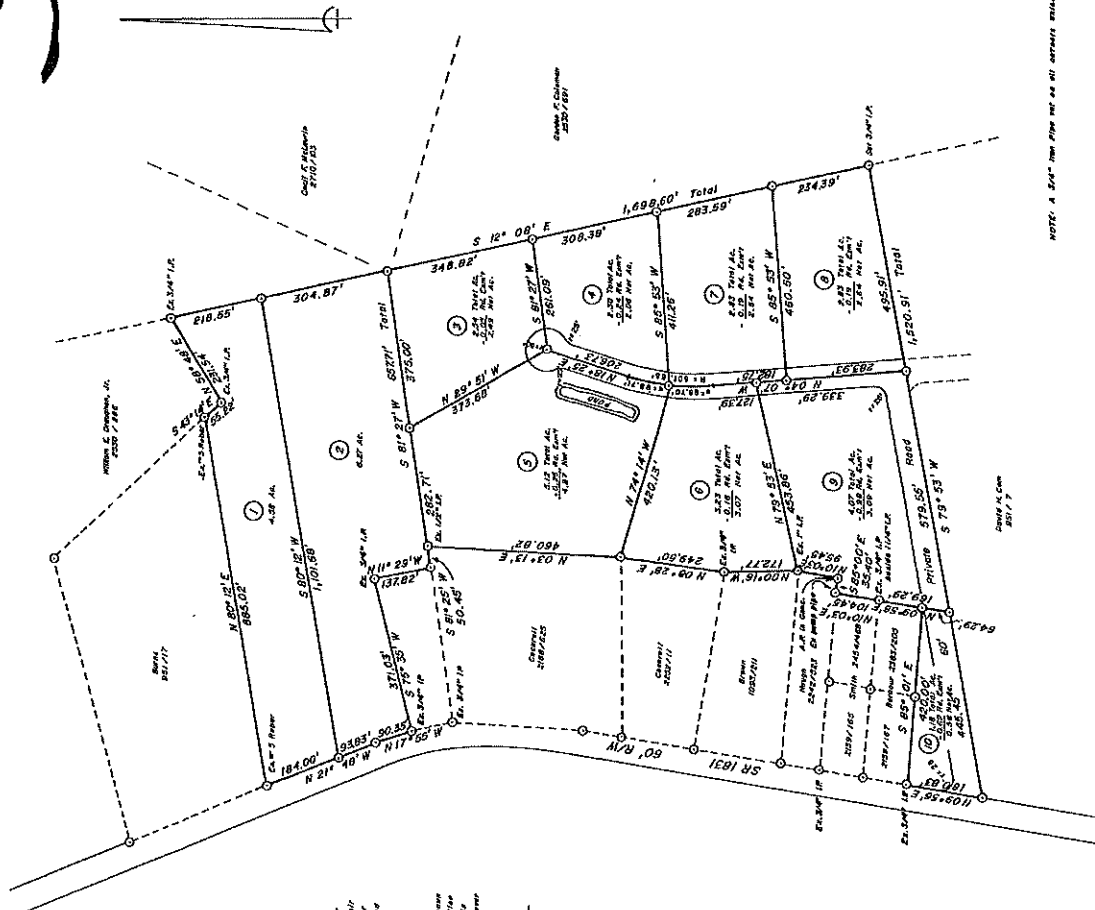
NORTH CAROLINA, Cumberland County. I, a Notary Public of the County and State aforesaid, certify that Dedra Rae Tact Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 21st day of November, 1986. My commission expires: 10.6.88 William F. Whitehead Jr. Notary Public



NORTH CAROLINA, ..... County. I, a Notary Public of the County and State aforesaid, certify that ..... Secretary of ..... a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, seated with its corporate seal and attested by ..... as its Secretary. Witness my hand and official stamp or seal, this ..... day of ..... 19..... My commission expires: ..... Notary Public

NORTH CAROLINA, CUMBERLAND COUNTY The foregoing or annexed certificate of William F. Whitehead Jr. Notary Public/Notaries Public is/are certified to be correct. This instrument was presented for registration and recorded in this Office at Book 3228 Page 601 This 24 day of Nov, 1986 at 3:40 O'clock P.M. By George E. Tatum Register of Deeds Charles B. Kern Deputy Register of Deeds

33



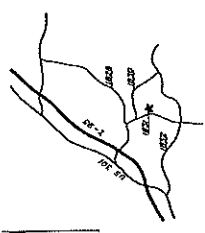
NOTE: A 5/4" DIA. PIPE HAS BEEN INSTALLED THROUGH SEVERAL LINES.

**CERTIFICATE OF PRIVATE STREET STATUS**  
 No public agency is responsible for maintenance of the private streets shown on this plat. Private streets are the responsibility of the owner. The owner shall be responsible for the repair and maintenance of the streets, sidewalks and drainage.

**CERTIFICATE OF OWNERSHIP AND REDUCTION**  
 The undersigned hereby acknowledges that the land shown on this plat is within the subdivision registration jurisdiction of the State of North Carolina. The undersigned hereby certifies that all taxes and fees have been paid and that the land is being conveyed to the owner named herein.

*J. Franklin Cain*  
 Owner

DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS  
 NO. APPROVAL NECESSARY  
 In N.C. Highway  
 AUG 20 1984  
 DATE



VICINITY MAP

NORTH CAROLINA  
 CUMBERLAND COUNTY  
 MICHAEL TATE  
 I, MICHAEL TATE, being a white male of the County and State aforesaid, do hereby certify that the plat of land shown hereon is a true and correct copy of the original survey made under my supervision, and that the same is in accordance with the laws of this State. I have obtained from the appropriate land records office a true and correct copy of the original survey, and I have compared the same with the plat hereon, and I find that the same is in accordance with the original survey. I have prepared this plat in accordance with G.S. 41-20 as amended, and I have caused it to be printed and bound in accordance with the laws of this State. I have caused it to be signed and sealed by me, and I have caused it to be signed and sealed by the appropriate officials of the State of North Carolina.

Approved by me, Clerk of Court  
 \_\_\_\_\_  
 Clerk of Court

Notary Public  
 \_\_\_\_\_  
 Notary Public

Witness  
 \_\_\_\_\_  
 Witness

Witness  
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|           |                       |  |
|-----------|-----------------------|--|
| REVISIONS | PROPERTY OF           | MICHAEL TATE, REGISTERED LAND SURVEYOR |
|           | J. FRANKLIN CAIN      | 1450 BAYWOOD ROAD                      |
|           |                       | FAYETTEVILLE, NORTH CAROLINA           |
|           | TOWNSHIP: EASTOVER    | DATE: JULY 1984                        |
|           | STATE: NORTH CAROLINA | SURVEYED BY: MT                        |
|           | ZONE: 75              | SCALE: 1" = 200'                       |
|           | TAX MAP: 122          | DRAWN BY: TS                           |
|           | PARCEL: 35            | CHECKED & CLOSURE BY: MT               |
|           |                       | FIELD BOOK                             |
|           |                       | DRAWING NO. 497                        |

Approved by the Cumberland County Joint Planning Board on the 18th day of August 1984  
 \_\_\_\_\_  
 Chairman

Recorded in Book of Maps \_\_\_\_\_ Vol. \_\_\_\_\_ Pg. \_\_\_\_\_

56-35

010440  
(N.P. SEAL)  
17 PN

RECEIVED  
3-18-2008 AM 10:44:27  
J. LEE WARREN JR.,  
REGISTER OF DEEDS  
CUMBERLAND CO., N.C.

Excise Tax : \$ ~~0~~  
Instrument Prepared By: John H. Jackson  
And Return To: The Yarborough Law Firm  
Post Office Box 705  
Fayetteville, N.C. 28302

**NORTH CAROLINA QUITCLAIM DEED  
WITHOUT TITLE SEARCH**

THIS DEED, made this 17 day of March, 2008 by and between

GRANTOR

GRANTEE

MAJOR DARRELL SMITH and  
wife LINDA SMITH

LINDA DENISE BLACK  
4079 Tobacco Road  
Fayetteville, North Carolina 28301

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does remise, release, and forever quitclaim unto the Grantee, their successors and assigns all right, title, claim, life estate, and interest of the said Grantor, all that certain tract or parcel of land situated in the Township of Eastover, County of Cumberland, State of North Carolina, and more particularly described as follows:

Beginning at an existing iron stake, in the Northeast corner of Lot 9 as recorded in Plat Book 56, page 35, Cumberland County Registry, thence with the eastern line of said Lot South 79 degrees 53 minutes West 268.33 feet to an existing iron stake being the Southeast corner of said lot, thence North 4 degrees 07 minutes West 339.29 feet to a point in the Southern line of said lot thence with a new line North 79 degrees 53 minutes East 268.33 feet to a point in the Northern line of said lot thence with the Northern line of said lot South 4 degrees 07 minutes East 339.29 feet to the point and place of beginning containing 2.08 acres more or less. Being the Eastern portion of Lot 9 Plat Book 56, page 35, Cumberland County Registry.

This being the same parcel of land conveyed in Book 5316, page 22, Cumberland County Registry.

**IT IS THE INTENT OF GRANTORS TO FOREVER RELEASE AND DEVISE THEIR LIFE ESTATE TO GRANTEE.**

TO HAVE AND TO HOLD the aforesaid tract or parcel of land and all privileges thereunto belonging to Grantee and their successors and assigns, free and discharged from all right, title, claim or interest of the said Grantor or anyone claiming by, through, or under.

IN WITNESS WHEREOF, the Grantors, have hereto set their hands and seals, the day and year first above written.

Major Darrell Smith (SEAL)  
MAJOR DARRELL SMITH

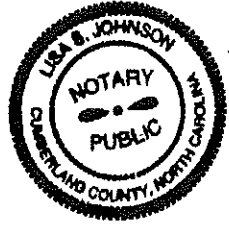
Linda Smith (SEAL)  
LINDA SMITH

\*\*\*\*\*

STATE OF North Carolina  
COUNTY OF Cumberland

I, Lisa S. Johnson, a Notary Public for said County and State, do hereby certify that Major Darrell Smith and wife Linda Smith personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and official seal, this the 17 day of March, 2008.

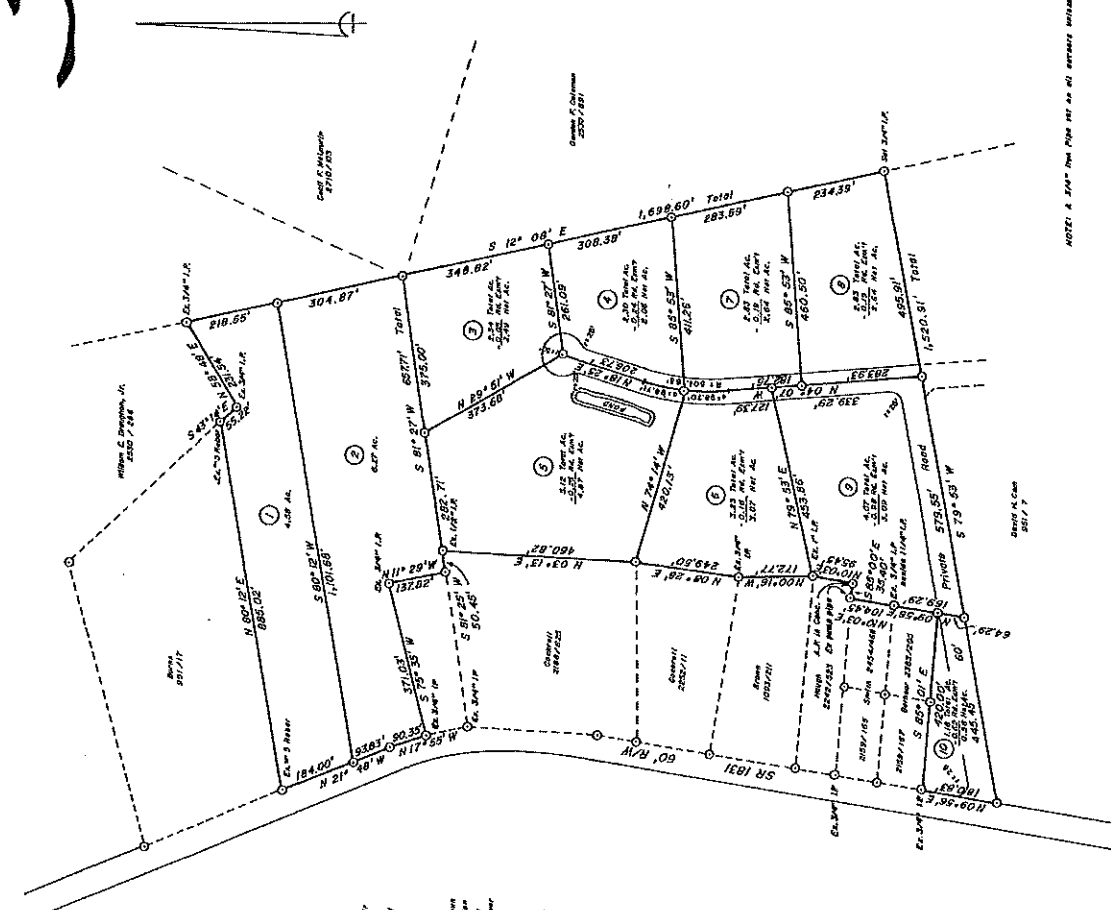


Lisa S. Johnson  
NOTARY PUBLIC

My Commission Expires:  
9/13/2009



33



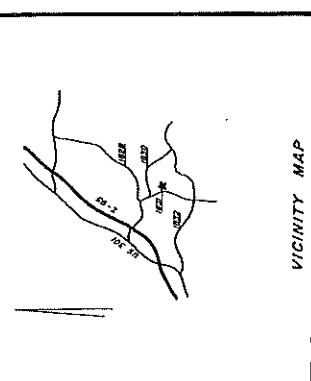
NOTE: A 24" x 36" Plot for \$4.00. ALL SURVEYS MUST BE APPROVED BY THE STATE.

**CERTIFICATE OF PRIVATE STREET STATUS**  
 The public agency is responsible for maintenance of the private street shown on this map. The private street is for the use of the property owner and all representatives of governmental agencies for the purpose of access, and for the construction, inspection and maintenance of streets, utilities and drainage.

**CERTIFICATE OF OWNERSHIP AND DEDICATION**  
 The undersigned hereby acknowledges that the map shown on this page is a true and correct copy of the original map on file in the office of the Surveyor General of North Carolina and that the same is a true and correct copy of the original map on file in the office of the Surveyor General of North Carolina.

*J. Franklin Cain*  
 Owner

DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS  
 NO APPEAL NECESSARY  
 B. B. Johnson  
 Surveyor  
 Aug. 20, 1984  
 DATE



**VICINITY MAP**

NORTH CAROLINA  
 SOUTHERN COUNTY

1. MICHAEL TATE, a surveyor of the County and State of North Carolina, do hereby certify that this map was prepared by me or under my supervision from the actual survey made and that the same is a true and correct copy of the original map on file in the office of the Surveyor General of North Carolina and that the same is a true and correct copy of the original map on file in the office of the Surveyor General of North Carolina.

*M. Tate*  
 Surveyor

DEPARTMENT OF TRANSPORTATION  
 DIVISION OF HIGHWAYS  
 NO APPEAL NECESSARY  
 B. B. Johnson  
 Surveyor  
 Aug. 20, 1984  
 DATE

NORTH CAROLINA  
 SOUTHERN COUNTY

1. MICHAEL TATE, a surveyor of the County and State of North Carolina, do hereby certify that this map was prepared by me or under my supervision from the actual survey made and that the same is a true and correct copy of the original map on file in the office of the Surveyor General of North Carolina and that the same is a true and correct copy of the original map on file in the office of the Surveyor General of North Carolina.

*M. Tate*  
 Surveyor

NORTH CAROLINA  
 SOUTHERN COUNTY

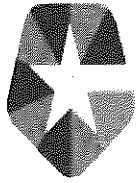
The foregoing conditions of MICHAEL TATE, a surveyor of the County and State of North Carolina, do hereby certify that this map was prepared by me or under my supervision from the actual survey made and that the same is a true and correct copy of the original map on file in the office of the Surveyor General of North Carolina and that the same is a true and correct copy of the original map on file in the office of the Surveyor General of North Carolina.

*M. Tate*  
 Surveyor

|           |                       |  |
|-----------|-----------------------|--|
| REVISIONS | PROPERTY OF           | MICHAEL TATE, REGISTERED LAND SURVEYOR |
|           | J. FRANKLIN CAIN      | 1450 BAYWOOD ROAD                      |
|           | TOWNSHIP: EASTOVER    | FAYETTEVILLE, NORTH CAROLINA           |
|           | STATE: NORTH CAROLINA | DATE: JULY 1984                        |
|           | ZONE: 75              | SURVEYED BY: MT                        |
|           | TAX MAP: 122          | DRAWN BY: TS                           |
|           | PARCEL: 35            | CHECKED & CLOSURE BY: MT               |
|           |                       | FIELD BOOK                             |
|           |                       | SCALE: 1" = 200'                       |
|           |                       | DRAWING NO. 497                        |

Approved by the Cumberland County Trust Planning Board on the 20th day of AUGUST 1984.  
*Boyd E. Johnson*  
 Chairman

56-35



# CUMBERLAND COUNTY

NORTH CAROLINA

PLANNING & INSPECTIONS

PLANNING STAFF REPORT  
**REZONING CASE # P21-33**  
Planning Board Meeting: June 15, 2021

Location: REID: # 0443449314000  
Jurisdiction: County-Unincorporated

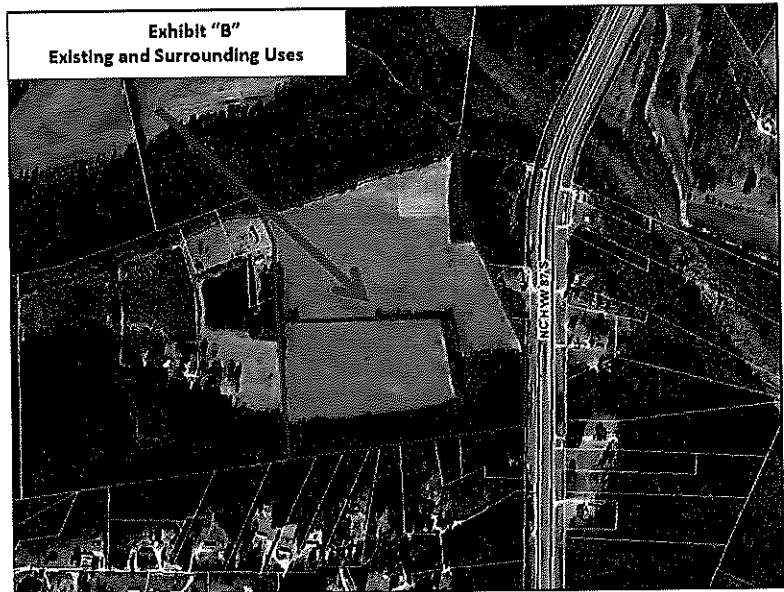
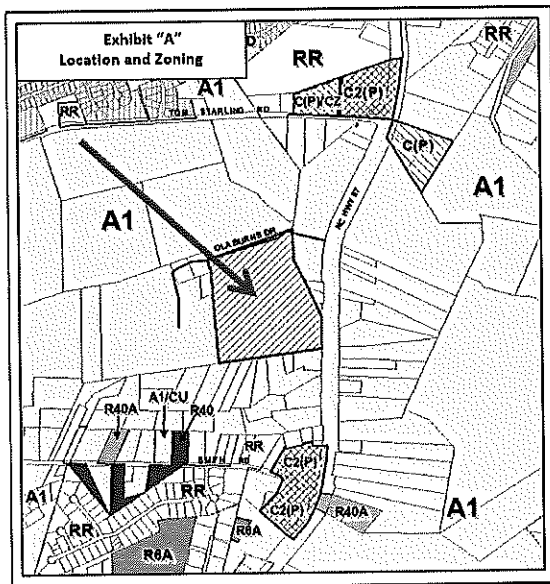
**REQUEST** **Rezoning A1 to R7.5/CZ**

Applicant requests to rezone 41.48 +/- acres from A1 Agriculture to R7.5 Residential District Zoning District/Conditional Zoning for up to a 122 lots Zero Lot Line Subdivision for property located west of NC HWY 87, and south of Ola Burns Dr. This request would increase the allowed density from 1 unit per 2 acres (87,120 sq. ft.) to 1 unit per 7,500 square feet. This is a conditional rezoning with conditions proposed (Refer to Exhibit "F") and a conditional use subdivision plan required. (The required site plan is shown in Exhibit "E" of the Staff Report)

**PROPERTY INFORMATION**

**OWNER/APPLICANT:** Multiple owner(s) James D. Hubbard and Norma Garcia; Cheri and Marty Lassiter; Tommy J Woodell and Debra H. Woodell; Travis Allen Hubbard and Jill Elizabeth Hubbard; Pamela and Michael Domanski.

**ADDRESS/LOCATION:** Located west of NC HWY 87 with a REID: # 0443449314000). Refer to Exhibit "A", Site Location.



**SIZE:** One parcel of 41.48 +/- acres). The property has 350+/- linear feet of street frontage along NC HWY 87, and Ola Burns Drive runs through the northern perimeter of the property within the project site. The property has a depth of 1,040+/- in feet.

**EXISTING ZONING:** The parcel is zoned A1 (refer to Exhibit A). The A1 Agricultural District is a district designed to promote and protect agricultural lands, including woodland, within the County. The general intent of the district is to permit all agricultural uses to exist free from most private urban development, except for large lot, single-family development. Some public and/or semi-public uses as well as a limited list of convenient commercial uses are permitted to ensure essential services for the residents.

The density associated with A1 zoning consists of one dwelling units per two acres, with a minimum lot width of 100'. Additionally, required setbacks for A1 zoning district: Front: 50', Side: 20' (one story) 25' (2 story) and Rear: 50'.

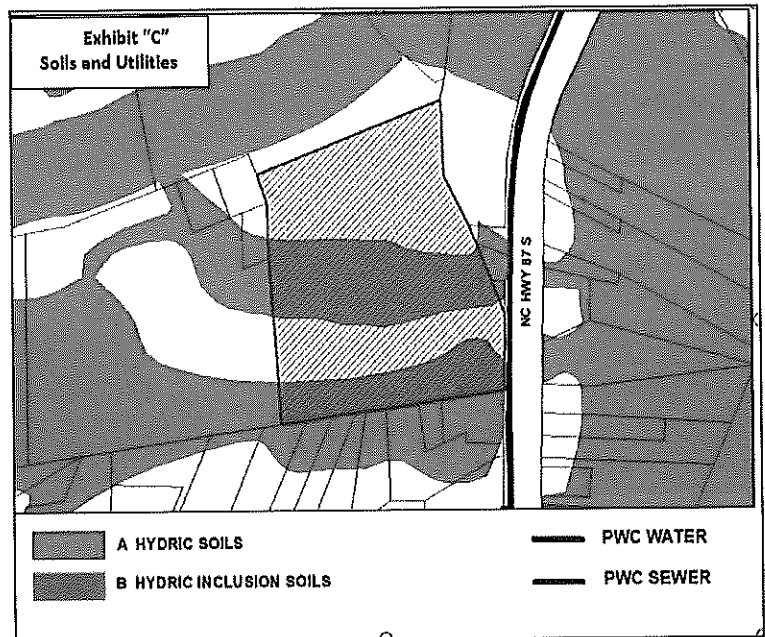
**EXISTING LAND USE:** The site is vacant (Refer to Exhibit "B"). The southern portion of the site is wooded in nature, and the majority of the site appears to be used for farmland.

**SURROUNDING LAND USE:** Farmland is the predominate land use occurring in the area surrounding the subject property, including single family residential homes occurring along both sides NC HWY 87 on larger acreages. To the north of the site, it is wooded in nature. To the south, residential residences consist of both single and double wide manufactured homes are found on larger acreages off Swallow Tail Court on both sides. Exhibit "B" illustrates the surrounding uses referenced above.

**OTHER SITE CHARACTERISTICS:** The property is not located within the watershed area or within the Special Flood Hazard Area. The southern portion of the site has the presence of hydric soils. No hydric inclusion soils are found on the site (refer to Exhibit "C").

**DEVELOPMENT REVIEW:** Subdivision review requirement is being fulfilled by the conditional zoning of the property. Code required open space is 2.24 acres in lieu of fee, and applicant is proposing 6.26 acres.

**DIMINSIONAL PROVISIONS FOR REQUESTED DISTRICT:** If approved, the parcel would be subject to following setbacks:

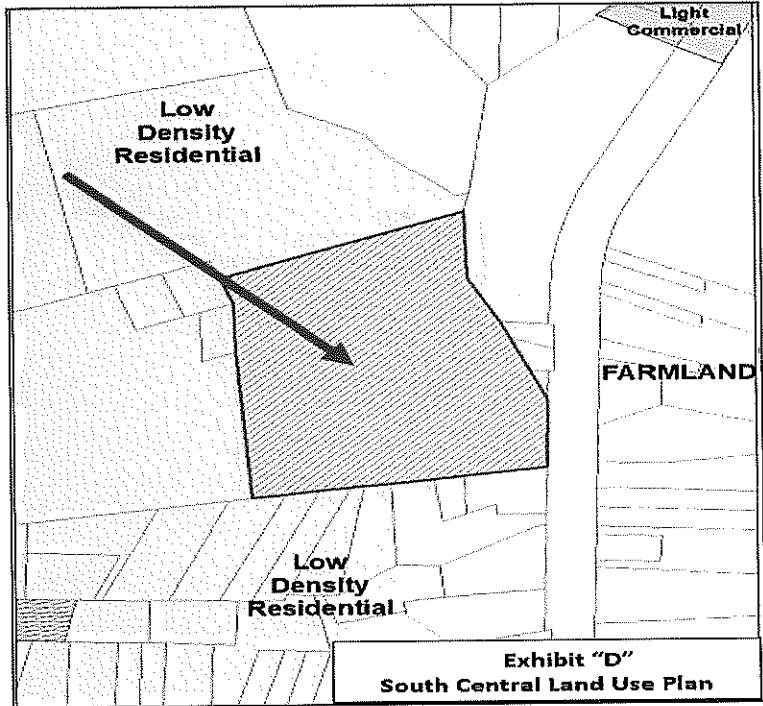


| Minimum Standard   | A1 (Existing Zoning)                | R7.5          | R7.5/CZ(Proposed)* |
|--------------------|-------------------------------------|---------------|--------------------|
| Front Yard Setback | 30 feet                             | 30 feet       | 30 feet            |
| Side Yard Setback  | 15 feet (one story) and (two story) | 10 feet       | 5 feet             |
| Rear Yard Setback  | 35 feet                             | 35 feet       | 35 feet            |
| Lot Area           | 20,000 sq. ft.                      | 7,500 sq. ft. | 7,500 sq. ft.      |
| Lot Width          | 100 feet                            | 75 feet       | 60 feet            |

(\*) As requested by the applicant

**COMPREHENSIVE PLANS:** Subject site is located in the South Central Land Use Plan (Adopted in 2015) as shown in Exhibit "D". The site is designated Low Density Residential.

Low Density Residential allows a residential development with a density of 2.2 to 6 units/acre. Applicant proposing on the subdivision plan a density of 3.24 dwelling units per acre. Public or community water and sewer is required. Both PWC water and sewer is available to the area. **Request is consistent with the adopted land use plan.**



**APPLICABLE PLAN POLICIES:**

- Promote sidewalks and pedestrian facilities, where appropriate to provide access to facilities such as schools, commercial areas, and recreation facilities.
- Provide and preserve natural vegetative buffer areas between single and multistory residential development and non-residential uses.
- Encourage the use of solar powered streetlights on all new streets and roads.
- It is imperative that driveways be limited, and conflict points reduced. All existing State maintained roads should require all subdivisions with more than three adjacent lots to back to the road.
- The recorded plats should contain a "no access easement" clause to these roads corresponding subdivision entrances on opposite sides of the street should align directly with each other whenever possible.

**IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES**

**UTILITIES:** PWC water and sewer utilities are both available along frontage of NC HWY 87 per updated comments provided (refer to Exhibit C).

**TRAFFIC:** The subject property sits on Ola Burns Drive and is identified as a local road in the Metropolitan Transportation Plan. There are no construction projects planned, and the subject property will have no impact on the Transportation Improvement Plan.

Proposed subdivision plan shows two future possible potential inter- neighborhood ties. One stub out, is proposed to the north, where intersects with Ola Burns Dr. and another inter neighborhood tie is proposed to the west property line.

**SCHOOLS CAPACITY/ENROLLMENT:**

| School            | Capacity | Enrollment |
|-------------------|----------|------------|
| Alderman Rd Elem  | 750      | 601        |
| Gray's Creek Mid  | 1200     | 1096       |
| Gray's Creek High | 1470     | 1343       |

**ECONOMIC DEVELOPMENT:** Fayetteville Cumberland County Economic Development Corporation has reviewed the request and had no comment at this time.

**EMERGENCY SERVICES:** Ensure all applicable fire department access requirements are met.

**SPECIAL DISTRICTS:** The property is not located within the Fayetteville Regional Airport: Airport Overlay District and is not within five miles of Fort Bragg Military Base.

**CONDITIONS OF APPROVAL:** As the rezoning request is for Conditional Zoning, Exhibit "B" includes conditions that the property must meet through an approved site plan, site development and use of the property should this request be approved. Exhibit "F" at the end of the Staff Report presents the Conditions of Approval.

**CODE DEVIATIONS:** To the best of the staff and engineer of record knowledge, there are no requested deviations to the zoning or subdivision codes.

#### **STAFF RECOMMENDATION**

For Case P21-33, the Planning & Inspections staff **recommends approval** of the rezoning request from A1 Agriculture to R7.5 Residential District/Conditional Zoning up to 122 lot Zero Lot Line Subdivision and finds the request consistent with the South Central Land Use Plan designation of "Low Density Residential". The request to rezone to R7.5 zoning with Conditional Zoning District is consistent with this land use designation. Approval of the request is reasonable and in the public interest as the district requested with the conditional zoning will ensure a subdivision plan proposal with recommended conditions be in harmony with surrounding existing land uses and zoning.

Attachments:  
Notification Mailing List  
Zoning Application

**EXHIBIT "E" (SK-03)**

**SUBDIVISION PLAN**

(Full scale subdivision plan is available in the office of the Current Planning Division of the Planning & Inspections Department.)



**EXHIBIT "F"**  
**DRAFT CONDITIONS OF APPROVAL**



**EXHIBIT F**  
**CONDITIONAL ZONING TERMS**

**R7.5/CZ RESIDENTIAL/CONDITIONAL ZONING DISTRICT**

**Ordinance Related Conditions**  
*For up to a 122 Lot Zero Lot Line Subdivision*

**Pre- Permit Related:**

1. A recorded plat is required prior to permit application, see Plat-Related conditions below. [Sec. 4-8(b)(7), County Code]
2. The Current Planning Section must approve the individual plot plan for each lot prior to permit application. (Sec. 2402, County Subdivision Ord.)
3. Prior to permit application, the developer must provide to the Code Enforcement Section documentation of NC Department of Environmental Quality Division of Energy, Mineral and Land Resources' (NCDEQ DEMLR) approval of the Sedimentation and Erosion control plan for this project. NCDEQ DEMLR requires a Sedimentation and Erosion control plan be submitted and approved 30 days prior to land disturbing activities if said land disturbing activity will exceed one acre.

*If a plan is not required, per 15ANCAC 04B.0105* "Person conducting land disturbing activity shall take all reasonable measures to protect public and private property from damage cause by such activities." Sedimentation and erosion control measures will need to be installed to protect adjacent properties. [Sec. 4-8(b)(6), County Code; originally under County jurisdiction relinquished to NCDEQ around 2000]

4. The development shall connect to the central water and sewer systems available to it. No certificate of occupancy shall be issued until central water and sewer area available. On-site septic tanks are not allowed.

**Pre- Permit Related:**

5. The owner/developer(s) of this site must obtain detailed instructions from the County Current Planning Section in the Historic Courthouse at 130 Gillespie Street on provisions of the County Zoning and Subdivision Ordinances or any other county applicable development regulatory requirements regarding the preliminary plat or subdivision plan submittal requirements.
6. If any right-of-way dedication is required by NCDOT, a recorded plat referenced above shall identify any such right-of-way dedication and sight distance easements. (Sec. 2402, County Subdivision Ord.)
7. Prior to permit application, the developer must provide to the Code Enforcement Section documentation of NC Department of Environmental Quality Division of Energy, Mineral and Land Resources' (NCDEQ DEMLR) approval of the Sedimentation and Erosion control plan for this project. NCDEQ DEMLR requires a Sedimentation and Erosion control plan be submitted and approved 30 days prior to land disturbing activities if said land disturbing activity will exceed one acre.

*If a plan is not required, per 15ANCAC 04B.0105* "Person conducting land disturbing activity shall take all reasonable measures to protect public and private property from damage cause by such activities." Sedimentation and erosion control measures will need to be installed to protect adjacent properties. [Sec. 4-8(b)(6), County Code; originally under County jurisdiction relinquished to NCDEQ around 2000]

8. Authorization for wastewater system construction required before other permits to be issued. The County Health Department must approve sewer plans. Lots not served by public sewer systems are required to be large enough and of such physical character to comply with the Health Department's minimum standards. Site and soil evaluations must be conducted on the property by the County Environmental Health Department. A copy of the Health Department approval must be provided to Code Enforcement. (Note: All Health Department requirements must be met prior to issuance of final permits.) (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

**Permit-Related:**

9. The owner/developer(s) of this property must obtain detailed instructions from the County Code Enforcement Section, Room 101 in the Historic Courthouse at 130 Gillespie Street on provisions of the County Zoning Ordinance and any permits that may be required to place any structure within this development or to commence any use of the subject property. For additional information, the developer should contact a Code Enforcement Officer. (Chpt. 4, County Code & Sec. 107, County Zoning Ord.)
10. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application. [Sec. 4-8(b)(2), County Code]
11. **Driveway Permit Required.** Construction of any new connection or alteration of any existing connection may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.

Change of use of subject properties shall require an approved Driveway Permit. Permits MUST be secured prior to the change or alteration of existing or proposed property use. Failure to secure required permits prior to construction or change in property usage may result in the removal of the driveway or street connections at the property owner's expense. For additional information contact the Division 6/District 2 office.

In the event that a structure (house) is built by a contractor for commercial gain and/or if property changes ownership from existing owner to builder, an approved Driveway Permit must be secured.

**Note: In the event the NCDOT driveway permit process alters the site plan in any manner, three copies of a revised site plan (and revision fee) must be submitted for staff review and approved prior to permit application.**

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**  
[§ 136-18(29), NCGS]

12. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)
13. The County Health Department must approve water plans if not connected to central water system. Property not served by public water system is required to be large enough and of such physical character to comply with the Health Department's minimum standards. A copy of the Health Department approval must be provided to Code Enforcement. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

**Site-Related:**

14. All uses, dimensions, setbacks and other related provisions of the County Subdivision and Development Ordinance, and County Zoning Ordinance for the R7.5 Residential/CZ Conditional Zoning for up to a 122 lot Zero Lot Line subdivision zoning district must be complied with, as applicable, and as appearing with the conceptual subdivision plan appearing in Exhibit "E". Any conditions set forth herein this ordinance, including Exhibit "A", shall supersede the Zoning and Subdivision Code. If not specifically addressed within this Ordinance, all requirements of the Zoning and Subdivision Codes shall be met.
15. This conditional approval is not approval of any freestanding signs. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in Article XIII of the County Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is not approval of the size, shape, or location of any signs.) (Art. XIII, County Zoning Ord.)
16. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environmental Quality (NCDEQ) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2307.A, County Subdivision Ord.)
17. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground. (Section 2306.C, County Subdivision Ord.)
18. In the event a stormwater utility structure is required by the NC Department of Environmental Quality (NCDEQ), the owner/developer must secure the structure with a four-foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation. (Sec. 1102.O, County Zoning Ord.)
19. This review does not constitute a "subdivision" approval by NC Department of Transportation (NCDOT). The NC Department of Transportation's (NCDOT) approval of the driveway plans is required and any street improvements are required to be constructed to the NCDOT standards for secondary roads. (Sec. 2304B, County Subdivision Ord. & NCGS §136-102.6). If buildings permits are issued by Cumberland County prior to NCDOT acceptance of the streets, the developer is responsible that roads shall meet conditions suitable for safe passage for vehicles used by County inspection personnel. The County Building Official may delay inspections if determined that road conditions do not provide safe passage for vehicles used by County inspectors.
20. Turn lanes may be required by the NC Department of Transportation (NCDOT). [Art. XIV, County Zoning Ord. & NCGS §136-18(5) & §136-93]

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

21. The subdivision plan must provide an internal access any the stormwater facility serving the site, to allow the HOA to have the ability to access the stormwater facility.

**Plat-Related:**

22. The developer is required to submit to the Current Planning Section either one set of a hard copy or one set of a pdf email copy to Telly Shinas, [tshinas@co.cumberland.nc.us](mailto:tshinas@co.cumberland.nc.us) of the following documents :

- a. One copy of proposed covenants, by-laws and articles of incorporation for the proposed development designating responsibility for \_\_\_\_\_ by the owners' association for the development;
- b. One copy of the deeds proposed for recordation conveying all common area to the proposed owners association;
- c. One copy of any proposed supplemental covenants if the proposed development is to be submitted for final approval in phases; and
- d. One copy of each proposed final plat prior to the submission for final approval – can be a phase of the approved development or the complete development as approved.

These documents must be approved by the County Attorney prior to the sale of or submission for final plat approval of any lot or unit within this development.(Sec. 2402.G., County Subdivision Ord.)

**Note: A copy of the recorded deed or deeds conveying all common area to the owners' association as shown on each plat must be provided to the Current Planning prior to submission for approval for recordation of the next succeeding phase/section of this development.**

23. The street name signs, in compliance with the County Street Sign Specifications, must be installed prior to final plat approval. The developer should contact Location Services for inquiries regarding the County's policy for street sign installation or, if the sign is commissioned from a private source, to schedule an inspection of the street sign(s). The Current Planning Section must receive notice of agreement with the Location Services Section for sign installation or of satisfactory inspection prior to the approval of the final plat. Sec. 4-171, County Code)
24. The developer is required to provide an inspection of the private street(s) by a registered engineer or registered surveyor upon completion of construction of the private street(s) and related facilities, including drainage ways. A statement, affixed with the engineer/surveyor's seal, certifying that all private street(s) and related facilities are designed and constructed in accordance with the requirements of Section 2304 C, Private Street, County Subdivision Ordinance, and that all such facilities are adequate to serve the development, must be submitted to the Current Planning Section prior to final plat approval or release of any construction guarantees as allowed under Section 2502, Final Plat – Guarantees of Improvements, County Subdivision and Development Ordinance.
25. The builder/developer must provide the buildable envelopes on the final plat: providing a five-foot maintenance easement along each side of all common internal lines with all other applicable setbacks being provided for; or at the time of permit application, the individual plot plans must be approved by the Current Planning Section prior to issuance of any permits.
26. Any/All easements must be reflected on the final plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
27. **A 10' x 70' sight distance easement is required at the intersection of entrance road and NC HWY 87.** This easement shall be illustrated on the final plat, unless otherwise required by NCDOT.
28. A 25' right-of-way radius is required at all intersections and must be reflected on the final plat. (Section 2304.10.c, Street Design, County Subdivision and Development Ordinance)

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

29. The NC Department of Transportation (NCDOT) stamp must be affixed to the final plat prior to submission for final plat approval by the Current Planning Section.

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

30. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the final plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, County Subdivision and Development Ordinance).
31. The developer is reminded that the improvements must be in place or that final plat approval will only be granted in accordance with Section 2502 B, C, or D, Final Plat – Guarantees of Improvements, County Subdivision and Development Ordinance. (Note: Once the improvements are in place, the developer is responsible for contacting Jeff Barnhill to schedule an inspection of the improvements.)
32. The developer's engineer must submit to Cumberland County Planning and Inspection Department a sealed document certifying that the streets have been constructed to the NC Department of Transportation (NCDOT) standards for secondary roads.
33. The final plat must be submitted to the Current Planning Section for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.
34. The developer should be aware that any addition and/or revision to this plat may require an additional review and approval by the Planning & Inspections Department prior to submission for final plat approval of any portion of this development.

**Plat-Required Statements:**

35. If/Since this development does not have public water/sewer, the following disclosure statement is required to be provided on the final plat. (Section 2504 C, On-Site Water and/or Sewer Disclosure, County Subdivision and Development Ordinance):

“The individual lots in this development do not have public sewer and/or water services available, and no lots have been approved by the Health Department for on-site sewer services or been deemed acceptable for private wells at the date of this recording.”

36. The final plat must reflect the following statements required for the private street(s) (Section 2504 A, Disclosure of Private Street Status, County Subdivision and Development Ordinance):
  - a. “Cumberland County and other public agencies have no enforcement responsibility regarding maintenance or encroachments into the private street right-of-way as shown on this plat. Private streets are for the use of all owners of property within this subdivision/development and their guests; and any governmental agency or personnel or equipment thereof who shall be granted perpetual access over all such private streets to accomplish or fulfill any service or function for which the agency is responsible, and that any agency or organization designated by a governmental agency to perform a designated function shall also retain access the same as any government agency. Any governmental agency exercising its access rights shall have the same rights and only such liabilities as it would have on any public lands, rights-of-way, or easements.”
  - b. “All current and future owners of these tract be aware that maintenance for the Class “C” private street(s) shown on this plat are the responsibility of the owners of the tracts served by and having access to the Class “C” private street(s).”
  - c. “All current and future owners of these tracts be aware that future division of these properties shall not be permitted under current standards without the upgrading of the Class “B” / “C” private street(s).”

37. Because the streets in this development have been approved as “public” streets and the streets do not yet qualify for acceptance by the NC Department of Transportation to the State system for maintenance purposes, the following statement is required to be included on the final plat (Section 2504 E, County Subdivision and Development Ordinance):

“The streets shown on this plat though labeled as “public” – unless otherwise noted – have not been accepted by the NC Department of Transportation as of the date of this recording. Until such time that the streets are accepted and formally added to the State system, maintenance and liability of the streets are the responsibility of the developer and any future lot owner(s).”

**Advisories:**

38. The applicant is advised to consult an expert on wetlands before proceeding with any development.
39. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
40. Any revision or addition to this plan necessitates re-submission for review and approval prior to the commencement of the change.
41. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
42. The US Postal Service most likely will require this development to have centralized cluster boxes for postal service to each lot or unit. The developer is advised contact the US Postal Growth Coordinator for the Mid-Carolinas District to determine the appropriate location for the cluster boxes. If the cluster box location requires changes to the subdivision or site plan, a revised preliminary/plan must be submitted to the Planning & Inspections Department for review and approval.
43. This conditional approval is not to be construed as all-encompassing of the applicable rules, regulations, etc. which must be complied with for any development. Other regulations, such as building, environmental, health and so forth, may govern the specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.
44. The developer(s) and any future lot owners are responsible for the maintenance and upkeep of the streets until such time the streets are added to the State system by the NC Department of Transportation (NCDOT) for maintenance purposes. The developer is advised to give notice of the street status to any future lot owners in the event the lots are conveyed prior to the NCDOT's acceptance.

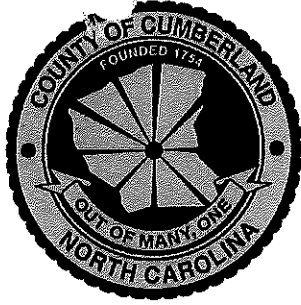
**Other Relevant Conditions:**

45. This conditional approval is contingent upon continued compliance with the County's Zoning and Subdivision Ordinance Subdivision the conditions set forth herein.

|                                 |                        |                        |
|---------------------------------|------------------------|------------------------|
| DANIEL, ROBERT E                | 2190 OLA BURNS DR      | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR               | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR               | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR               | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR               | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR               | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR               | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| SPEARMAN, LULA MAE BURNS LIFE E | 2240 OLA BURNS DR      | FAYETTEVILLE, NC 28306 |
| SPEARMAN, LULA MAE BURNS LIFE E | 2240 OLA BURNS DR      | FAYETTEVILLE, NC 28306 |
| WOODELL, TOMMY J JR;JOHNSON, L  | 3942 W BENT GRASS DR   | FAYETTEVILLE, NC 28312 |
| HUBBARD, GLYNDETTA TRUSTEE;FO)  | 1896 TOM STARLING RD   | FAYETTEVILLE, NC 28306 |
| JACKSON, JOHN ROBERT            | 8300 STATION VILLAGE 5 | SAN DIEGO, CA 92102    |
| PORTER, WALLACE                 | 3060 ROSEWAY CT        | HOPE MILLS, NC 28348   |
| TYSON, VANCE U JR               | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| RAEFORD, FRANCES E              | 4455 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| BROWN, JOSEPH                   | 3536 SPRING GARDEN DR  | HOPE MILLS, NC 28348   |
| RAEFORD, FRANCES E              | 4455 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| BROWN, SANDRA                   | 4465 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| MCMILLAN, DAVID;MCMILLAN, LYNE  | 691 STOCKBRIDGE CT     | FAYETTEVILLE, NC 28311 |
| RAEFORD, FRANCES E              | 4455 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| MCMILLAN, FLORA K HEIRS         | 4185 BUTLER NURSERY RD | FAYETTEVILLE, NC 28306 |
| HALL, SIMEON B                  | 230 SOUTHEASTERN BLV   | FAYETTEVILLE, NC 28301 |

|  |                        |                        |
|--|------------------------|------------------------|
| DANIEL, ROBERT E                         | 2190 OLA BURNS DR      | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR                        | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| DANIEL, ROBERT E                         | 2190 OLA BURNS DR      | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR                        | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR                        | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR                        | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR                        | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| TYSON, VANCE U JR                        | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| SPEARMAN, LULA MAE BURNS LIFE ESTATE     | 2240 OLA BURNS DR      | FAYETTEVILLE, NC 28306 |
| SPEARMAN, LULA MAE BURNS LIFE ESTATE     | 2240 OLA BURNS DR      | FAYETTEVILLE, NC 28306 |
| WOODELL, TOMMY J JR;JOHNSON, LINDA S;LAS | 3942 W BENT GRASS DR   | FAYETTEVILLE, NC 28312 |
| HUBBARD, GLYNDETTA TRUSTEE;FOX, ANNETTE  | 1896 TOM STARLING RD   | FAYETTEVILLE, NC 28306 |
| JACKSON, JOHN ROBERT                     | 8300 STATION VILLAGE 5 | SAN DIEGO, CA 92102    |
| PORTER, WALLACE                          | 3060 ROSEWAY CT        | HOPE MILLS, NC 28348   |
| TYSON, VANCE U JR                        | 4925 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| RAEFORD, FRANCES E                       | 4455 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| BROWN, JOSEPH                            | 3536 SPRING GARDEN DR  | HOPE MILLS, NC 28348   |
| RAEFORD, FRANCES E                       | 4455 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| MCMILLAN, DAVID;MCMILLAN, LYNDIA U       | 691 STOCKBRIDGE CT     | FAYETTEVILLE, NC 28311 |
| MCMILLAN, FLORA K HEIRS                  | 4185 BUTLER NURSERY RD | FAYETTEVILLE, NC 28306 |
| MCMILLAN, JAMES A;MCMILLAN, PATRICIA ANI | 4369 S NC 87 HWY       | FAYETTEVILLE, NC 28306 |
| WILSON, ANGELA, KENNETH;RONALD, J        | PO BOX 671036          | DALLAS, TX 75367       |
| MCCAULEY LIMITED LIABILITY CO            | PO BOX 361             | FAYETTEVILLE, NC 28302 |
| HALL, SIMEON B                           | 230 SOUTHEASTERN BLV   | FAYETTEVILLE, NC 28301 |





## County of Cumberland

### Planning & Inspections Department

CASE #. P21-33

PLANNING BOARD  
MEETING DATE: \_\_\_\_\_

DATE APPLICATION  
SUBMITTED: 5-10-21

RECEIPT #: 77404

RECEIVED BY: \_\_\_\_\_

### APPLICATION FOR CONDITIONAL ZONING DISTRICT REZONING REQUEST CUMBERLAND COUNTY ZONING ORDINANCE

Upon receipt of this application (petition), the Planning and Inspections Staff will present to the Planning Board the application at a hearing. In accordance with state law and board's policy, a notice of the hearing will be mailed to the owners of the adjacent and surrounding properties, which may be affected by the proposed Conditional Zoning. In addition, a sign will be posted on the property.

The Planning Board will make a recommendation to the Cumberland County Board of Commissioners concerning the request. The Board of Commissioners will schedule a public hearing and issue a final decision on the matter. Generally, the Commissioners will hold the public hearing four weeks following the Planning Board meeting. *The Conditional Zoning District is not effective until the request is heard and approval granted by the Board of Commissioners.*

The following items are to be submitted with the completed application:

1. A copy of the recorded deed and/or plat,
2. If a portion of an existing tract is/are being submitted for rezoning, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to an engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. A check made payable to the "Cumberland County" in the amount of \$ 1260.00 (See attached Fee Schedule)

**NOTE:** Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board meeting according to the Board's meeting schedule. Also, the application fee is *nonrefundable*.

*The Planning and Inspections Staff is available for advice on completing this application; however, they are not available for completion of the application or preparation of the site plan. For questions call (910)678-7603 or (910) 678-7602. Hours of operation are 8:00 a.m. to 5:00 p.m., Monday through Friday.*

**TO THE CUMBERLAND COUNTY JOINT PLANNING BOARD AND THE BOARD OF COUNTY COMMISSIONERS OF CUMBERLAND COUNTY, NC:**

I (We), the undersigned, hereby submit this application, and petition the County Commissioners to amend and to change the zoning map of the County of Cumberland as provided for under the provisions of the County Zoning Ordinance. In support of this petition, as hereinafter requested, the following facts are submitted:

1. Applicant/Agent McKee Homes, Inc. - Blayze DiPasquale
2. Address: 109 Hay St, Ste 301, Fayetteville, NC Zip Code 28301
3. Telephone: (Home) 919-909-9632 (Work) 919-909-9632
4. Location of Property: Highway 87 and Harington Road
5. Parcel Identification Number (PIN #) of subject property: 0443-44-9314  
(also known as Tax ID Number or Property Tax ID)
6. Acreage: 41.48 ac Frontage: 446' Depth: 1327'
7. Water Provider: N/A Septage Provider: N/A
8. Deed Book 603, Page(s) 93, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
9. Existing use of property: vacant
10. Proposed use(s) of the property: Residential - Single Family

**NOTE: Be specific and list all intended uses.**

11. Do you own any property adjacent to, including across the street from, the property being submitted for rezoning? Yes \_\_\_\_\_ No
12. Has a violation been issued on this property? Yes \_\_\_\_\_ No
13. It is requested that the foregoing property be rezoned FROM: A1

TO: (Select one)

- Conditional Zoning District, with an underlying zoning district of R7.5  
(Article V)
- \_\_\_\_\_ Mixed Use District/Conditional Zoning District (Article VI)
- \_\_\_\_\_ Planned Neighborhood District/Conditional Zoning District (Article VII)
- \_\_\_\_\_ Density Development/Conditional Zoning District, at the \_\_\_\_\_ Density  
(Article VIII)

APPLICATION FOR  
CONDITIONAL ZONING

1. PROPOSED USE(S):

A. List the use(s) proposed for the Conditional Zoning. (Use of the underlying district will be restricted only to the use(s) specified in this application if approved.)

- Accessory Uses
- Dwelling-Single Family

B. Density: List the amount of acreage that will be residential, commercial, and/or open space, and the number of lots and/or dwelling units proposed, and the square footage of the non-residential units.

Residential=41.48 ac  
Total Residential Units Proposed=122 Units  
Non-Residential Units=0 Units

2. DIMENSIONAL REQUIREMENTS:

A. Reference either the dimensional requirements of the district, Sec. 1104 or list the proposed setbacks.

Front=30'  
Side=5'  
Rear=30'  
Corner=30'

B. Off-street parking and loading, Sec.1202 & 1203: List the number of spaces, type of surfacing material and any other pertinent information.

2 Parking Parallel On-Street Spaces for Mailbox Kiosk  
to be constructed of same surface materials as street.

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article XIII.

All regulations from Article XIII shall be  
applicable to this rezoning.

4. LANDSCAPE AND BUFFER REQUIREMENTS:

- A. For all new non-residential and mixed use development abutting a public street, indicate the number and type of large or small ornamental trees used in the streetscape, yard space, and/or parking areas, plus the number and type of shrubs. (Sec. 1102N). **NOTE: All required landscaping must be included on the site plan.**

N/A

- B. Indicate the type of buffering and approximate location, width and setback from the property lines. (Sec. 1102G). **NOTE: All required buffers must be included on the site plan.**

20' Landscape Buffer along Hwy 87 outside of driveway/  
street connection to Hwy 87 as approved by NCDOT.

5. MISCELLANEOUS:

List any information not set forth above, such as the days and hours of the operation, number of employees, exterior lighting, noise, odor and smoke, emission controls, etc.

N/A

6. SITE PLAN REQUIREMENTS:

The application must include a site plan drawn to the specifications of Sec. 1402. If the proposed uses involve development subject to the County Subdivision Ordinance, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to the Subdivision Ordinance, the site plan must be of sufficient detail to allow the Planning and Inspections Staff, Planning Board and County Commissioners to analyze the proposed uses and arrangement of uses on the site. It also must include the footprints of all buildings (proposed and existing), the proposed number of stories, location and number of off-street parking and loading spaces, proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences and landscaping shall be included on the site plan.



7. STATEMENT OF ACKNOWLEDGMENT:

It is understood by the undersigned that the official zoning map, as originally adopted and subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment (rezoning) rest with the petitioner.

It is the responsibility of the petitioner (personally or by agent) to submit to the Planning and Inspections Department a valid request within a complete application.

I further understand I must voluntarily agree to all ordinance related conditions prior to the first hearing on the case or any disagreement may be cause for an unfavorable recommendation. The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

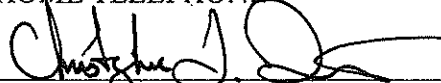
Christopher L. Davis  
NAME OF OWNER(S) (PRINT OR TYPE)

317 Victory Falls Dr. Apex, NC 27539  
ADDRESS OF OWNER(S)

chrislewis.davis@gmail.com  
E-MAIL

425 367 3015  
HOME TELEPHONE

WORK TELEPHONE

  
SIGNATURE OF OWNER(S)

SIGNATURE OF OWNER(S)

McKee Homes, Inc. - Blayze DiPasquale  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)


109 Hay Street, Suite 301, Fayetteville, NC 28301  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

919-909-9632  
HOME TELEPHONE

919-909-9632  
WORK TELEPHONE

bdipasquale@mckeehomesnc.com  
E-MAIL ADDRESS

N/A  
FAX NUMBER

  
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

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Kristin M Davis  
NAME OF OWNER(S) (PRINT OR TYPE)

317 Victory Falls Dr. Apex, NC 27539  
ADDRESS OF OWNER(S)

ksunderd@gmail.com  
E-MAIL

425 367 3016  
HOME TELEPHONE

WORK TELEPHONE

Kristin M Davis  
SIGNATURE OF OWNER(S)

SIGNATURE OF OWNER(S)

McKee Homes, Inc. - Blayze DiPasquale  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

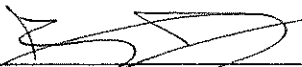
109 Hay Street, Suite 301, Fayetteville, NC 28301  
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919-909-9632  
WORK TELEPHONE

bdipasquale@mckeehomesnc.com  
E-MAIL ADDRESS

N/A  
FAX NUMBER

  
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Boyd D. PARSONS JR + Mae Smith Parsons  
NAME OF OWNER(S) (PRINT OR TYPE)

1821 Tom Starling Rd. Fayetteville NC 28306  
ADDRESS OF OWNER(S)

orion2049@gmail.com  
E-MAIL

910-~~777~~<sup>484</sup>-9280      910-261-5157  
HOME TELEPHONE      WORK TELEPHONE

Boyd D. Parsons      Mae Smith Parsons  
SIGNATURE OF OWNER(S)      SIGNATURE OF OWNER(S)

McKee Homes, Inc. - Blayze DiPasquale  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

109 Hay Street, Suite 301, Fayetteville, NC 28301  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

919-909-9632      919-909-9632  
HOME TELEPHONE      WORK TELEPHONE

bdipasquale@mckeehomesnc.com      N/A  
E-MAIL ADDRESS      FAX NUMBER

[Signature]  
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT





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Cheri + Marty (Glenn) Lassiter

NAME OF OWNER(S) (PRINT OR TYPE)

18726 Avery Park Dr., Cornelius, NC 28031

ADDRESS OF OWNER(S)

Cheridlass@gmail.com

E-MAIL

704-895-5140

HOME TELEPHONE

980-721-8618

WORK TELEPHONE

Cheri Lassiter

SIGNATURE OF OWNER(S)

Glenn Martin Lassiter II

SIGNATURE OF OWNER(S)

McKee Homes, Inc. - Blayze DiPasquale  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

109 Hay Street, Suite 301, Fayetteville, NC 28301  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

919-909-9632  
HOME TELEPHONE

919-909-9632  
WORK TELEPHONE

bdipasquale@mckeehomesnc.com  
E-MAIL ADDRESS

N/A  
FAX NUMBER

[Signature]  
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

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Tommy J. Woodell                      Debra H. Woodell  
NAME OF OWNER(S) (PRINT OR TYPE)

3942 W. Bent Grass Dr. Fayetteville NC 28312  
ADDRESS OF OWNER(S)

The marlboman12@gmail.com  
E-MAIL

910 483 9277                                      910 818 4017  
HOME TELEPHONE                                      WORK TELEPHONE

*Tommy J. Woodell*                                      *Debra H. Woodell*  
SIGNATURE OF OWNER(S)                                      SIGNATURE OF OWNER(S)

McKee Homes, Inc. - Blayze DiPasquale  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

109 Hay Street, Suite 301, Fayetteville, NC 28301  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

919-909-9632                                      919-909-9632  
HOME TELEPHONE                                      WORK TELEPHONE

bdipasquale@mckeehomesnc.com                      N/A  
E-MAIL ADDRESS                                      FAX NUMBER

*[Signature]*  
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

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TRAVIS Allen Hubbard Jill Elisabeth Hubbard  
NAME OF OWNER(S) (PRINT OR TYPE)

801 Southwood DR SHIPPENSBURG PA 17257  
ADDRESS OF OWNER(S)

travis.hubbard@vovvo.com  
E-MAIL

828-275-3529      717-530-6181  
HOME TELEPHONE      WORK TELEPHONE

Travis A Hubbard      Jill Elisabeth Hubbard  
SIGNATURE OF OWNER(S)      SIGNATURE OF OWNER(S)

McKee Homes, Inc. - Blayze DiPasquale  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

109 Bay Street, Suite 201, Fayetteville, NC 28301  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

919-909-9632      919-909-9632  
HOME TELEPHONE      WORK TELEPHONE

bdipasquale@mckeehomesnc.com      N/A  
E-MAIL ADDRESS      FAX NUMBER

[Signature]  
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

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PAMELA & MICHAEL DOMANSKI  
NAME OF OWNER(S) (PRINT OR TYPE)

21 BIRKDALE WAY PINEHURST NC 28374  
ADDRESS OF OWNER(S)

MIKEPAM68@YAHOO.COM  
E-MAIL

(919) 356-5813 - PAM CELL      (919) 888-0420 MIKE CELL  
HOME TELEPHONE      WORK TELEPHONE

Pamela Domanski      Michael Domanski  
SIGNATURE OF OWNER(S)      SIGNATURE OF OWNER(S)

McKee Homes, Inc. - Blayze DiPasquale  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

109 Hay Street, Suite 301, Fayetteville, NC 28301  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

919-909-9632      919-909-9632  
HOME TELEPHONE      WORK TELEPHONE

bdipasquale@mckeehomesnc.com      N/A  
E-MAIL ADDRESS      FAX NUMBER

[Signature]  
SIGNATURE OF AGENT, ATTORNEY, OR APPLICANT

- \* **ALL record property owners must sign this petition.**
- \* **The contents of this application, upon submission, becomes “public record.”**

20782

RECEIVED  
5- 3-2004 PM 3:36:18  
J. LEE WARREN JR.  
REGISTER OF DEEDS  
CUMBERLAND CO., N.C.

PREPARED BY: George D. Regan, PO Box 478, St. Pauls, NC 28384  
MAIL TO: GEORGE D. REGAN, P.O. BOX 478, ST. PAULS, NC 28384

Revenue: 0  
NORTH CAROLINA  
ROBESON COUNTY

mail: Linda Johnson (sterling)  
1925 Tom Storch Rd.  
Way. NC 28386  
DEED

THIS DEED, made by this the 16<sup>th</sup> day of February, 2004 by, Linda S. Johnson, widow, Barbara J. Smith, divorced, (formerly Barbara Jean S. Davis), Mae S. Parsons and husband Boyd Parsons, Tommy Woodell, Jr. and wife Debra Woodell, all of Cumberland County, North Carolina and Pamela Hodges and husband Derrick Hodge, of Lee County, North Carolina, parties of the first part, to Linda S. Johnson, Barbara Jean Smith, Mae Smith Parsons, Tommy J. Woodell, Jr., all of Cumberland County, North Carolina and Pamela Woodell Hodges, of Lee County, North Carolina parties of the second part.

WITNESSETH:

That the party of the first part, for and in consideration of the sum of TEN DOLLARS (\$10.00) AND OTHER GOOD AND VALUABLE CONSIDERATION, to them in hand paid have bargained and sold and by these presents do bargain, sell, and convey to Linda S. Johnson, a one-fourth (1/4) undivided interest, to Barbara J. Smith, a one-fourth (1/4) undivided interest, to Mae Smith Parsons a one-fourth (1/4) undivided interest, to Tommy J. Woodell, Jr., a one-eighth (1/8) undivided interest and to Pamela Woodell Hodges a one-eighth (1/8) undivided interest and into a certain tract or parcel of land lying and being in the County of Cumberland and State of North Carolina, in Gray's Creek Township and more particularly described as follows:

SEE ATTACHED SCHEDULE "A"

TO THEM the said parties of the second part and their heirs and assigns the undivided interest as set out hereinabove in fee simple.

The designation of the party of the first part and the party of the second part as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

IN TESTIMONY WHEREOF, the said party of the first part have hereunto set her hand and seal the day and year first above written.

Linda S. Johnson (SEAL)  
LINDA S. JOHNSON

Mae S. Parsons (SEAL)  
MAE S. PARSONS

Tommy Woodell, Jr. (SEAL)  
TOMMY WOODELL, JR.

Pamela Hodges (SEAL)  
PAMELA HODGES

Barbara Jean Smith (SEAL)  
BARBARA JEAN SMITH

Boyd Parsons (SEAL)  
BOYD PARSONS

Debra Woodell (SEAL)  
DEBRA WOODELL

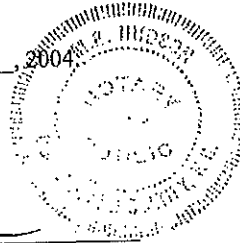
Derrick Hodges (SEAL)  
DERRICK HODGES

NORTH CAROLINA

ROBESON COUNTY

I, M.B. Hudson, a Notary Public do hereby certify that LINDA S. JOHNSON, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal, this the 14 day of APRIL, 2004.



M.B. Hudson  
NOTARY PUBLIC

My Commission expires: 12-8-2005

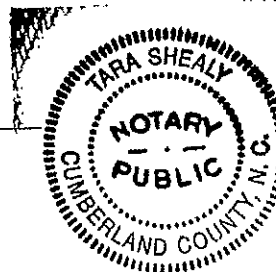
NORTH CAROLINA

ROBESON COUNTY

I, Tara Shealy, a Notary Public do hereby certify that BARBARA JEAN SMITH, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal, this the 2nd day of April, 2004.

Tara Shealy  
NOTARY PUBLIC



My Commission Expires November 22, 2006



BK6510PG012

NORTH CAROLINA  
ROBESON COUNTY

I, Margaret B Wright, a Notary Public do hereby certify that MAE S. PARSONS And husband BOYD PARSONS, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal, this the 29 day of April, 2004.



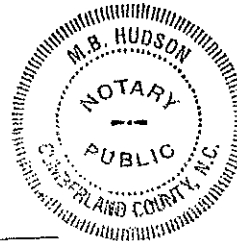
Margaret B Wright  
NOTARY PUBLIC

My Commission expires: 7 March 2006

NORTH CAROLINA  
ROBESON COUNTY

I, M.B. HUDSON, a Notary Public do hereby certify that TOMMY WOODELL, JR., and wife DEBRA WOODELL, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal, this the 14 day of APRIL, 2004.



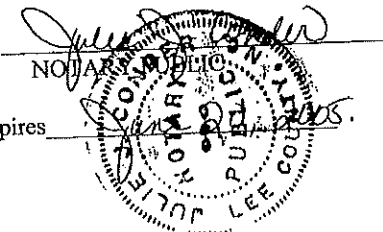
M.B. Hudson  
NOTARY PUBLIC

My Commission expires: 12-8-05

NORTH CAROLINA  
LEE COUNTY

I, Julie J. Conder, a Notary Public do hereby certify that PAMELA HODGES and husband DERRICK HODGES, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal, this the 4th day of March, 2004.



My Commission Expires Jul 22 2005

✓

NORTH CAROLINA

CUMBERLAND COUNTY

The foregoing Certificate(s) of M B Hudson, Tara Shealy  
Margaret B Wright, Julie J Conder

are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By Petronia Archuleta J. LEE WARREN, JR. REGISTER OF DEEDS FOR CUMBERLAND COUNTY,  
Deputy/Assistant - Register of Deeds

REGISTER OF DEEDS  
CUMBERLAND COUNTY, NORTH CAROLINA

BY: \_\_\_\_\_  
ASSISTANT/DEPUTY

## SCHEDULE "A"

Lying in Grays Creek Township, Cumberland County, North Carolina, and described as follows, to-wit:

**LOT NUMBER ONE:** Lying on the west side of the Wilmington Road: BEGINNING at a sweet gum, McLemore's corner, and runs south 6 west with the big ditch 27 chains to a stake at the fork of the ditch; thence south 82 west 9 chains to Miss Lill Hall's corner in the north edge of the branch; thence with her line north 29 chains to McLemore and Paul Nichols' corner in the south edge of the branch; thence with McLemore's and Paul Nichols' line to the beginning, containing 26½ acres, more or less.

**LOT NUMBER TWO:** BEGINNING at a stake in Robert McLaughlin's line and runs east in edge of a branch 6 chains and 36 links to a stake and pointers in the edge of a branch; thence north 23 chains to a stake in Paul Nichols' line; thence with Paul Nichols' line 7 chains and 60 links to Jacob Autrey's corner; Thence Autrey's line to his other corner; thence with Robert McLaughlin's line to the beginning, containing 16 acres, more or less.

**LOT NUMBER THREE:** Located on the west side of the Wilmington Road, adjoining the lands of the said L. M. Hall and William Smith and others; Beginning at a long straw pine on the east edge of a ditch in William Smith's line, thence with said Smith's line north 79 east 6 chains and 51 links to a stake in the Wilmington Road in the center of a branch; thence with the Wilmington Road north 24 west 18 chains to a stake; thence north 2 east 7 chains and 84 links to a stake in the west margin of the Wilmington Road, Mrs. Dorin Murphrey's corner; thence with Louise M. Hall's line to the beginning with a big ditch, containing 7 ½ acres, more or less.

**LOT NUMBER FOUR:** BEGINNING at a stake on the south bank of Rockfish Creek, formerly Clarissa Carver's corner, and running thence south 35 degrees east 18 chains to a stake on the north side of the road; thence with the road south 81 degrees east 9 chains 80 links to a turn in said road; thence north 83 degrees east 13 chains, with the road to a corner; thence a continuation of said road north 85 degrees east 13 chains to a stake in the road; thence north 40 degrees west 10 chains to a stake; thence north 73 degrees east 4 chains 50 links to a small pine, the corner; thence north 50 degrees east 35 chains to Rockfish Creek, about 150 yards above the bridge on the Elizabethtown Road; thence up the various courses of said creek to the BEGINNING, containing 101 acres, more or less.

**LOT NUMBER FIVE:** BEGINNING at Plummer's, now W. J. Evans' upper corner, on the south bank of Rockfish Creek, and running with said Evans line south 35 degrees east 18 chains 75 links to Carver's and Clark's corner; thence with Carver's line south 70 degrees west 28 chains 50 links to a corner at the canal; thence north 13 degrees west 17 chains 9 links to a corner on the north side of the Carver Spring tract; thence direct to the BEGINNING, containing 45 acres, more or less.

**LOT NUMBER SIX:** Being all of that property described in that Deed dated October 17, 1972 from Barbara Jean S. Davis et als to Rubell H. Smith, widow and recorded in the Cumberland County Registry in Book 2354, Page 691.

Excepting therefrom that property conveyed to Rufus S. Johnson by Deed dated December 29, 1994 and recorded in Book 4261, on Page 840, Cumberland County Public Registry.

This remaining tract being those two unnumbered lots labeled future development and located on SR 2237 (Smith Road) on that map entitled "Zero Lot Line Sandy Ridge Section I" and recorded in Map Book 89, Page 103, Cumberland County Registry.

STATE OF NORTH CAROLINA, }  
CUMBERLAND COUNTY. }

THIS DEED, Made this 21 day of July, AD, 1952, by  
Ruby Edith Melvin (single) and Annie Mae Cox, and her husband E.R. Cox,

of Bladen County and State of North Carolina, parties  
of the first part, and James W. Melvin,

of Rabeson County and State of North Carolina, party of the second part,

WITNESSETH, That said party of the first part, in consideration of Ten (\$10.00) Dollars and other good  
and valuable considerations Dollars

to them paid by said party of the second part the receipt of which is hereby acknowledged, have bargained and sold  
and by these presents do bargain, sell and convey to said party of the second part,

and his heirs and assigns,

all these certain tract or parcels of land in Greys Creek Township, Cumberland County,

State of North Carolina, adjoining the lands of

and others, bounded as follows, viz:

Lot No. 1. Lying on the West side of the Wilmington Road; Beginning at a sweet gum, McLemore's corner, and runs South 6 West with the Big Ditch 27 chains to a stake at the Fork of the ditch; thence South 82 West 9 chains to Miss Lill Hall's corner in the North edge of the Branch; thence with her line North 29 chains to McLemore and Paul Nichol's corner in the South edge of the Branch; thence with McLemore's and Paul Nichol's line to the beginning, containing 26 1/2 acres.

Lot No. 2. BEGINNING at a stake in Robert McLaughlin's line and runs East in edge of a Branch 6 chains and 36 links to a stake and pointers in the edge of a branch; thence North 3 chains to a stake in Paul Nichol's line; thence with Paul Nichol's line 7 chains and 60 links to Jacob Autry's corner; thence with Autry's line to his other corner; thence with Robert McLaughlin's line to the beginning, containing 16 acres. It is further agreed between parties of the first part and second parts that a public cart-way shall be kept open across the said McLemore's and Eliza M. Hall's land from the Elizabeth Road to Robert McLaughlin's land.

Lot No. 3. Located on the west side of the Wilmington Road, adjoining the lands of the said L.M. Hall and William Smith, and others, Beginning at a long straw pine on the east edge of a ditch in William Smith's line, thence with said Smith's line North 79 East 6 chains and 51 links to a stake in the Wilmington Road, in the center of a branch; thence with the Wilmington Road, North 24 West 18 chains to a stake; thence North 2 East 7 chains and 84 links to a stake in the West margin of the Wilmington Road, Mrs. Dorin Murphrey's corner; thence with Louise M. Hall's line to the beginning, with a big ditch, containing 7 1/2 acres.

The foregoing described three tracts of land being the same lands and premises described in a deed dated the -- day of --- 1911, from Eliza M. Hall to James M. Melvin, et ux (James M. Melvin is now deceased, having died intestate on the 5th day of July, 1951, leaving as his heirs at law, James W. Melvin, Ruby Edith Melvin, and Annie Mae Melvin Cox and of record in Book 263, page 366, Registry of Cumberland County.

4882  
0451

WJG238

THIS INSTRUMENT DRAWN BY

*M.D. Shaw*

CHECKED BY

*L.P. Hodges*

Return to: MR. L.P. HODGES, DIVISION RW AGENT  
NCDOT - P.O. BOX 1150  
FAYETTEVILLE, NC 28302

NORTH CAROLINA  
COUNTY OF Cumberland  
TAX MAP AND LOT \_\_\_\_\_

*4.00 Rev*

STATE HIGHWAY PROJECT 6.449003T  
F.A. PROJECT N/A  
I.D. NUMBER R-2582 AA  
PARCEL NUMBER 021

BK 4802 PG 0451

THIS FEE SIMPLE DEED, made and entered into this the 8th day of January 19 98,  
by and between Rubell S. Harris, widow

hereinafter referred to as the GRANTORS, and the Department of Transportation, an agency of the State of North Carolina, hereinafter referred to as the DEPARTMENT:

WITNESSETH

That the GRANTORS, for themselves, their heirs, successors, and assigns, for and in consideration of the sum of \$ 1,775<sup>00</sup> R.S.H. agreed to be paid by the DEPARTMENT to the GRANTORS, do hereby give, grant and convey unto the DEPARTMENT, its successors and assigns, in FEE SIMPLE the right of way located in Grays Creek Township, Cumberland County, North Carolina, which is particularly described as follows:

Beginning at the intersection of survey line L with the extended southeastern property line of Grantors; thence southwesterly along and with the extended southeastern property line and the southeastern property line of Grantors to a point located 35 meters (114.83 feet) westerly of and normal to survey line L Rev; thence northerly in a straight line to a point on the northeastern property line of Grantors located 35 meters (114.83 feet) westerly of and normal to survey line L Rev; thence southeasterly along and with the northeastern property line and the extended northeastern property line of Grantors to the intersection with survey line L; thence southerly along and with survey line L to the point of beginning.

RECEIVED

2-9-1998 PM 2:35

GEORGE E. TATUM  
REGISTER OF DEEDS  
CUMBERLAND CO., N.C.

*(RS)*

TO HAVE AND TO HOLD the aforesaid right of way and all privileges and appurtenances thereunto belonging to the DEPARTMENT in FEE SIMPLE.

The property hereinabove described was acquired by the GRANTORS by instrument(s) recorded in the Cumberland County Registry in Deed Book 625, Page 209

The final right of way plans showing the above described right of way are to be certified and recorded in the Office of the Register of Deeds for said County pursuant to N.C.G.S. 136-19.4, reference to which plans is hereby made for purposes of further description.

This deed is subject to the following provisions only:

None

CUMBERLAND COUNTY NC 02/09/98

15

\$4.00



Real Estate  
Excise Tax

The GRANTORS by the execution of this instrument, acknowledge that the plans for the aforesaid project as they affect their property have been fully explained to them or their authorized representative.

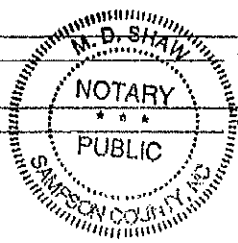
And the GRANTORS covenant with the DEPARTMENT, that the GRANTORS are seized of the premises in fee simple, have the right to convey the same in fee simple, that the title thereto is marketable and free and clear of all encumbrances, and that the GRANTORS will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is hereby conveyed subject to the following exceptions: NONE

IN WITNESS WHEREOF, the GRANTORS have hereunto set their hands and seals (or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors) the day and year first above written.

\_\_\_\_\_  
(Corporate Name) Rubell S. Harris (SEAL)  
Rubell S. Harris (SEAL)

BY: \_\_\_\_\_ (President) \_\_\_\_\_ (SEAL)

ATTEST: \_\_\_\_\_ (Secretary) \_\_\_\_\_ (SEAL)



ACCEPTED FOR THE DEPARTMENT OF TRANSPORTATION  
BY: [Signature] FEB 4 1998

NORTH CAROLINA, Cumberland COUNTY

I, a Notary Public of the County and State aforesaid, certify that Rubell S. Harris, widow

GRANTORS personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this the 8 day of January, 1998

My Commission expires: 4-24-2000  
M. D. Shaw  
Notary Public

NORTH CAROLINA, \_\_\_\_\_ COUNTY

I, a Notary Public of the County and State aforesaid certify that \_\_\_\_\_

personally came before me this day and acknowledged that \_\_\_\_\_ he is \_\_\_\_\_ Secretary of \_\_\_\_\_ a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary. Witness my hand and official stamp or seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

My Commission expires: \_\_\_\_\_  
Notary Public

The foregoing Certificate(s) of \_\_\_\_\_

The foregoing Certificate(s) of M. D. Shaw

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By Robin M. Jones REGISTER OF DEEDS FOR CUMBERLAND COUNTY,  
Deputy / Assistant - Register of Deeds



# CUMBERLAND COUNTY

NORTH CAROLINA

PLANNING & INSPECTIONS

PLANNING STAFF REPORT  
REZONING CASE # P21-38  
Planning Board Meeting: June 15, 2021

Location: Odell Rd  
Jurisdiction: Spring Lake

## REQUEST

Rezoning R6A, RR, and R10 to R6A/CZ

Applicant requests rezoning of 70.98 acres of several parcels and a portion of two others located on the north side of Odell Road from R6A Residential District, RR Rural Residential District, and R10 Residential Districts to R6A Residential District/conditional rezoning for up to 120 Lots Zero Lot Line Subdivision. This request would allow the property owner to develop the properties with an increased residential density. This is a conditional rezoning with a subdivision plan proposal with conditions. A conditional use site plan and condition sheet are required. (Exhibit "E" and "F" at the end of the Staff Report illustrate the proposed subdivision plan and condition sheet.)

## PROPERTY INFORMATION

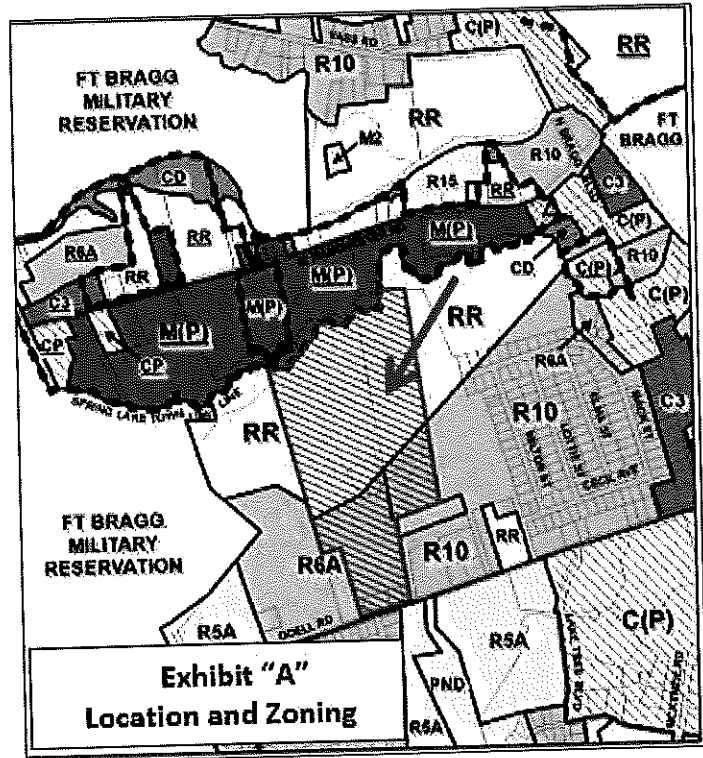
**OWNER/APPLICANT:** Owner(s) Elma s Smith POA Victoria M Mcleod and Samantha Wullenwaber

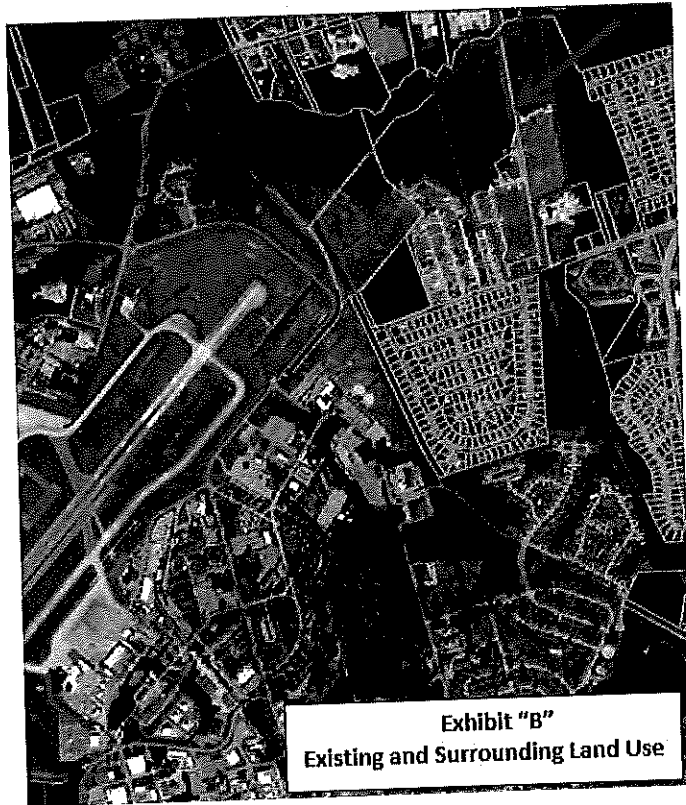
**ADDRESS/LOCATION:** North side of Odell Road and west of NC 87 (N Bragg Blvd); more specifically REIDs 0502129021000, 0502200708000, 0502201884000, and portions of 0502126280000, and 0502222745000. Exhibit "A" shows the location of the subject property.

**SIZE:** This request includes several parcels and a portion of two others totaling approximately 70.98 acres. The properties have 500'+/- of street frontage along Odell Road. The properties have a depth of 2,920'+/-.

**EXISTING LAND USE:** The parcels are developed with residential dwellings, including a manufactured home park, as shown is Exhibit "B".

**SURROUNDING LAND USE:** There are residential uses in the surrounding area, including multi-family dwellings and a manufactured home park. There are also several nonresidential uses including trade contracting and a public utility substation as illustrated in Exhibit "B".





**EXISTING ZONING:** The subject site reflects three zoning categories as illustrated on Exhibit "A".

**R6A:** This district is designed for a mix of single- and multi-family dwellings, including the use of mobile homes.

**RR:** Rural Residential District is designed for traditionally rural use with lots of 20,000 square feet or above. The principal use of the land is for low-density residential and agricultural purposes. These districts are intended to ensure that residential development not having access to public water supplies and dependent upon septic tanks for sewage disposal will occur at a sufficiently low density to provide a healthful environment. **R-10:** Residential District is designed primarily for single-family dwellings on medium-sized lots with area of 10,000 square feet or above.

A portion of the properties was initially zoned M(P) as part of the Area 11 initial zoning on January 7, 1977. The remaining portion of the properties was initially zoned R6A, RR, and R10 as a part of Spring Lake's Initial Zoning as illustrated by Exhibit "A".

**OTHER SITE CHARACTERISTICS:** The properties are not located within the watershed but are located in the Special Flood Hazard Area. Site plan appears to show floodplain correctly and applicant is proposing the development outside the one-year floodplain as depicted on the subdivision plan. Some hydric and hydric inclusion soils occur on northern portions of the property, as shown in Exhibit "C".

**DEVELOPMENT REVIEW:** REID 0502126280000 was created by deed in 1972 (Deed Bk. 2331, Pg. 407). REID 0502222745000 was created by plat in 1987 (Plat Bk. 63, Pg. 64). REID 0502129021000 was created by deed in 1986 (Deed Bk. 3205, Pg. 550). A subdivision or manufactured home park review will be required.

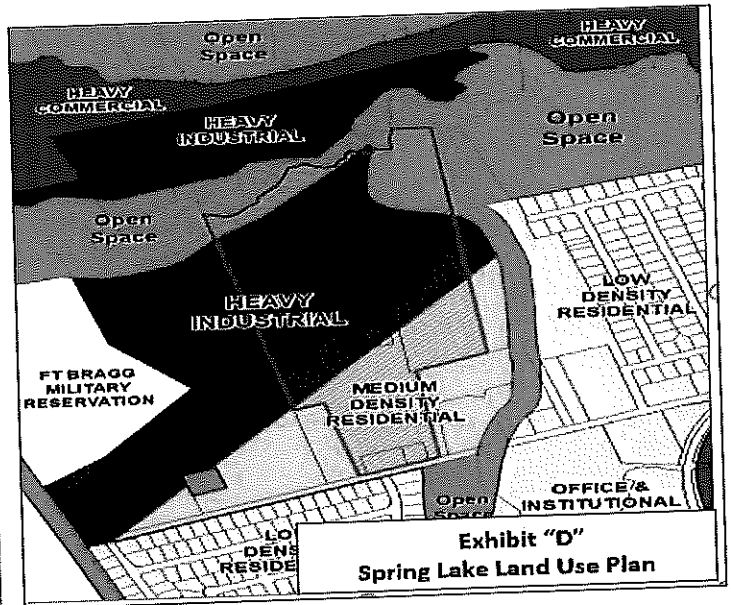
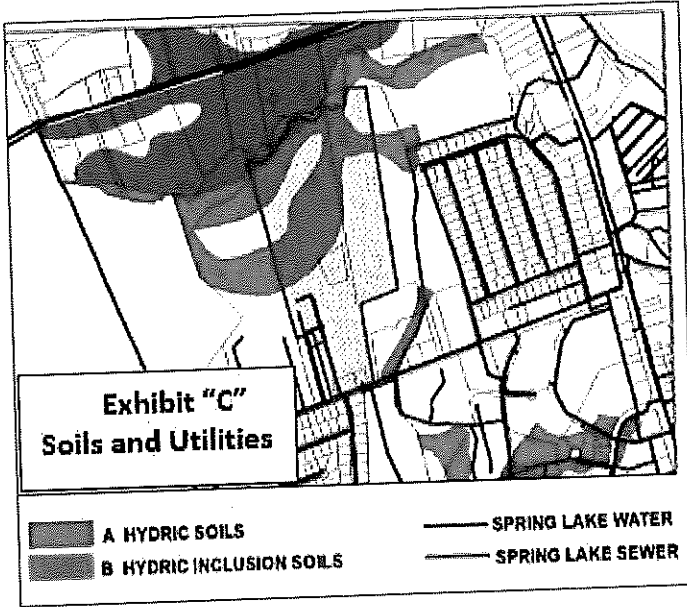
Spring Lake Water Operations has reviewed the plans and has the following comments:

1. Developments that disturb more than one acre and have 24% or more impervious surface classifies as a high-density development and is required to have onsite stormwater control measures (wet detention, stormwater wetlands, etc.) in accordance with the Spring Lake Code of Ordinances – Chapter 40 Article XII – Post Construction Stormwater.
2. We have not received any impervious surface calculations and the plans do not show any stormwater control measures.
3. Spring Lake Water Resources has not met with the developer for this project other than to provide information on water/sewer availability (Nov – Dec 2020).

**DIMENSIONAL PROVISIONS FOR REQUESTED DISTRICT:**

| Minimum Standard   | R6A/RR (Existing Zoning)    | R6A                 | R6A/CZ(Proposed)*                          |
|--------------------|-----------------------------|---------------------|--|
| Front Yard Setback | 25 feet/30 feet             | 25 feet             | 25 feet                                    |
| Side Yard Setback  | 10 feet (one story)/15 feet | 10 feet (one story) | 15 feet (one story)<br>17 feet (two story) |
| Rear Yard Setback  | 15 feet /35 feet            | 15 feet             | 15 feet                                    |
| Corner Lot         | 15 feet/30 feet             | 15 feet             | 25 feet                                    |
| Lot Area           | 6,000 sq. ft./20,000 sq.ft. | 6,000 sq. ft.       | 6,000 sq. ft.                              |
| Lot Width          | 60 feet/100 feet            | 60 feet             | 60 feet                                    |





**COMPREHENSIVE PLAN:** This site falls within the Spring Lake Land Use Plan (adopted 2002). The site is divided between two land use classifications, Medium Density Residential and Heavy Industrial as illustrated in Exhibit "D". The Medium Density designation calls for associated zoning districts of R6, R6A, R5A. Most of the requested area falls within the Heavy Industrial area. The proposed subdivision plan shows most of the requested area will be left undeveloped, however a portion of the subdivision also falls within the Heavy Industrial area when comparing both Exhibits "D" and subdivision Proposal Sheet 5 of 5. **Request is inconsistent with the adopted land use plan.**

**IMPACTS ON LOCAL INFRASTRUCTURE AND/OR FACILITIES**

**UTILITIES:** The properties are served by Spring Lake water and sewer. The properties are not located within a water/sewer district. Exhibit "C" illustrates the location of water and sewer lines.

**TRAFFIC:** The subject properties sit on Odell Road which is identified as a thoroughfare needing improvement in the Metropolitan Transportation Plan. There are no construction projects planned, and the subject properties will have no impact on the Transportation Improvement Plan. The Average Daily Traffic Count (2016) on Odell Road is 2,600.

**SCHOOLS CAPACITY/ENROLLMENT:** The school attendance zones affected by the proposed residential development are shown below.

| School           | Capacity | Enrollment |
|------------------|----------|------------|
| Manchester Elem  | 340      | 319        |
| Spring Lake Mid  | 700      | 439        |
| Pine Forest High | 1750     | 1483       |

**ECONOMIC DEVELOPMENT:** No concerns or objections were identified.

**EMERGENCY SERVICES:** No concerns or objections were identified.

**RLUAC:** Following an examination of the REVISED site plan materials by the RLUAC staff and Board of Directors (PINs: 0502126280000, 0502129021000, & 0502222745000), and recognizing that their findings are non-binding on Cumberland County, the RLUAC Board of Directors finds that:

The initial December 18, 2020 review found portions or all of the three parcels listed for this case identified as either Critical and/or Important to Conserve on the Joint Land Use Study maps due to their location within the following areas mapped during the 2018 Fort Bragg Joint Land Use Study:

- Pope Airfield Accident Potential Zone 1
- Pope Airfield 65+ dB Aviation Noise Contour and,
- High Endangered/Threatened Species – Biodiversity and Wildlife Habitat Rating +7, and

The newly revised site plan with conditions has addressed our primary concerns regarding military and conservation related impacts which initially resulted in the Critical or Important to Conserve designation. However, all three properties still remain within the military Airfield Imaginary area. RLUAC encourages the developer to refrain from making any future requests for telecom towers, since they might prove to be a navigation hazard for military pilots in the future (refer to Exhibit "B" to show the location of Pope Airfield in relation to Project Site outlined in Red).

Due to the proximity of known red-cockaded woodpecker clusters, RLUAC encourages the petitioners to have this property surveyed by personnel experienced in management and monitoring of the species prior to the removal of any mature pine trees. The protocol can be obtained at: [https://www.fws.gov/ncsandhills/pine\\_tree\\_removal.html](https://www.fws.gov/ncsandhills/pine_tree_removal.html) The results of this survey can be sent to the US Fish and Wildlife Service office located in Raleigh, NC, ATTN: John Hammond, for review.

**SPECIAL DISTRICTS:** The property is not located within the Airport Overlay District, but it is located within the five-mile Ft. Bragg military base area.

**CONDITIONS OF APPROVAL:** As the rezoning request is for Conditional Zoning, Exhibit "F" includes conditions that the property must meet through an approved site plan, site development, and use of the property should this request be approved. Additionally, the applicant is volunteering conditions to help mitigate any concerns with the development proposal.

**CODE DEVIATIONS:** To the best of the staff and applicant's knowledge, there are no deviations to the code in this design.

#### STAFF RECOMMENDATION

In Case P21-38, the Planning & Inspections Department staff **recommends approval** of the rezoning request from R6A Residential, RR Rural Residential, and R10 Residential to R6A Residential District/Conditional Residential for up to 120 Lots Zero Lot Line Subdivision and finds:

- The approval is an amendment to the adopted, current Spring Lake Area Land Use Plan (2002); and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request.
- The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: Subdivision Plan shows the entire development proposal outside the Accident Zone APZ1, and only a small portion of the site proposes lots within the Important Land Protection based on the RULAC JLUC 2018 study.
- Rezoning approval is reasonable and in the public interest because the conditional zoning district requested provide conditions to keep the development in harmony with surrounding zoning and existing land uses.

Attachments:

Notification Mailing List  
Zoning Application

**EXHIBIT "E" (Sheets C1-5)**

**SUBDIVISION PLAN**

(Full scale subdivision plan is available in the office of the Current Planning Division of the Planning & Inspections Department.)

**D** **DAVIDSON AND ASSOCIATES**  
**PLANNING AND DESIGN SERVICES, INC.**  
 5725 COLUMBIA ROAD  
 SUITE 200  
 RICHMOND, VA 23220  
 (813) 496-8798 PHONE  
 (813) 496-8798 FAX  
 WWW.DAVIDSONANDASSOCIATES.COM

**CAELIN FARMS SUBDIVISION**  
**CONDITIONAL ZONING**  
**ODELL DRIVE, NORTH CAROLINA**  
 CONDITIONAL ZONING SITE PLAN

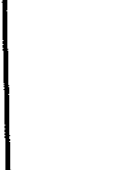
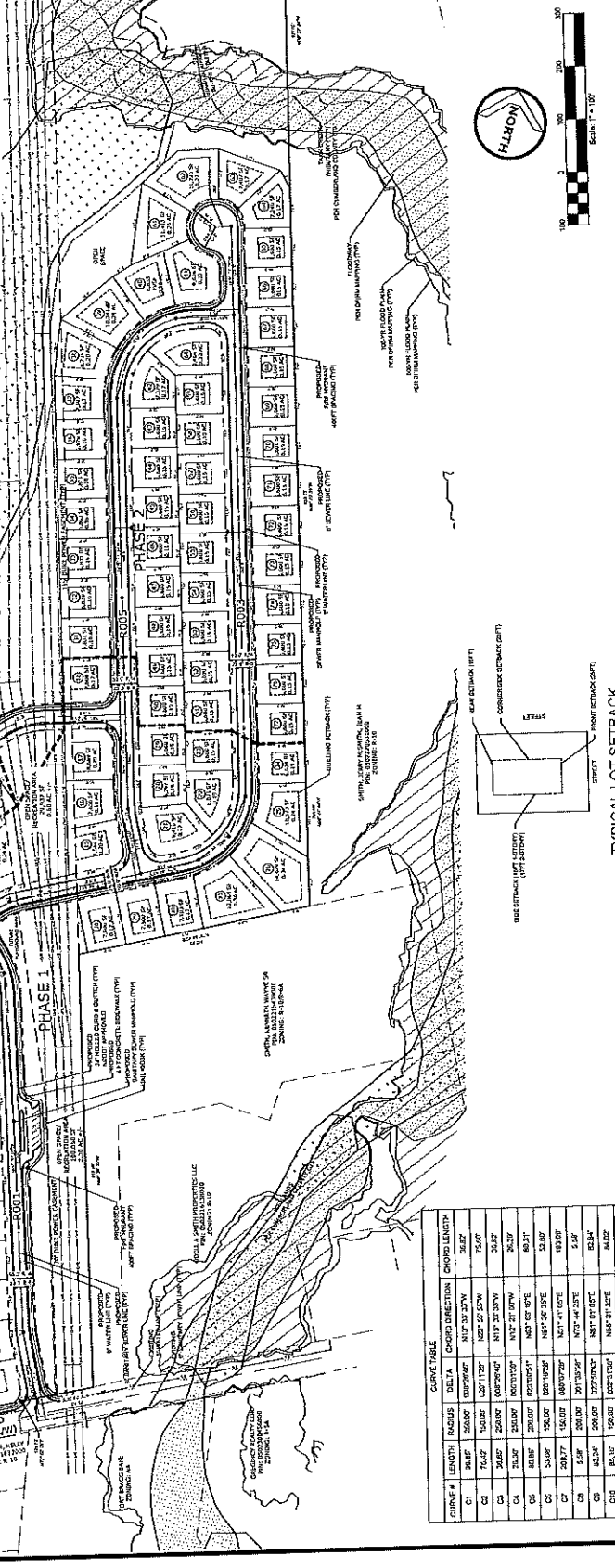
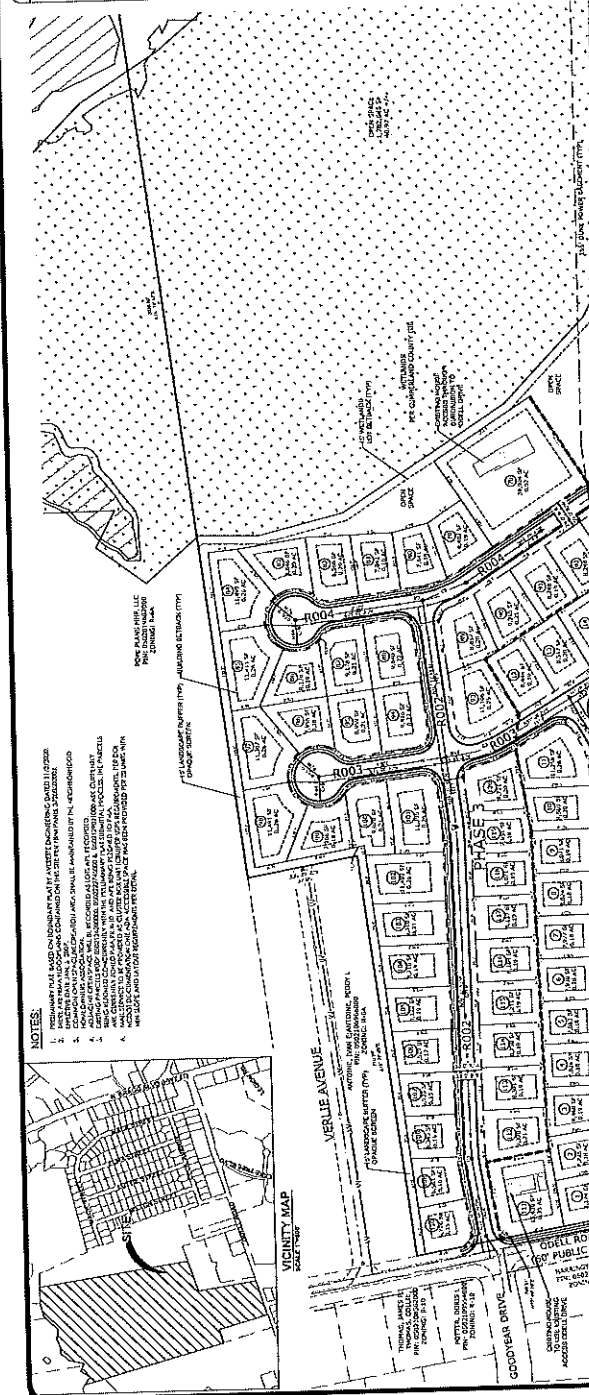
**AGENCY NOT FOR CONSTRUCTION**

|                 |          |
|-----------------|----------|
| DATE:           | JAN 2010 |
| PROJECT NUMBER: | 2320-05  |
| CI of 5         |          |
| DESIGNED BY:    | MTB      |
| DRAWN BY:       | MTB      |

**FIELD DATA**  
 SURVEYED AND DEVELOPMENT INC.  
 10000 W. 10TH AVENUE, SUITE 200  
 DENVER, CO 80202  
 (303) 755-1100  
 WWW.SURVEYEDANDDEVELOPMENT.COM

**DATE OF SURVEY:** 08/11/09  
**DATE OF PLAN:** 01/14/10  
**PROJECT NUMBER:** 2320-05  
**PROJECT NAME:** CAELIN FARMS SUBDIVISION  
**OWNER:** TRINITY REAL ESTATE DEVELOPMENT, LLC  
**PREPARED FOR:** TRINITY REAL ESTATE DEVELOPMENT, LLC  
**PREPARED BY:** DAVIDSON AND ASSOCIATES, INC.

**GENERAL NOTES:**  
 1. THIS PLAN IS A PRELIMINARY PLAN AND IS SUBJECT TO THE APPROVAL OF THE LOCAL GOVERNMENT.  
 2. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL DESIGN AND CONSTRUCTION OF THE PROJECT.  
 3. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL ZONING AND PERMITTING OF THE PROJECT.  
 4. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL UTILITY AND SERVICE CONNECTIONS FOR THE PROJECT.  
 5. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL EROSION CONTROL AND STABILIZATION MEASURES FOR THE PROJECT.  
 6. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL LANDSCAPE ARCHITECTURE AND PLANTING FOR THE PROJECT.  
 7. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL SIGNAGE AND MARKING FOR THE PROJECT.  
 8. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL TRAFFIC CALMING AND SLOWDOWN MEASURES FOR THE PROJECT.  
 9. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL LIGHTING AND ILLUMINATION FOR THE PROJECT.  
 10. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL SECURITY AND ACCESS CONTROL FOR THE PROJECT.  
 11. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL MAINTENANCE AND REPAIRS FOR THE PROJECT.  
 12. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL MONITORING AND EVALUATION FOR THE PROJECT.  
 13. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL REPORTING AND DOCUMENTATION FOR THE PROJECT.  
 14. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL COMMUNITY ENGAGEMENT AND OUTREACH FOR THE PROJECT.  
 15. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL PUBLIC HEARING AND COMMENT PERIOD FOR THE PROJECT.  
 16. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL APPEAL AND REVIEW FOR THE PROJECT.  
 17. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL LEGAL AND CONTRACT REVIEW FOR THE PROJECT.  
 18. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL FINANCIAL AND BUDGET REVIEW FOR THE PROJECT.  
 19. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL RISK ASSESSMENT AND MITIGATION FOR THE PROJECT.  
 20. THE LOCAL GOVERNMENT SHALL BE RESPONSIBLE FOR THE FINAL SUSTAINABILITY AND GREEN BUILDING MEASURES FOR THE PROJECT.



**CURVE TABLE**

| CURVE # | LENGTH | RADIUS | DELTA      | CURVE DIRECTION | CHORD LENGTH |
|---------|--------|--------|------------|-----------------|--------------|
| C1      | 186.0  | 250.00 | 007°12'00" | S17°22'20"W     | 250.00       |
| C2      | 16.42  | 150.00 | 007°12'00" | N07°02'20"W     | 25.00        |
| C3      | 24.85  | 250.00 | 007°12'00" | N17°02'20"W     | 25.00        |
| C4      | 40.10  | 250.00 | 007°12'00" | N27°02'20"W     | 25.00        |
| C5      | 40.10  | 250.00 | 007°12'00" | N37°02'20"W     | 25.00        |
| C6      | 53.08  | 250.00 | 007°12'00" | N47°02'20"W     | 25.00        |
| C7      | 53.08  | 250.00 | 007°12'00" | N57°02'20"W     | 25.00        |
| C8      | 53.08  | 250.00 | 007°12'00" | N67°02'20"W     | 25.00        |
| C9      | 53.08  | 250.00 | 007°12'00" | N77°02'20"W     | 25.00        |
| C10     | 53.08  | 250.00 | 007°12'00" | N87°02'20"W     | 25.00        |
| C11     | 53.08  | 250.00 | 007°12'00" | N97°02'20"W     | 25.00        |
| C12     | 236.67 | 500.00 | 007°12'00" | N08°37'11"E     | 236.67       |

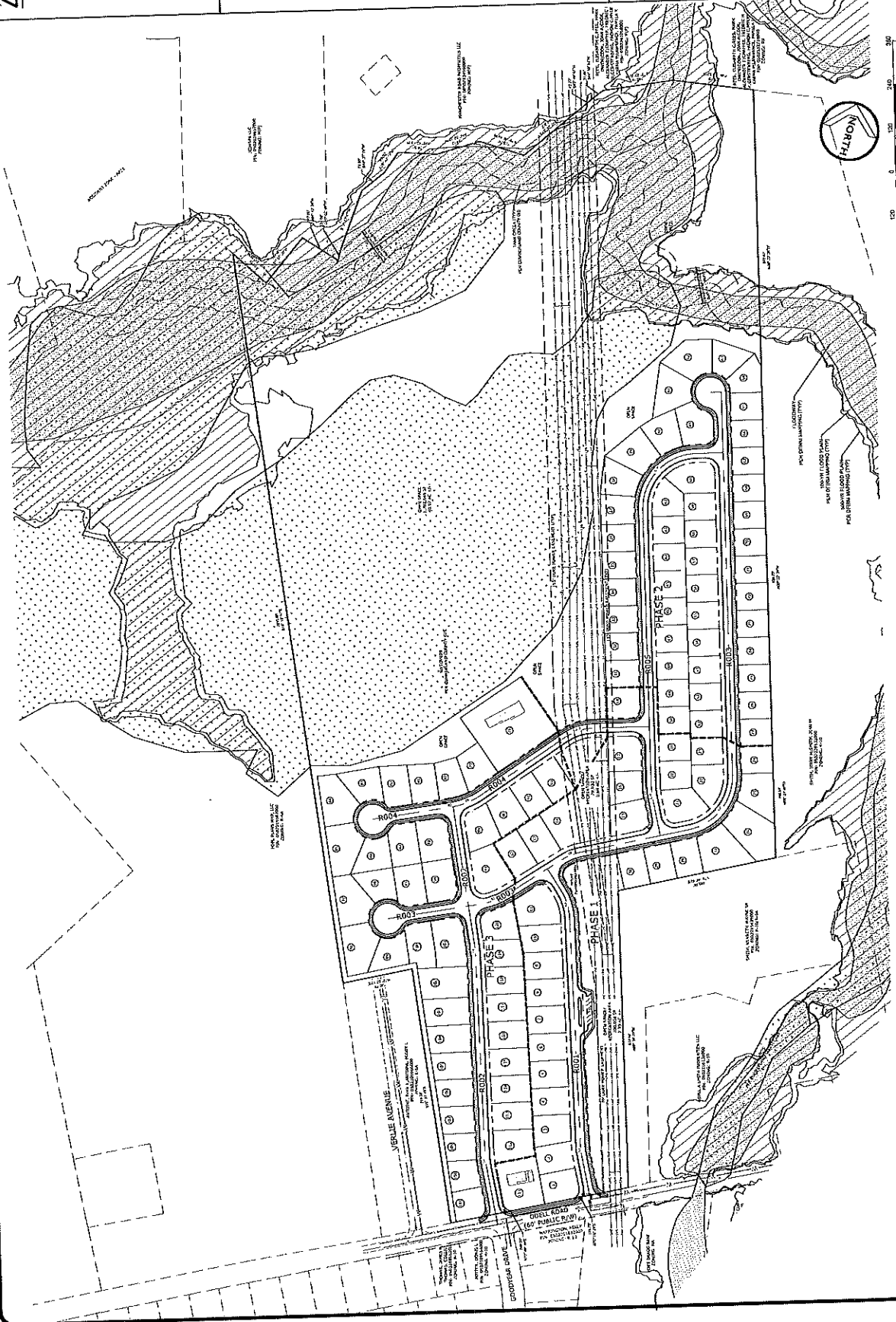
THIS DOCUMENT IS THE PROPERTY OF DAVIDSON AND ASSOCIATES, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF DAVIDSON AND ASSOCIATES, INC.

**D** HARTMAN AND DESIGN SERVICES, INC.  
 6722 CARBONITE ROAD  
 WYOMING, WY 82070  
 307.494.7530  
 info@hartmandesign.com

CONDITIONAL ZONING SITE PLAN - OVERALL PROPERTY  
 ODELL DRIVE  
 SPRING LAKE, NORTH CAROLINA  
**CAELIN FARMS SUBDIVISION  
 CONDITIONAL ZONING**

|                                |                  |
|--------------------------------|------------------|
| AGENCY<br>NOT FOR CONSTRUCTION |                  |
| Scale: 1" = 40'                | Drawn by: MTD    |
| Sheet: 1 of 1                  | Checked by: MTD  |
| C2 of 5                        | Reviewed by: MTD |
| Project Number: 2009-04        | Date: JAN 2010   |

REVISIONS

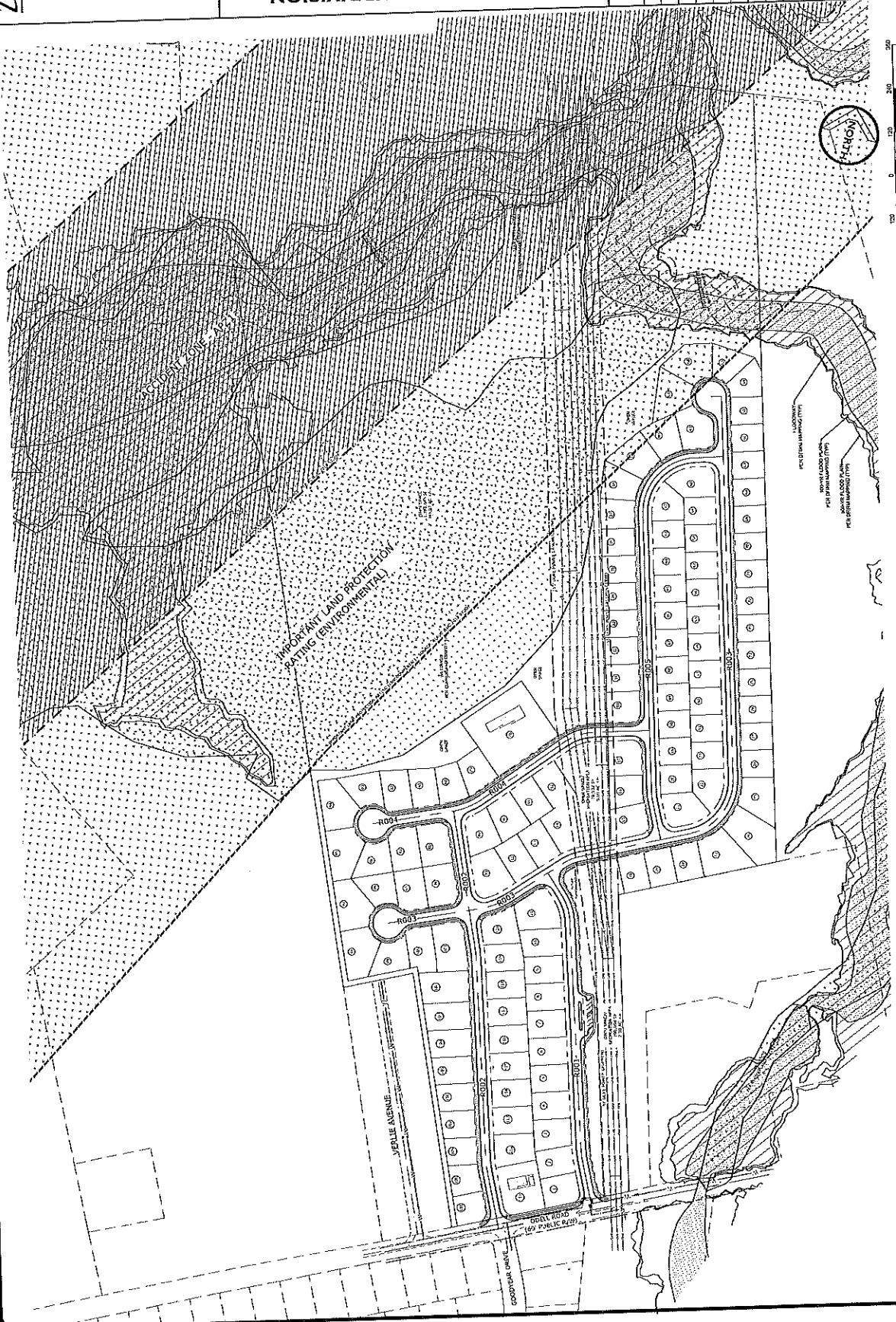


IN: C:\PROJECTS\2009-04\2009-04.dwg On: 1/15/2010 10:52 AM User: jh... Plot Size: 11.00 x 17.00 Inches Plot Scale: 1" = 40' Plot Date: 1/15/2010 10:52 AM

**D** PARTING AND DESIGN SERVICES, INC.  
 6723 COLUMBIAN ROAD 27203  
 FRY, NC 27534 phone  
 919.850.0000

**CAELIN FARMS SUBDIVISION  
 CONDITIONAL ZONING  
 ODELL DRIVE  
 SPRING LAKE, NORTH CAROLINA  
 ENVIRONMENTAL AREAS  
 ACCIDENT ZONE AREAS**

|  |                |
|--|----------------|
| <b>AGENCY<br/>NOT FOR CONSTRUCTION</b> |                |
| Drawn by: MFB                          | Date: JAN 2023 |
| Designed by: MFB                       |                |
| Reviewed by: MFB                       |                |
| <b>C3.5</b>                            |                |
| Project Number: 2200-24                |                |



NOTES:  
 ENVIRONMENTAL & ACCIDENT AREAS SHOWN PER MAJIC 3/20/2018 STUDY









**Exhibit "F"**  
**Conditions**

**EXHIBIT F**  
**CONDITIONAL ZONING TERMS**

**R6A/CZ RESIDENTIAL/CONDITIONAL ZONING DISTRICT**

Draft

**Ordinance Related Conditions**

*For up to a 120 Lot Zero Lot Line Subdivision*

**Applicant Initiated Conditions:**

1. The proposed development shall not impact the RLUAC Accident Potential Zone.
2. The portion of the development that is within the 60-65dB noise area contour shall provide additional insulation (noise dampening) in the proposed residences to mitigate the noise from military operations. Natural buffers shall be left in place to assist with noise dampening. Additional recommendations per Building Inspections shall be required to meet NC Building Code requirements.
3. All lots lines shall provide a 15 ft buffer along all wetland boundaries.
4. Existing Mobile Homes shall be removed on the site with the development of the parcels and no additional mobile homes shall be added to the parcels. All Mobile Homes will be removed prior to the development of Phase 3.
5. The project density shall meet the requirements of the Medium Density (6-15 Units/Ac) Town of Spring Lake Land Use Plan. The proposed Development density will not exceed 4 Units/Ac.
6. Wetlands/streams shall be designated as open space and shall not be impacted by development. All wetlands/streams will be recorded as open space with the final plat.
7. A 15' landscape buffer shall be provided along the western boundary of the project to provide an opaque screen (Berm/Fence) between the new development and the existing mobile home park.
8. The property shall be surveyed by personnel experienced management and monitoring of the red-cockaded woodpecker prior to the removal of any mature pine trees. Survey protocol shall follow procedures detailed at [https://www.fws.gov/ncsandhills/pine\\_tree\\_removal.html](https://www.fws.gov/ncsandhills/pine_tree_removal.html). The results of the survey shall be sent to the US Fish and Wildlife Services Office located in Raleigh, NC.
9. Per state regulations the Land Use Plan shall be updated to reflect any use change as a result of a Conditional Zoning Case. The Land Use plan will be modified to show the new development encroachment area into the Heavy Industry Use as Medium Density Residential Use, and the Wetland/Low Lying areas as Open Space (to be undeveloped).

**Pre- Permit Related:**

1. The owner/developer(s) of this site must obtain detailed instructions from the County Current Planning Section in the Historic Courthouse at 130 Gillespie Street on provisions of the Town of Spring Lake Zoning and Subdivision Ordinances regarding the Preliminary Plat and Final Plat submittal requirements.
2. If any right-of-way dedication is required by NCDOT, a recorded plat referenced above shall identify any such right-of-way dedication and sight distance easements. (Sec. 2402, County Subdivision Ord.)
3. Prior to permit application, the developer must provide to the Code Enforcement Section documentation of NC Department of Environmental Quality Division of Energy, Mineral and Land Resources' (NCDEQ DEMLR) approval of the Sedimentation and Erosion control plan for this project. NCDEQ DEMLR requires a Sedimentation and Erosion control plan be submitted and approved 30 days prior to land disturbing activities if said land disturbing activity will exceed one acre.

*If a plan is not required, per 15ANCAC 04B.0105* "Person conducting land disturbing activity shall take all reasonable measures to protect public and private property from damage cause by such activities." Sedimentation and erosion control measures will need to be installed to protect adjacent properties. [Sec. 4-8(b)(6), County Code; originally under County jurisdiction relinquished to NCDEQ around 2000]

4. Authorization for wastewater system construction required before other permits to be issued. The County Health Department must approve sewer plans. Lots not served by public sewer systems are required to be large enough and of such physical character to comply with the Health Department's minimum standards. Site and soil evaluations must be conducted on the property by the County Environmental Health Department. A copy of the Health Department approval must be provided to Code Enforcement. (Note: All Health Department requirements must be met prior to issuance of final permits.) (NCGS § 130A-338 & Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

**Permit-Related:**

5. The developer must provide a site-specific address and tax parcel number at the time of building/zoning permit application. [Sec. 4-8(b)(2), County Code]
6. **Driveway Permit Required.** Construction of any new connection or alteration of any existing connection may require an approved Driveway Permit. For additional information contact the NC Department of Transportation's (NCDOT) Division 6/District 2 office.

Change of use of subject properties shall require an approved Driveway Permit. Permits MUST be secured prior to the change or alteration of existing or proposed property use. Failure to secure required permits prior to construction or change in property usage may result in the removal of the driveway or street connections at the property owner's expense. For additional information contact the Division 6/District 2 office.

In the event that a structure (house) is built by a contractor for commercial gain and/or if property changes ownership from existing owner to builder, an approved Driveway Permit must be secured.

**Note: In the event the NCDOT driveway permit process alters the site plan in any manner, three copies of a revised site plan (and revision fee) must be submitted for staff review and approved prior to permit application.**

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**  
[§ 136-18(29), NCGS]

7. New development where the developer will disturb or intends to disturb more than one acre of land is subject to the Post-Construction Stormwater Management Permitting Program (Phase II Stormwater Management

Requirements) administered by the Department of Energy, Minerals and Land Resources, NC Department of Environmental Quality (DEMLR NCDEQ). If one acre or more of land is to be disturbed, a copy of the State's *Post-Construction Permit* must be provided to County Code Enforcement prior to the issuance of the Certificate of Occupancy. (Note: If any retention/detention basins are required for state approval of this plan, three copies of a revised plan (and \$25/\$50 revision fee) must be submitted and approved by Planning & Inspections.) (Sec. 2306.D, County Subdivision Ord. & 2006-246, NC Session Law)

8. The County Health Department must approve water plans if not connected to central water system. Property not served by public water system is required to be large enough and of such physical character to comply with the Health Department's minimum standards. A copy of the Health Department approval must be provided to Code Enforcement. (Note: All Health Department requirements must be met prior to issuance of final permits.) (Sec. 2306 A, County Subdivision Ord. & Sec. 1101.E, County Zoning Ord.)

**Site-Related:**

9. All uses, dimensions, setbacks and other related provisions of the Town of Spring Lake Zoning and Subdivision Ordinances for the R6A/CZ Conditional Zoning must be complied with, as applicable, and as appearing with the site plan (C1-5) appearing in Exhibit "E". Any conditions set forth herein this ordinance, including Exhibit "A", shall supersede the Zoning Code. If not specifically addressed within this Ordinance, all requirements of the Zoning and Subdivision Codes shall be met.
10. This conditional approval is not approval of any freestanding signs. Attached signage for this development must be in accordance with the applicable sign regulations as set forth in the Town of Spring Lakes Zoning Ordinance and that the proper permit(s) must be obtained prior to the installation of any permanent signs on the property. (Note: This conditional approval is not approval of the size, shape, or location of any signs.)
11. For any new development, an adequate drainage system must be installed by the developer in accordance with the NC Department of Environmental Quality (NCDEQ) *Manual on Best Management Practices* and all drainage ways must be kept clean and free of debris. (Section 2307.A, County Subdivision Ord.)
12. For new development, all utilities, except for 25kv or greater electrical lines, must be located underground.
13. In the event a stormwater utility structure is required by the NC Department of Environmental Quality (NCDEQ), the owner/developer must secure the structure with a four-foot high fence with a lockable gate, and is required to maintain the detention/retention basin, keeping it clear of debris and taking measures for the prevention of insect and rodent infestation.
14. This review does not constitute a "subdivision" approval by NC Department of Transportation (NCDOT). The NC Department of Transportation's (NCDOT) approval of the driveway plans is required and any street improvements are required to be constructed to the NCDOT standards for secondary roads. (Sec. 2304B, County Subdivision Ord. & NCGS §136-102.6). If buildings permits are issued by Cumberland County prior to NCDOT acceptance of the streets, the developer is responsible that roads shall meet conditions suitable for safe passage for vehicles used by County inspection personnel. The County Building Official may delay inspections if determined that road conditions do not provide safe passage for vehicles used by County inspectors.
15. Turn lanes may be required by the NC Department of Transportation (NCDOT). [Art. XIV, County Zoning Ord. & NCGS §136-18(5) & §136-93]

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

16. The subdivision plan must provide an internal access any the stormwater facility serving the site, to allow the HOA to have the ability to access the stormwater facility.

**Plat-Related:**

17. The developer is required to submit to the Current Planning Section either one set of a hard copy or one set of a pdf email copy to Telly Shinas, [tshinas@co.cumberland.nc.us](mailto:tshinas@co.cumberland.nc.us) of the following documents :
- a. One copy of proposed covenants, by-laws and articles of incorporation for the proposed development designating responsibility for by the owners' association for the development;
  - b. One copy of the deeds proposed for recordation conveying all common area to the proposed owners association;
  - c. One copy of any proposed supplemental covenants if the proposed development is to be submitted for final approval in phases; and
  - d. One copy of each proposed final plat prior to the submission for final approval – can be a phase of the approved development or the complete development as approved.

These documents must be approved by the Attorney Town of Spring Lake Town Attorney prior to the sale of or submission for final plat approval of any lot or unit within this development. (Spring Lake Subdivision Ord.)

**Note: A copy of the recorded deed or deeds conveying all common area to the owners' association as shown on each plat must be provided to the Current Planning prior to submission for approval for recordation of the next succeeding phase/section of this development.**

18. The street name signs, in compliance with the County Street Sign Specifications, must be installed prior to final plat approval. The developer should contact Location Services for inquiries regarding the County's policy for street sign installation or, if the sign is commissioned from a private source, to schedule an inspection of the street sign(s). The Current Planning Section must receive notice of agreement with the Location Services Section for sign installation or of satisfactory inspection prior to the approval of the final plat. Sec. 4-171, County Code)
19. “ \_\_\_\_\_ ” must be labeled as “ \_\_\_\_\_ ” on the final plat. (Section 2203.C & D, Town of Spring Lake Subdivision Ord.)
20. The developer is required to provide an inspection of the private street(s) by a registered engineer or registered surveyor upon completion of construction of the private street(s) and related facilities, including drainage ways. A statement, affixed with the engineer/surveyor's seal, certifying that all private street(s) and related facilities are designed and constructed in accordance with the requirements of Section 2304 C, Private Street, the Town of Spring Lake Ordinance, and that all such facilities are adequate to serve the development, must be submitted to the Current Planning Section prior to final plat approval or release of any construction guarantees as allowed under Section 2502, Final Plat – Guarantees of Improvements, County Subdivision and Development Ordinance.
21. The builder/developer must provide the buildable envelopes on the final plat: providing a five-foot maintenance easement along each side of all common internal lines with all other applicable setbacks being provided for; or at the time of permit application, the individual plot plans must be approved by the Current Planning Section prior to issuance of any permits.
22. Any/All easements must be reflected on the final plat and labeled as to type of easement, reference number for document creating the easement, and the name of the agency, individual, etc. who holds the easement.
23. A 10' x 70' sight distance easement is required at the intersection of all internal road intersections. This easement shall be illustrated on the final plat, unless another standard is required by NCDOT.
24. The NC Department of Transportation (NCDOT) stamp must be affixed to the final plat prior to submission for final plat approval by the Current Planning Section.

**Note: The property owner most likely will be required to provide a copy of a recorded plat and deed conveying to the NCDOT that portion of the subject property located within or to be located within the right-of-way at the time of driveway permit application.**

25. The notarized signature(s) of all current tax record owner(s) and notary certifications appear on the final plat when submitted for final approval. (Section 2503 D, Certificate of Ownership and Dedication, Town of Spring Lake Subdivision and Development Ordinance).
26. The developer is reminded that the improvements must be in place or that final plat approval will only be granted in accordance with Section 2502 B, C, or D, Final Plat – Guarantees of Improvements, Town of Spring Lake County Subdivision and Development Ordinance. (Note: Once the improvements are in place, the developer is responsible for contacting Jeff Barnhill to schedule an inspection of the improvements.)
27. The developer's engineer must submit to Cumberland County Planning and Inspection Department a sealed document certifying that the streets have been constructed to the NC Department of Transportation (NCDOT) standards for secondary roads.
28. The final plat must be submitted to the Current Planning Section for review and approval for recording with the County Register of Deeds, and the plat must be recorded prior to any permit application for any structure and/or prior to the sale of any lot or unit within this development.
29. The developer should be aware that any addition and/or revision to this plat may require an additional review and approval by the Planning & Inspections Department prior to submission for final plat approval of any portion of this development.

**Plat-Required Statements:**

30. The final plat must reflect the following statements required for the private street(s) (Section 2504 A, Disclosure of Private Street Status, County Subdivision and Development Ordinance):
  - a. "Cumberland County, the Town of Spring Lake and other public agencies have no enforcement responsibility regarding maintenance or encroachments into the private street right-of-way as shown on this plat. Private streets are for the use of all owners of property within this subdivision/development and their guests; and any governmental agency or personnel or equipment thereof who shall be granted perpetual access over all such private streets to accomplish or fulfill any service or function for which the agency is responsible, and that any agency or organization designated by a governmental agency to perform a designated function shall also retain access the same as any government agency. Any governmental agency exercising its access rights shall have the same rights and only such liabilities as it would have on any public lands, rights-of-way, or easements."
  - b. "All current and future owners of these tract be aware that maintenance for the Class "C" private street(s) shown on a plat are the responsibility of the owners of the tracts served by and having access to the Class "C" private street(s)."
  - c. "All current and future owners of these tracts be aware that future division of these properties shall not be permitted under current standards without the upgrading of the Class "B" / "C" private street(s)."
31. Because the streets in this development have been approved as "public" streets and the streets do not yet qualify for acceptance by the NC Department of Transportation to the State system for maintenance purposes, the following statement is required to be included on the final plat (Section 2504 E, County Subdivision and Development Ordinance):

"The streets shown on this plat though labeled as "public" – unless otherwise noted – have not been accepted by the NC Department of Transportation as of the date of this recording. Until such time that the streets are accepted and formally added to the State

system, maintenance and liability of the streets are the responsibility of the developer and any future lot owner(s).”

33. Developer shall include a disclosure statement within the Code, Covenants and Restrictions that the homes are within vicinity of a military airfield and military base.

**Advisories:**

32. The applicant is advised to consult an expert on wetlands before proceeding with any development.
33. There may be wetlands located in the project area that are subject to the permit requirements of Section 404 of the Clean Water Act. To avoid a violation of federal and/or state law, it is recommended the developer contact the Office of the Army Corp of Engineers or hire an environmental consultant to identify and delineate any wetlands in the project area prior to construction. A Section 404 permit will be required if the applicant needs to fill wetlands and the permit must be obtained prior to any construction on this site.
34. Any revision or addition to this plan necessitates re-submission for review and approval prior to the commencement of the change.
35. The owner/developer is responsible for ensuring easements which may exist on the subject property are accounted for, not encumbered and that no part of this development is violating the rights of the easement holder.
36. The US Postal Service most likely will require this development to have centralized cluster boxes for postal service to each lot or unit. The developer is advised contact the US Postal Growth Coordinator for the Mid-Carolinas District to determine the appropriate location for the cluster boxes. If the cluster box location requires changes to the subdivision or site plan, a revised preliminary/plan must be submitted to the Planning & Inspections Department for review and approval.
37. This conditional approval is not to be construed as all-encompassing of the applicable rules, regulations, etc. which must be complied with for any development. Other regulations, such as building, environmental, health and so forth, may govern the specific development. The developer is the responsible party to ensure full compliance with all applicable Federal, State, and local regulations.
38. The developer(s) and any future lot owners are responsible for the maintenance and upkeep of the streets until such time the streets are added to the State system by the NC Department of Transportation (NCDOT) for maintenance purposes. The developer is advised to give notice of the street status to any future lot owners in the event the lots are conveyed prior to the NCDOT's acceptance.

**Other Relevant Conditions:**

39. This conditional approval is contingent upon continued compliance with the Town of Spring Lake's Zoning and Subdivision Ordinances and the conditions set forth herein.

name  
ANTOINE, IVAN E;ANTOINE, PEGGY L  
HARRINGTON, KELLY  
JC345PA LLC  
MANCHESTER ROAD PROPERTIES LLC  
ODELL A SMITH PROPERTIES LLC  
POPE PLANS MHP, LLC  
POTTER, DORIS L  
REES, ELISABETH C;& MARK OWEN;COOK, JOAN A;& ALEXANDER E;CHAFFEE, FREDRIC  
SMITH, ELMA S  
SMITH, JERRY M;SMITH, JEAN M  
SMITH, KENNETH WAYNE SR  
THOMAS, JAMES P;THOMAS, COLLIE  
TOWN OF SPRING LAKE

address  
304 LOCHLAND CT  
2403 BRINKLEY DR  
345 DEER RUN RD  
PO DRAWER 1867  
400 ODELL RD  
4217 CHESAPEAKE N  
601 ODELL RD  
617 TEABERRY HILL RD  
500 THALIA RD  
PO BOX 722  
1084 ELLIOTT FARM RD  
603 ODELL RD  
PO BOX 617

citystatezip  
FAYETTEVILLE, NC 28311  
SPRING LAKE, NC 28390  
HOLLIDAYSBURG, PA 16648  
FAYETTEVILLE, NC 28302  
SPRING LAKE, NC 28390  
BIRMINGHAM, AL 35242  
SPRING LAKE, NC 28390  
BOONE, NC 28607  
SPRING LAKE, NC 28390  
ANGIER, NC 27501  
FAYETTEVILLE, NC 28311  
SPRING LAKE, NC 28390  
SPRING LAKE, NC 28390

1st class



143

| owner_name  | address               | citystatezip           |
|---|-----------------------|------------------------|
| ADAMS, DARIUS;ADAMS, ANNA                               | 1413 LOTTIE ST        | SPRING LAKE, NC 28390  |
| ALDRICH, NANCY JANE                                     | 1609 MACK ST          | SPRING LAKE, NC 28390  |
| ALLEYNE, SYBIL L HEIRS                                  | 2405 ROBESON ST       | FAYETTEVILLE, NC 28305 |
| AMERICAN LEGION POST 230                                | 1654 VETERANS DR      | SPRING LAKE, NC 28390  |
| ANDERSON, LUCRETIA                                      | 609 REGGIE CT         | SPRING LAKE, NC 28390  |
| ATKINS, DOROTHY M; & MICHAEL TROY                       | 5986 ALLERTON DR      | ROCKFORD, IL 61114     |
| BARRETT, CLEMENTINE                                     | 701 REGINA DR         | SPRING LAKE, NC 28390  |
| BERRY, ERNEST R JR;BERRY, GEAMERE S                     | 5413 SUNNYBRIGHT LN   | HOPE MILLS, NC 28348   |
| .BETHEL A M E ZION CHURCH                               | 255 VASS RD           | SPRING LAKE, NC 28390  |
| .BOLDEN, BARBARA  | 1411 LOTTIE ST        | SPRING LAKE, NC 28390  |
| .BONDS, JUANITA   | 1423 MILTON ST        | SPRING LAKE, NC 28390  |
| BORDERS, DELOIS   | 1409 MILTON ST        | SPRING LAKE, NC 28390  |
| BOYD, HERSHEL L;BOYD, ELEANOR F                         | 198 MORRIS DR         | SPRING LAKE, NC 28390  |
| BRINER, ZINA  | 601 FREDIA CT         | SPRING LAKE, NC 28390  |
| BROWN, WILLIAM H III;BROWN, WIFE                        | PO BOX 125            | SPRING LAKE, NC 28390  |
| BUCHANAN ROOFING & GUTTERING INC                        | 806 LILLINGTON HWY    | SPRING LAKE, NC 28390  |
| BYLO, DAVID W;BYLO, RUTH ANN                            | 2723 DALY AVE         | SPRING LAKE, NC 28390  |
| CABRERA, JOSE R.;CABRERA, DEYANIRA M.                   | 5410 WOODVIEW DR      | FAYETTEVILLE, NC 28314 |
| CANDELARIA, ANNA MARIA                                  | 620 GOODYEAR DR       | SPRING LAKE, NC 28390  |
| CAUDLE, MARY ODOM                                       | 440 W MANCHESTER RD   | SPRING LAKE, NC 28390  |
| CHADWICK, MILDRED A HEIRS                               | 605 ODELL RD          | SPRING LAKE, NC 28390  |
| CLARK, ETHEL T;HUS, DAVID L                             | 1425 MILTON ST        | SPRING LAKE, NC 28390  |
| COBB, JEANETTE MARIE MCIVER;NELLIE PAULINE MCIVER SPANN | 15901 UPTSALA CT      | WOODBIDGE, VA 22191    |
| COLEMAN, NATHANIEL P                                    | 227 CECIL AVE         | SPRING LAKE, NC 28390  |
| COOK, MARK OWEN;ELISABETH, COOK RESS                    | 617 TEABERRY HILLS RD | BOONE, NC 28607        |
| COOPER, RICHARD   | 536 TURNER RD         | NESMITH, SC 29580      |
| CORGAN, MARGUERITE                                      | 1119 BOWLING MOUNTAIN | STEM, NC 27581         |
| CUMBERLAND COUNTY                                       | PO BOX 449            | FAYETTEVILLE, NC 28302 |
| DAVIS, MONZELL;DAVIS, PATRICIA                          | PO BOX 841            | GRETNA, FL 32332       |
| DAVIS, SHIRLEY M  | 1410 MILTON ST        | SPRING LAKE, NC 28390  |
| DEANKINO, MICHAEL;DEANKINO, TAMARA                      | 1420 MILTON ST        | SPRING LAKE, NC 28390  |
| DEMARIS HOLDINGS LLC                                    | 2007 CORRINNA ST      | FAYETTEVILLE, NC 28301 |
| DOMINGUEZ, JOSE L                                       | 611 ODELL RD          | SPRING LAKE, NC 28390  |
| DREAMS & VISION REAL ESTATE LLC                         | 8813 LAKE HILL DR     | LORTON, VA 22079       |
| EDRINGTON, STEPHANIE;EDRINGTON, JEREMY                  | 915 ANARINE RD        | FAYETTEVILLE, NC 28303 |
| ESTEVEZ, ALMA D;ESTEVEZ, AURELIO                        | 310 ODELL RD          | SPRING LAKE, NC 28390  |
| FIVE PILLARS REAL ESTATE LLC                            | 12526 HEDGES RUN DR   | WOODBIDGE, VA 22192    |
| FLOYD, MARY F LEE;FLOYD, JOE                            | 217 FILLY LN          | RAEFORD, NC 28376      |
| FULLER, MABLE   | 1605 MACK ST          | SPRING LAKE, NC 28390  |
| GODBAY, DOROTHY B                                       | 117 HEARTHSTONE DR    | FAYETTEVILLE, NC 28314 |
| GRAVES, GEORGE A;GRAVES, WILLA                          | 702 REGGIE CT         | SPRING LAKE, NC 28390  |
| GREEN, EVELYN F   | 604 REGGIE CT         | SPRING LAKE, NC 28390  |
| 'GRUBB, ETHERIDGE E IV                                  | 85 CRYSTAL SPRING DR  | SANFORD, NC 27332      |
| GUARD, LIEN HA  | 1624 MACK ST          | SPRING LAKE, NC 28390  |
| HACKNEY, CHARLES EDWARD                                 | 612 GOODYEAR DR       | SPRING LAKE, NC 28390  |
| HALL, LONNIE D  | 300 N MAIN ST         | SPRING LAKE, NC 28390  |

2nd class

|  |                         |                        |
|--|-------------------------|------------------------|
| HARLAN, LESTER JR;HARLAN, LORETTA                        | 1426 MILTON ST          | SPRING LAKE, NC 28390  |
| HARRIS, LEVY;HARRIS, LUCILLE                             | 704 TANNERWELL AVE      | WAKE FOREST, NC 27587  |
| HARRIS, ROBERT   | 498 BROOKS MANGUM RD    | CAMERON, NC 28326      |
| HARVEST MOON PROPERTY SOLUTIONS, LLC                     | P O BOX 53724           | FAYETTEVILLE, NC 28305 |
| HEIN, PHILLIP;HEIN, REBECCA                              | 604 FREDA CT            | SPRING LAKE, NC 28390  |
| HOANG, HUONG   | 708 REGINA DR           | SPRING LAKE, NC 28390  |
| HOFFLER, JAMES L;HOFFLER, WIFE                           | 1417 MILTON ST          | SPRING LAKE, NC 28390  |
| HOGANS, NAPOLEON;HOGANS, SHEILA K                        | 1418 MILTON ST          | SPRING LAKE, NC 28390  |
| HOLDEN, ELMER J;HOLDEN, LINDA                            | 605 GOODYEAR DR         | SPRING LAKE, NC 28390  |
| HOLLINGSWORTH, OLLIE J                                   | 2162 CHIPPER ST         | FAYETTEVILLE, NC 28312 |
| HOLMES LAND & DEVELOPMENT LLC;HOLMES, GEORGE LEE         | 125 SAND CLAY RD        | SPRING LAKE, NC 28390  |
| JACKSON, DAVID   | 621 GOODYEAR DR         | SPRING LAKE, NC 28390  |
| JOHNSON, ROBERT EVERETT;JOHNSON, POK SON                 | 615 ODELL RD            | SPRING LAKE, NC 28390  |
| JONES, JEFFREY B   | 3004 CINDER BLUFF DR    | RALEIGH, NC 27603      |
| JONES, R B;JONES, WIFE                                   | 1428 MILTON ST          | SPRING LAKE, NC 28390  |
| KIM, YONG SOK;KIM, SUNG MI                               | 1413 MILTON ST          | SPRING LAKE, NC 28390  |
| KRAUTKRAMER, ROGER;KRAUTKRAMER, REBECCA ANN              | 414 MANCHESTER RD W     | SPRING LAKE, NC 28390  |
| LESSANE, AARON;LESSANE, IRISH C                          | 701 ODELL RD            | SPRING LAKE, NC 28390  |
| LEWIS, JOSEPH WAYNE                                      | 1419 LOTTIE ST          | SPRING LAKE, NC 28390  |
| LEWIS, MARY LIFE ESTATE                                  | 621 ODELL RD            | SPRING LAKE, NC 28390  |
| LIVINGSTON, TOM J JR;LIVINGSTON, CHARLENE S              | 1406 MILTON ST          | SPRING LAKE, NC 28390  |
| LOCKETT, CHESLEY N                                       | PO BOX 791              | SPRING LAKE, NC 28390  |
| LOGAN, ROBERT E;LOGAN, CAROLYN S                         | 612 REGINA DR           | SPRING LAKE, NC 28390  |
| LUCAS-MOORE, MARVA;LUCAS-MOORE, DONALD T MOORE           | 3014 HAMPTON RIDGE RD   | FAYETTEVILLE, NC 28311 |
| MACKIE, GLORIA S;MACKIE, TERRENCE Q                      | 619 GOODYEAR DR         | SPRING LAKE, NC 28390  |
| MALONE, HENRY C;MALONE, TOYO T                           | 222 CECIL AVE           | SPRING LAKE, NC 28390  |
| MANSELL, MARILYN K                                       | 1412 MILTON ST          | SPRING LAKE, NC 28390  |
| MARTIN, DESIREE GWENDOLYN                                | 300 N MAIN ST           | SPRING LAKE, NC 28390  |
| MAYS, DENNIS JAMES                                       | 624 GOODYEAR DR         | SPRING LAKE, NC 28390  |
| MCCARTHUR, SANDRA KAY                                    | 1411 MILTON ST          | SPRING LAKE, NC 28390  |
| MCFALL, FRANCIS R;MCFALL, JUDIT                          | 1625 MACK ST            | SPRING LAKE, NC 28390  |
| MCGLONE, WALTER A  | 609 GOODYEAR DR         | SPRING LAKE, NC 28390  |
| MCCLEAN, CHRISTOPHER R;MCCLEAN, BRENDA                   | 2565 RAVENHILL DR STE C | FAYETTEVILLE, NC 28303 |
| MCCLEOD, NORMA   | 1421 MILTON ST          | SPRING LAKE, NC 28390  |
| MCQUEEN, STANLEY B;MCQUEEN, PATR                         | 610 GOODYEAR DR         | SPRING LAKE, NC 28390  |
| MILLER, HENRY M;MILLER, WILLIE                           | 1616 MACK ST            | SPRING LAKE, NC 28390  |
| MOMOSEA, DANIEL W;MOMOSEA, KATIE                         | 1556 MACK ST            | SPRING LAKE, NC 28390  |
| MORGAN, CHRISTA M  | 1427 LOTTIE ST          | SPRING LAKE, NC 28390  |
| OLINGER, MARY A  | 1403 MILTON ST          | SPRING LAKE, NC 28390  |
| OLIVER, DARION M;OLIVER, ASHLEY RAE ANN                  | 1416 MILTON ST          | SPRING LAKE, NC 28390  |
| PAGE, SANDRA T   | 613 GOODYEAR DR         | SPRING LAKE, NC 28390  |
| PARKER, CYNTHIA L  | 240 W MANCHESTER RD     | SPRING LAKE, NC 28390  |
| PEOPLES, LONZO;PEOPLES, SYLVIA H                         | 206 WAXHAW DR           | FAYETTEVILLE, NC 28314 |
| PEREZ, ANNIE R   | 602 REGGIE CT           | SPRING LAKE, NC 28390  |
| PEREZ, DEMETRIO;PEREZ, ANNA D SANTIAGO                   | PO BOX 70986            | FORT BRAGG, NC 28307   |
| PIGGOTT, TANYA LOUISE MCIVER;NELLIE PAULINE MCIVER SPANN | 13506 KELMONT CT        | WOODBIDGE, VA 22193    |
| PIKE, JOSEFINA FRANCISCO TRUSTEE                         | 784 FLYNN MCPHERSON RD  | CAMERON, NC 28326      |

|  |                          |                        |
|--|--------------------------|------------------------|
| PONDER, HENRY  | 1452 MACK ST             | SPRING LAKE, NC 28390  |
| PUGLISI, WILLIAM PATRICK                                 | 607 REGINA DR            | SPRING LAKE, NC 28390  |
| RANDALL, THEODORE  | 610 FRED A CT            | SPRING LAKE, NC 28390  |
| RAPTOR TATICAL LLC                                       | 80 BLUE BAY LN           | CAMERON, NC 28326      |
| RAY, CARL E;RAY, GERDA E                                 | 622 GOODYEAR DR          | SPRING LAKE, NC 28390  |
| RICE, SHIGE T  | 3218 GLASGOW DR          | FAYETTEVILLE, NC 28303 |
| RILES, MICHAEL;RILES, MELONY L                           | 704 REGINA DR            | SPRING LAKE, NC 28390  |
| ROBINSON, ALTHA T  | 1430 MILTON ST           | SPRING LAKE, NC 28390  |
| ROBISCH, JOSEPHINE M                                     | 609 ODELL RD             | SPRING LAKE, NC 28390  |
| ROBY, JOSHUA DAVID                                       | 1415 LOTTIE ST           | SPRING LAKE, NC 28390  |
| S & W READY MIX CONCRETE CO LLC                          | 5700 LAKE WRIGHT DR 300  | NORFOLK, VA 23502      |
| SCHELMETY SEGARRA, JOSE F;SCHELMETY SEGARRA, KARINA DE J | 606 REGGIE CT            | SPRING LAKE, NC 28390  |
| SCOTT, HERBERT F;SCOTT, MITLEAN D                        | 603 REGGIE CT            | SPRING LAKE, NC 28390  |
| SFR3-008 LLC   | 500 WESTOVER DR #14104   | SANFORD, NC 27330      |
| SFR3-010 LLC   | 500 WESTOVER DR          | SANFORD, NC 27330      |
| SHIRLEY, JOSHUA TODD;SHIRLEY, BRITTANY HILLYER           | 606 FRED A CT            | SPRING LAKE, NC 28390  |
| SIBERT, STACIE F   | 611 REGGIE CT            | SPRING LAKE, NC 28390  |
| SLADE, GARLAND R;SLADE, SHERRON C                        | 617 ODELL RD             | SPRING LAKE, NC 28390  |
| SMITH, JERRY M;SMITH, JEAN M                             | 803 CHALYBEATE SPRING RD | ANGIER, NC 27501       |
| SMITH, ODELL ALDEN JR;KENNETH, W                         | 5420 FLINT TAVERN PL     | BURKE, VA 22015        |
| SMITH, SHEILA ELON                                       | 702 REGINA DR            | SPRING LAKE, NC 28390  |
| SPANN, NELLIE PAULINE MCIVER                             | 300 LAKEWOOD DR 101      | STAFFORD, VA 22554     |
| SPENCER, DAWN AISHIA;POPE, TERRY LEE JR                  | 4710 OLD JULIAN RD       | JULIAN, NC 27283       |
| SPRING LAKE GREEN ASSOCIATES LIMITED PARTNERSHIP         | PO BOX 87770             | FAYETTEVILLE, NC 28304 |
| STATE STORAGE NC, LLC                                    | 9450 SW GEMINI DR        | BEAVERTON, OR 97008    |
| STOWE, KEVIN LEVI;STOWE, HANNAH BLAKE                    | 1612 MACK ST             | SPRING LAKE, NC 28390  |
| THOMAS, DANIEL LAMONT                                    | 213 S FIFTH ST           | SPRING LAKE, NC 28390  |
| THOMAS, JAMES W  | 614 GOODYEAR DR          | SPRING LAKE, NC 28390  |
| TK RE HOLDINGS LLC                                       | 2137 COINJOCK CIR        | FAYETTEVILLE, NC 28304 |
| TOWNSON, MARGARET R                                      | 706 REGINA DR            | SPRING LAKE, NC 28390  |
| TREADWAY, JASQUELYNE P                                   | 1408 LOTTIE ST           | SPRING LAKE, NC 28390  |
| UNDERWOOD, JAMES R                                       | 1621 AUTRY HWY           | ROSEBORO, NC 28382     |
| UNITED STATES OF AMERICA                                 | IMSE BRG-PWB             | FORT BRAGG, NC 28310   |
| VILLAGE ON THE LAKE APARTMENTS, L.L.C.                   | 9900 MAIN ST STE 500     | FAIRFAX, VA 22031      |
| VINTON, JOHN OSCAR;VINTON, SONYA V                       | 705 ODELL RD             | SPRING LAKE, NC 28390  |
| WALLACE, BETTY   | 619 ODELL RD             | SPRING LAKE, NC 28390  |
| WALTERS, BOBBY R   | 1423 LOTTIE ST           | SPRING LAKE, NC 28390  |
| WASHINGTON, ROGINA UTLEY                                 | 4122 MCILWAINE DR        | DINWIDDIE, VA 23803    |
| WATKINS, RANDOLPH;WATKINS, LILLI                         | 608 REGINA ST            | SPRING LAKE, NC 28390  |
| WATSON, DONNELL  | 226 CECIL AVE            | SPRING LAKE, NC 28390  |
| WIGGINS, JAMES;WIGGINS, WIFE                             | 616 REGINA DR            | SPRING LAKE, NC 28390  |
| WILLIAMS, JACK;WILLIAMS, MARY H                          | 611 GOODYEAR DR          | SPRING LAKE, NC 28390  |
| WILLIAMS, MARY L   | 1711 ZION DR             | FAYETTEVILLE, NC 28301 |
| WILLIAMS, RUSSELL JR;WILLIAMS, ALICE B                   | 610 REGINA DR            | SPRING LAKE, NC 28390  |
| WILLIAMS, WILLIE E;WILLIAMS, HELE                        | 1425 LOTTIE ST           | SPRING LAKE, NC 28390  |
| WILSON, BILLY E HEIRS                                    | 1617 MACK ST             | SPRING LAKE, NC 28390  |
| WOLFE, KAYE NORRIS                                       | 13300 STEELE CREEK RD    | CHARLOTTE, NC 28273    |

WOODARD, MICHAEL L HEIRS ·  
WYNN, MICHAEL B;WYNN, ERIKA H\*  
YANKAH, CHRISTOPHER K;YANKAH, LINDA

607 GOODYEAR DR  
604 REGINA DR  
378 W MANCHESTER RD

SPRING LAKE, NC 28390  
SPRING LAKE, NC 28390  
SPRING LAKE, NC 28390



## Town of Spring Lake

*Planning & Inspections Department*

|                  |                            |
|------------------|----------------------------|
| CASE #:          | <u>P21-05</u> <b>38 A2</b> |
| PLANNING BOARD   |                            |
| MEETING DATE:    | _____                      |
| DATE APPLICATION |                            |
| SUBMITTED:       | <u>5-11-21</u>             |
| RECEIPT #:       | <u>77392</u>               |
| RECEIVED BY:     | <u>[Signature]</u>         |

### APPLICATION FOR CONDITIONAL ZONING REZONING REQUEST TOWN OF SPRING LAKE ZONING CODE

Upon receipt of this application (petition), the County Planning Staff will present to the Planning Board the application at a hearing. In accordance with state law and board's policy, a notice of the hearing will be mailed to the owners of the adjacent and surrounding properties, which may be affected by the proposed Conditional Zoning.

The Planning Board will make a recommendation to the Spring Lake Board of Aldermen concerning the request. The Board of Aldermen will schedule a public hearing and make a final decision on the matter. Generally, the Board will hold a public hearing four weeks following the meeting of the Planning Board. The Conditional Zoning shall not be made effective until the request is heard and received approval by the Board of Aldermen.

The following items are to be submitted with the completed application:

1. A copy of the recorded deed and/or plat;
2. If a portion of an existing tract is/are being submitted for rezoning, an accurate written legal description of only the area to be considered;
3. A copy of a detailed site plan drawn to an engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, and all other pertinent data to the case; and
4. A check made payable to the "Cumberland County" in the amount of \$ \_\_\_\_\_. (See attached Fee Schedule)

**NOTE:** Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available Board meeting according to the Board's meeting schedule. Also, the application fee is *nonrefundable*.

The Town Staff and the County Planning Staff are available for advice on completing this application; however, they are not available for completion of the application or preparation of the site plan.

**TO THE BOARD OF ALDERMEN, TOWN OF SPRING LAKE, NORTH CAROLINA  
THROUGH THE CUMBERLAND COUNTY JOINT PLANNING BOARD:**

I (We), the undersigned, hereby submit this application, and petition the Town Board to amend and to change the zoning map of the Town of Spring Lake as provided for under the provisions of the Spring Lake Zoning Code. In support of this petition, as hereinafter requested, the following facts are submitted:

1. Applicant/Agent Drafting and Design Services, Inc. - Michael Blakley
2. Address: 6728 Carbonton Road - Sanford, NC Zip Code 27330
3. Telephone: (Home) \_\_\_\_\_ (Work) (919) 499-8759
4. Location of Property: 504 Thalia Road
5. Parcel Identification Number (PIN #) of subject property: SMITH-0502200708000;0502126280000;  
(also known as Tax ID Number or Property Tax ID) 0502129021000; 0502222745000
6. Acreage: 70.98 AC Frontage: 487 FT Depth: 2928 FT
7. Water Provider: Town of Spring Lake Public Works
8. Septage Provider: Town of Spring Lake Public Works
9. Deed Book 2109;8427; 2328;3205;3334, Page(s) 0161;0493;0141;0550;0195, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
10. Existing use of property: Single family, mobile homes undeveloped land
11. Proposed use(s) of the property: Single Family Subdivision

NOTE: Be specific and list all intended uses or in the alternative, list the uses to be excluded.

12. It is requested that the foregoing property be rezoned FROM: R-6A, RR, R-10

TO: (Select one)

- Conditional Zoning District, with an underlying zoning district of R-6A  
(Article IV)
- Mixed Use District/Conditional Zoning District (Article VI)
- Planned Neighborhood District/Conditional Zoning District (Article VII)
- Density Development/Conditional Zoning District, at the \_\_\_\_\_ Density  
(Article VIII)

APPLICATION FOR  
CONDITIONAL ZONING

1. PROPOSED USE(S):

- A. List the use(s) proposed for the Conditional Zoning. (Use of the underlying district will be restricted only to the use(s) specified in this application.)

Single Family Subdivision - new homes  
Revitalize 2 existing stick built homes as a lot in the development

- B. Density: List the amount of acreage that will be residential, commercial, and/or open space, and the number of lots and/or dwelling units proposed, and the square footage of the non-residential units. 118 new single family dwellings with 2 existing dwellings, 120 total  
34.3+/- in open space - wetland preservation area (undeveloped area)  
36.7 ac +/- residential development area at 3.3 units per acre.  
Overall density 70.98 ac = 1.7 units per acre

2. DIMENSIONAL REQUIREMENTS: (Sec. 42-192):

Reference either the dimensional requirements of the district or list the proposed setbacks.

R-6A Zoning  
Min Lot Size= 6000 sf  
Min Lot Width = 60ft  
Front Setback= 25ft  
Side Setback (2 story)= 17ft ; (1 story)= 12ft  
Rear Setback=15ft

3. OFF-STREET PARKING AND LOADING (Sec. 42-260 *et. seq.*):

Off-street parking and loading: List the number of spaces, type of surfacing material and any other pertinent information.

6 parking spaces for mail kiosk - Asphalt surface with curb

4. SIGN REQUIREMENTS (Sec. 42-288 *et. seq.*):

Reference the district sign dimensional regulations. The site plan must reflect any areas for proposed freestanding signs.

Sec. 42-293.1- Residential, conservancy and mixed use or planned neighborhood development districts -  
2 signs proposed with 50 sf max area each in areas denoted on attached plat

5. LANDSCAPE AND BUFFER REQUIREMENTS (Sec. 42-223 *et. seq.*):

- A. For all new non-residential and mixed use development abutting a public street, indicate the number and type of large or small ornamental trees used in the streetscape, yard space, and/or parking areas, plus the number and type of shrubs - all required landscaping must be included on the site plan.

N/A

- B. Indicate the type of buffering and approximate location, width and setback from the property lines—all required buffering must be included on the site plan.

15 foot buffer proposed along north property line along developed area to screen new development from existing mobile home park.

6. MISCELLANEOUS:

List any information related to this petition, such as: the days and hours of the operation, number of employees, exterior lighting, noise, odor and smoke, emission controls, etc.

The proposed development will not impact the Accident Potential Zone.

The development is within the 60-65dB noise area. Additional insulation will be installed in these houses to mitigate the noise from overhead flights. Natural buffers also will be left in place to assist with noise dampening.

All lots have been designed to provide a 15 ft buffer along all wetland boundaries.

Existing Mobile Homes are to be removed on the site with the development of the parcels and no additional mobile homes shall be added to the parcels.

7. SITE PLAN REQUIREMENTS:

The application must include a site plan drawn to the specifications of Sec. 42-167. If the proposed uses involve development subject to the Town's Subdivision Regulations, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to the Subdivision Regulations, the site plan shall be of sufficient detail to allow the County Planning Staff, Town Staff and the Planning Board to analyze the proposed uses and arrangement of uses on the site. It shall also include the footprints of all buildings (proposed and existing), the proposed number of stories, location and number of off-street parking and loading spaces, proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences and landscaping shall be included on the site plan.



8. STATEMENT OF ACKNOWLEDGMENT:

It is understood by the undersigned that the official zoning map, as originally adopted and subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment (rezoning) rest with the petitioner.

It is the responsibility of the petitioner (personally or by agent) to submit to the County Planning Staff a valid request within a complete application.

I further understand I must voluntarily agree to all ordinance related conditions prior to the first hearing on the case or any disagreement may be cause for an unfavorable recommendation. The undersigned hereby acknowledge that the Planning and Inspections Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

Elma S Smith - POA Victoria M Mcleod -- Town of Spring Lake - Samantha Wullenwaber  
NAME OF OWNER(S) (PRINT OR TYPE)

500 Thalia RD Spring Lake , NC 28390 -- 300 Ruth ST Spring Lake , NC 28390  
ADDRESS OF OWNER(S)

n/a -- swullenwaber@townofspringlake.com  
E-MAIL

Elma Smith - (910) 494-8210  
HOME TELEPHONE

Spring Lake - (910) 703-8912  
WORK TELEPHONE

*Elma Smith*  
SIGNATURE OF OWNER(S)  
*Victoria M. Mcleod - POA*

*Samantha Wullenwaber*  
SIGNATURE OF OWNER(S)

Drafting and Design Services, Inc. - Michael Blakley  
NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

6728 Carbonton Road - Sanford, NC 27330  
ADDRESS OF AGENT, ATTORNEY, APPLICANT

HOME TELEPHONE

(919) 499-8759  
WORK TELEPHONE

draftinganddesign@gmail.com  
E-MAIL ADDRESS

FAX NUMBER

*Michael Blakley*  
SIGNATURE OF AGENT, ATTORNEY,  
OR APPLICANT

- \* **ALL** record property owners must sign this petition.
- \* The contents of this application, upon submission, become “public record.”

**Legal Description - REID: 0502126280000**  
**Excluded Area – M(p) Zoning**

Beginning at a point whose Northing is 523777.726 and whose Easting is 2001890.589;  
thence bearing S 8-37-46 E a distance of 116.77 ;  
thence bearing S 85-28-19 W a distance of 44.06 ;  
thence bearing S 61-42-02 W a distance of 42.16 ;  
thence bearing S 07-07-24 W a distance of 46.05 ;  
thence bearing S 70-01-02 W a distance of 33.42 ;  
thence bearing S 30-45-47 W a distance of 69.79 ;  
thence bearing S 75-57-49 W a distance of 47.10 ;  
thence bearing N 70-51-37 W a distance of 142.88 ;  
thence bearing S 77-48-14 W a distance of 83.21 ;  
thence bearing S 28-26-39 W a distance of 77.94 ;  
thence bearing S 00-00-00 E a distance of 27.13 ;  
thence bearing S 29-55-56 W a distance of 108.74 ;  
thence bearing S 72-20-48 W a distance of 32.96 ;  
thence bearing S 39-33-35 W a distance of 127.79 ;  
thence bearing S 06-20-19 W a distance of 25.86 ;  
thence bearing S 57-05-46 W a distance of 57.82 ;  
thence bearing S 39-00-16 W a distance of 110.24 ;  
thence bearing N 87-00-19 W a distance of 109.24 ;  
thence bearing N 73-41-41 W a distance of 83.67 ;  
thence bearing N 15-18-57 W a distance of 113.34 ;  
thence bearing S 55-04-34 E a distance of 123.51 ;  
thence bearing N 31-57-20 E a distance of 160.00 ;  
thence bearing S 64-42-39 E a distance of 117.50 ;  
thence bearing N 05-02-48 E a distance of 25.56 ;  
thence bearing N 13-13-47 E a distance of 178.16 ;  
thence bearing N 44-37-19 E a distance of 78.50 ;  
thence bearing N 28-42-19 E a distance of 68.00 ;  
thence bearing N 86-12-19 E a distance of 106.50 ;  
thence bearing N 66-52-16 E a distance of 124.02 ;  
thence bearing S 79-4-44 E a distance of 128.24 ;  
thence bearing N 43-56-04 E a distance of 206.79 ;  
thence bearing N 43-49-55 E a distance of 43.22 to the point of beginning.  
Said described parcel contains 2.54 acres, more or less, subject to any and all easements,  
reservations, restrictions and conveyances of record.

**Legal Description - REID: 0502222745000**  
**Excluded Area – M(p) Zoning**

Beginning at a point whose Northing is 523777.726 and whose Easting is 2001890.589 ;  
thence bearing N 44-55-54 E a distance of 31.88 ;  
thence bearing N 75-23-22 E a distance of 195.78 ;  
thence bearing S 13-59-14 W a distance of 58.52 ;  
thence bearing S 05-26-46 E a distance of 118.91 ;  
thence bearing S 63-19-26 W a distance of 28.68 ;  
thence bearing N 69-59-21 W a distance of 66.86 ;  
thence bearing S 63-26-03 W a distance of 19.15 ;  
thence bearing S 20-55-06 W a distance of 44.45 ;  
thence bearing N 89-52-58 W a distance of 36.96 ;  
thence bearing N 50-05-12 W a distance of 43.25 ;  
thence bearing N 08-37-46 W a distance of 116.77 to the point of beginning.  
Said described parcel contains 0.73 acres, more or less, subject to any and all easements,  
reservations, restrictions and conveyances of record.

NORTH CAROLINA  
CUMBERLAND COUNTY

THIS DEED, made this 5th day of June, 1972, by MILTON R. SMITH, SR. and wife, LOTTIE M. SMITH, parties of the first part, of Harnett County, North Carolina; to CALVIN MACK SMITH and wife, ELMA S. SMITH, parties of the second part, of Virginia Beach, Virginia;

W I T N E S S E T H:

That the said parties of the first part, for and in consideration of the sum of TEN DOLLARS and other good and valuable considerations to them paid by the said parties of the second part, the receipt of which is hereby acknowledged, have this day given, granted, bargained, sold and conveyed and by these presents do hereby give, grant, bargain, sell and convey unto the said parties of the second part, their heirs and assigns, all that certain tract or parcel of land lying and being in Manchester Township, Cumberland County, North Carolina, and more particularly described as follows, to wit:

BEGINNING at an iron stake located on the northern edge of the right of way for Odell Road, same being the southwest corner of the Odell Smith 7.4 acre tract of land and also in the right of way for the Carolina Power & Light Co. easement, and running thence North 05 degrees 26 minutes West 639.9 feet with the western property line of the Odell Smith land to a stake; thence North 75 degrees 06 minutes East 510.9 feet with the northern line of the Odell A. Smith 7.4 acre tract to a stake and northeast corner of the said Odell A. Smith 7.4 acre tract; thence North 14 degrees 54 minutes West 180 feet to a stake and corner of the Milton R. Smith 53.03 acre tract of land; thence South 75 degrees 06 minutes West 516.01 feet with the Milton R. Smith line to an iron stake and center of the Carolina Power & Light Co. right of way; thence North 05 degrees 26 minutes West 2166.70 feet with the western line of the Milton R. Smith 53.03 acre tract to an iron stake; thence South 47 degrees 10 minutes West 206.5 feet to an iron stake; thence along the various courses and distances of McDuffie Creek South 75 degrees 09 minutes West 837.87 feet as a straight line to a stake and the original northwest corner of the 114.9 acre tract of which this is a portion of; thence South 12 degrees 15 minutes East 2,145 feet with the eastern line of the Odell A. Smith 48.8 acre tract to an iron stake and northwest corner of a tract of land owned by Harold Fail; thence with Harold Fail's northern line North 75 degrees 10 minutes East 161.92 feet to an iron stake and northeast corner of the Harold Fail land; thence South 12 degrees 15 minutes East 541.84 feet with the Harold Fail eastern property line to an iron stake; thence South 12 degrees 57 minutes East 167.73 feet to an iron stake located on the northern margin of Odell

32716

BOOK 3205 PAGE 550

020319

RECORDED

'86 SEP 17 AM 10 49

Excise Tax *None*

Recording Time, Book and Page

Tax Lot No. .... Parcel Identifier No. *CUMBERLAND COUNTY 110*  
Verified by ..... County on the ..... day of ..... 19 ..  
by .....

Mail after recording to *J. Gates Harris, Post Office Box 128, Red Springs,*  
*North Carolina 28377*

This instrument was prepared by *J. Gates Harris*  
Brief description for the Index

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this *16* day of *September*, 19 *86*, by and between

GRANTOR

GRANTEE

CALVIN M. SMITH and wife,  
ELMA S. SMITH

CALVIN M. SMITH and wife,  
ELMA S. SMITH

*500 Thelie Rd  
Spring Lake, NC 28390*

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of ..... Township, ..... County, North Carolina and more particularly described as follows:

BEGINNING at a point in the western right-of-way of an easement to Carolina Power and Light Company, and runs thence South 77 degrees 45 minutes West 210.98 feet to a new iron stake; thence North 24 degrees 40 minutes West 292.84 feet to a new iron stake; thence North 61 degrees 52 minutes 26 seconds East 328.57 feet to a new iron stake in the western margin of the Carolina Power and Light Company right-of-way; thence as that right-of-way South 1 degree 29 minutes 4 seconds East 128.49 feet to an iron stake, a corner of that right-of-way; thence continuing as that right-of-way South 8 degrees 8 minutes 30 seconds East 250.25 feet to the beginning, containing 1.956 acres, as shown on a map entitled "Plot Plan and Survey for Calvin M. Smith, Manchester Township, Cumberland County, N.C.", dated August 11, 12, 1986, and prepared by Artis P. Spence, RLS.

Together with an easement 35 feet in width for the purpose of ingress, egress, and regress more particularly described as follows:

BEGINNING at the beginning of the tract hereby conveyed, and runs thence as the Carolina Power and Light Company right-of-way and as the fifth line of the conveyed tract, North 8 degrees 8 minutes 30 seconds West 35.09 feet to a point, thence North 77 degrees 45 minutes East 30.33 feet to the pt of a curve; thence as a curve to the right, a cord of

South 51 degrees 42 minutes 6 seconds East 1073.80 feet to the northern right-of-way of SR 1450 (Odell Road); thence as SR 1450 35.46 feet to a point in the northern right-of-way of SR 1450; thence North 1 degree 42 minutes 6 seconds West 1079.50 feet to the pt of a curve; thence as a curve to the left a cord of North 51 degrees 58 minutes 35 seconds West 36.99 feet to a point; thence South 77 degrees 45 minutes West 32.84 feet to the beginning.

The property hereinabove described was acquired by Grantor by instrument recorded in .....

A map showing the above described property is recorded in Plat Book ..... page.....

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

BY: Calvin M. Smith (Corporate Name) (SEAL)
Elma S. Smith (President) (SEAL)
ATTEST: (Secretary (Corporate Seal)) (SEAL)

USE BLACK INK ONLY

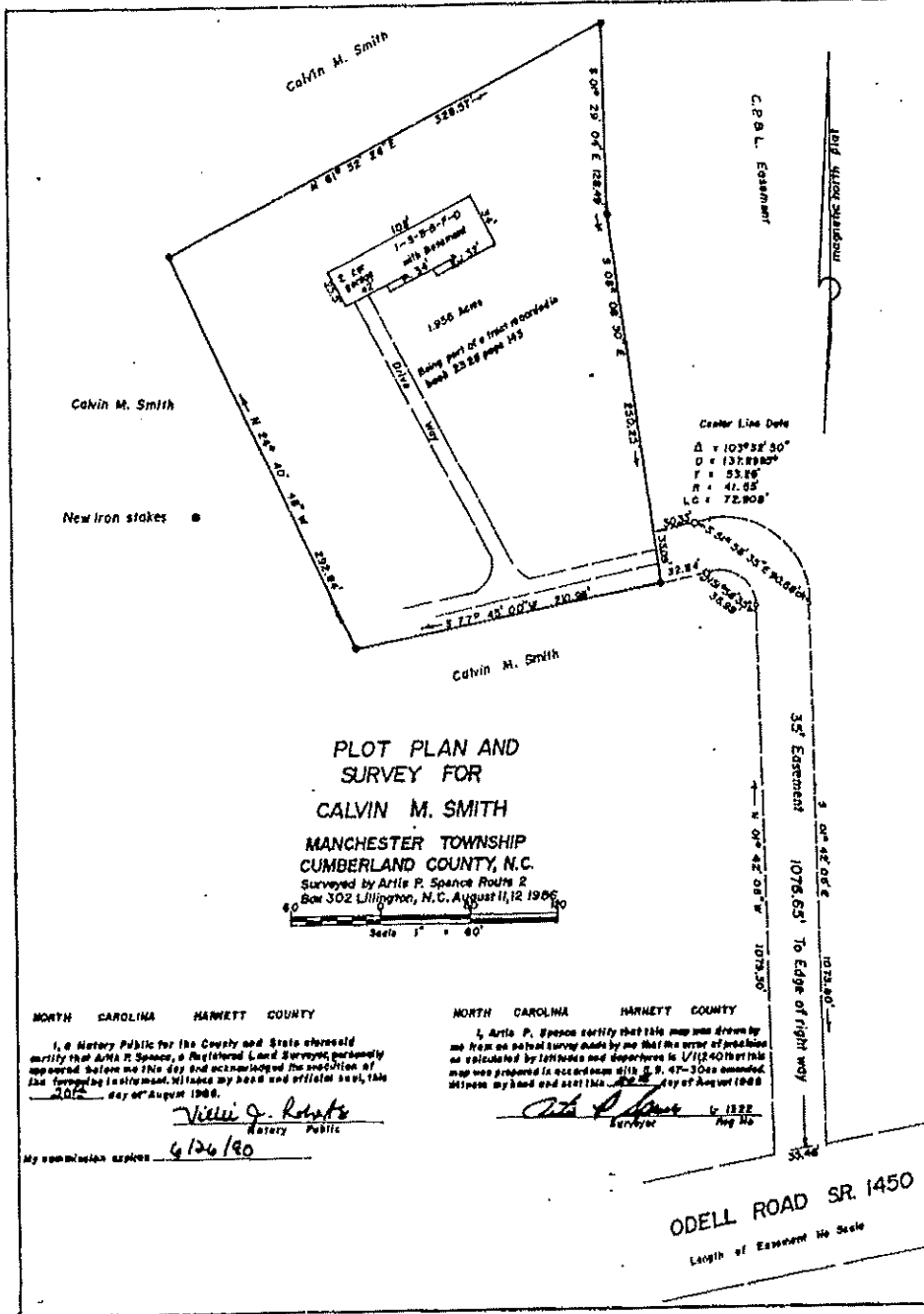
SEAL-STAMP NORTH CAROLINA, Cumberland County.
I, a Notary Public of the County and State aforesaid, certify that Calvin M. Smith and wife, Elma S. Smith Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 17th day of September, 1986.
My commission expires: August 13, 1991. Lois Ann Green Notary Public

SEAL-STAMP NORTH CAROLINA, ... County.
I, a Notary Public of the County and State aforesaid, certify that ... he is Secretary of ... a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its President, sealed with its corporate seal and attested by ... As its Secretary.
Witness my hand and official stamp or seal, this ... day of ..., 19...

NORTH CAROLINA, CUMBERLAND COUNTY
The foregoing or annexed certificate of Lois Ann Green

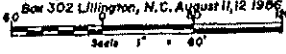
Notary Public/Notaries Public is/are certified to be correct.
This instrument was presented for registration and recorded in this Office at Book 3205 Page 550
This 17 day of September, 1986 at 10:49 o'clock A.M.
By George E. Tatum Register of Deeds and Lois Ann Green Deputy Register of Deeds

NO REVENUE



**PLOT PLAN AND SURVEY FOR CALVIN M. SMITH**

MANCHESTER TOWNSHIP  
CUMBERLAND COUNTY, N.C.  
Surveyed by Artis P. Spence Route 2  
Box 302 Lillington, N.C. August 11, 1986



NORTH CAROLINA HARRETT COUNTY

I, a Notary Public for the County and State aforesaid certify that Artis P. Spence, a Registered Land Surveyor, personally appeared before me this day and acknowledged the execution of the foregoing instrument, witness my hand and official seal, this 11th day of August 1986.

*Willie G. Roberts*  
Notary Public

My commission expires 4/26/90

NORTH CAROLINA HARRETT COUNTY

I, Artis P. Spence certify that this map was drawn by me from an actual survey made by me and that the error of precision as calculated by latitudes and departures is 1/1240 feet in this map was prepared in accordance with G.S. 47-30 as amended. Witness my hand and seal this 11th day of August 1986.

*Artis P. Spence*  
Surveyor

ODELL ROAD SR 1450  
Length of Easement 35 Feet



7/09/87 11:03:10  
GENERAL WARRANT  
REGISTER OF DEEDS  
CUMBERLAND COUNTY

TITLE NOT CERTIFIED

39858

Excise Tax - 0 -

Recording Time, Book and Page

Tax Lot No. .... Parcel Identifier No. ....  
Verified by ..... County on the ..... day of ....., 19 ....  
by .....

Mailed after recording to Calvin M. Smith, 500 Thalia Road, Spring Lake, N.C., 28390

This instrument was prepared by J. Gary Ciccone

Brief description for the Index

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 26th day of October, 19 87, by and between

GRANTOR

GRANTEE

CALVIN M. SMITH, JR. and wife,  
ELMA S. SMITH

CALVIN M. SMITH, JR. and wife,  
ELMA S. SMITH

500 Thalia Road  
Spring Lake, N.C. 28390

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of SPRING LAKE ..... MANCHESTER ..... Township, CUMBERLAND ..... County, North Carolina and more particularly described as follows:

BEING all of Lot No. 1, in a subdivision known as THE SMITH PROPERTY, according to a plat of same duly recorded in Book of Plats 63, Page 64, Cumberland County Registry, North Carolina.

The property hereinabove described was acquired by Grantor by instrument recorded in .....

Book 3331, Page 570, Cumberland County Registry, North Carolina.

A map showing the above described property is recorded in Plat Book ..... 63 ..... page ..... 64 .....

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

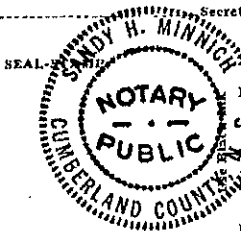
Subject to easements, restrictions and rights of way of record, if any.

Subject to the currently accruing ad-valorem property taxes for 1987 and subsequent years.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first above written.

BY: CALVIN M. SMITH, JR. (SEAL)
President
ATTEST: ELMA S. SMITH (SEAL)
Secretary (Corporate Seal)

USE BLACKINK ONLY



NORTH CAROLINA, CUMBERLAND County.
I, Notary Public of the County and State aforesaid, certify that CALVIN M. SMITH, JR. and wife, ELMA S. SMITH
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my
hand and official stamp or seal, this 27th day of October, 1987.
My commission expires: 10-1-90 Sindy H. Minnich Notary Public

SEAL-STAMP

NORTH CAROLINA, County.
I, a Notary Public of the County and State aforesaid, certify that
personally came before me this day and acknowledged that he is Secretary of
a North Carolina corporation, and that by authority duly
given and as the act of the corporation, the foregoing instrument was signed in its name by its
President, sealed with its corporate seal and attested by as its Secretary.
Witness my hand and official stamp or seal, this day of 19
My commission expires Notary Public

The foregoing Certificate(s) of Sindy H. Minnich

is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the first page hereof.

By GEORGE E. TATUM REGISTER OF DEEDS FOR CUMBERLAND COUNTY,
Deputy/Assistant - Register of Deeds

NO REVENUE

8427  
0493

BK 08427 PG 0493

FILED  
CUMBERLAND COUNTY NC  
J. LEE WARREN, JR.  
REGISTER OF DEEDS

FILED Jul 02, 2010  
AT 12:40:00 pm  
BOOK 08427  
START PAGE 0493  
END PAGE 0495  
INSTRUMENT # 20765  
RECORDING \$25.00  
EXCISE TAX \$196.00  
DJ

NORTH CAROLINA GENERAL WARRANTY DEED

M & P File #1664-2

Excise Tax \$196.00

Parcel Identifier No.: 0502-20-0708

Prepared by/Mail after recording to: Rebecca F. Person, 1308 Fort Bragg Rd., Ste 101, Fayetteville, NC 28305

Brief Description for the Index: M&B Description .96 AC N/RW Odell Rd.

THIS DEED made this June 17, 2010 by and between:

| GRANTOR   | GRANTEE   |
|---|---|
| <p>JEREMY U. MCGUIRE and wife, CELINE J. MCGUIRE</p> <p>Mailing Address:<br/>1401 N. Western<br/>Mexico, MO 65265</p> | <p>ELMA S. SMITH, widowed</p> <p>Mailing Address:<br/>500 Thalia Rd.<br/>Spring Lake, NC 28390</p> <p>Property Address:<br/>524 Odell Rd.<br/>Spring Lake, NC 28390</p> |

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in or near the City of Spring Lake, Manchester Township, Cumberland County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and made a part hereof.

The property hereinabove described was acquired by instrument recorded in Book 08427, Page 0490, Cumberland County, North Carolina, Registry.

A map showing the above described property is recorded in Plat Book , Page , Cumberland County, North Carolina, Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions: utility easements, permits, and rights of way as the same may appear of record

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal effective the day and year first above written.

8427  
.0494

BK08427 PGO494

If initialed, the property includes the primary residence of at least one of the Grantors. (NC GS § 105-317.2) \_\_\_\_\_

*Jeremy U. McGuire* (SEAL)  
Jeremy U. McGuire

*Celine J. McGuire* (SEAL)  
Celine J. McGuire

STATE OF NORTH CAROLINA

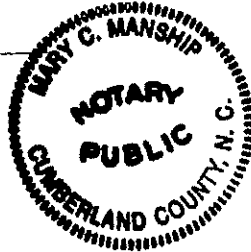
COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day and I have personal knowledge of the identity of the principal(s) or have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license or a credible witness has sworn to the identity of the principal(s); each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Name of Principal: Jeremy U. McGuire, Celine J. McGuire.

Date: 6/17/10

*Mary C. Manship*  
Mary C. Manship  
Printed Name of Notary Public

My Commission Expires: 05/12/15



(N.P. SEAL)

**BEGINNING** at a point, said point being located in the northern right-of-way margin of Odell Road, the same point being North 38 degrees 30 minutes 51 seconds East 45.14 feet from the center-line intersection of said Odell Road and Goodyear Drive;

**THENCE** South 75 degrees 09 minutes 46 seconds West for a distance of 239.60 feet along said right-of-way margin to an iron pipe;

**THENCE** North 11 degrees 57 minutes 24 seconds West for a distance of 167.92 feet to an iron pipe;

**THENCE** North 75 degrees 10 minutes 00 seconds East for a distance of 259.22 feet to a concrete monument;

**THENCE** South 05 degrees 20 minutes 18 seconds East for a distance of 170.02 feet to the point and place of **BEGINNING**; and being that property described in Deed Book 2108, Page 0591, and Deed Book 2150, Page 0049, Cumberland County Registry, excepting that property described in Deed Book 2331, Page 407, Cumberland County Registry.

Together with and subject to covenants, easements, and restrictions of record.  
Said property contains 0.9602 acres more or less.

This description prepared by Larry King & Associates, R.L.S., P.A. on this 6th day  
January, 1994.

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NORTH CAROLINA  
CUMBERLAND COUNTY

DECK 2109 PAGE 161

THIS DEED, made this 13th day of June, 1968, by MILTON R. SMITH, SR. and wife, LOTTIE M. SMITH, of Harnett County, North Carolina, and C. MACK SMITH and wife, ELMA S. SMITH, of Virginia Beach, Virginia, parties of the first part, to the TOWN OF SPRING LAKE, a North Carolina Municipal Corporation of Cumberland County, North Carolina, party of the second part:

W I T N E S S E T H:

That the said parties of the first part, for and in consideration of the sum of TEN DOLLARS and other good and valuable considerations to them paid by the said party of the second part, the receipt of which is hereby acknowledged, have this day given, granted, bargained, sold and conveyed and by these presents do hereby give, grant, bargain, sell and convey unto the said party of the second part, its successors and assigns, all that certain tract or parcel of land lying and being in Manchester Township, Cumberland County, North Carolina, and more particularly described as follows, to wit:

BEGINNING at a point in the northern margin of the right of way for Odell Road, said point being situated South 75° 10' West 70 feet from the Southwest corner of the Odell Smith 7.4 acre tract or parcel of land, said beginning point also being the intersection of the right of way for Odell Road with the West margin of the Carolina Power & Light Company transmission line easement, and running thence South 75° 10' West 130 feet with the right of way for Odell Road to an iron stake and corner of the Harold Ray Fail tract; thence North 5° 21' West 170 feet with the Harold Ray Fail property line to an iron stake; thence North 75° 10' East 130 feet to the western margin of the Carolina Power & Light Company easement; thence along the said easement right of way South 5° 21' East 170 feet to the point of beginning, and being a portion of the Milton R. Smith, Sr. and C. Mack Smith 114.9 acre tract of land described in the Cumberland County Registry.

TO HAVE AND TO HOLD the aforesaid described lands and real estate together with all the privileges and appurtenances thereunto belonging unto it, the said party of the second part, its

DOCK G. SMITH, JR.  
ATTORNEY AT LAW  
118 E. SALISBURY ST.  
ROBBINS, N. C.

Tract 1

NORTH CAROLINA  
CUMBERLAND COUNTY

THIS DEED, made this 5th day of June, 1972, by MILTON R. SMITH, SR. and wife, LOTTIE M. SMITH, parties of the first part, of Harnett County, North Carolina; to CALVIN MACK SMITH and wife, ELMA S. SMITH, parties of the second part, of Virginia Beach, Virginia;

WITNESSETH:

That the said parties of the first part, for and in consideration of the sum of TEN DOLLARS and other good and valuable considerations to them paid by the said parties of the second part, the receipt of which is hereby acknowledged, have this day given, granted, bargained, sold and conveyed and by these presents do hereby give, grant, bargain, sell and convey unto the said parties of the second part, their heirs and assigns, all that certain tract or parcel of land lying and being in Manchester Township, Cumberland County, North Carolina, and more particularly described as follows, to wit:

BEGINNING at an iron stake located on the northern edge of the right of way for Odell Road, same being the southwest corner of the Odell Smith 7.4 acre tract of land and also in the right of way for the Carolina Power & Light Co. easement, and running thence North 05 degrees 26 minutes West 639.9 feet with the western property line of the Odell Smith land to a stake; thence North 75 degrees 06 minutes East 510.9 feet with the northern line of the Odell A. Smith 7.4 acre tract to a stake and northeast corner of the said Odell A. Smith 7.4 acre tract; thence North 14 degrees 54 minutes West 180 feet to a stake and corner of the Milton R. Smith 53.03 acre tract of land; thence South 75 degrees 06 minutes West 516.01 feet with the Milton R. Smith line to an iron stake and center of the Carolina Power & Light Co. right of way; thence North 05 degrees 26 minutes West 2166.70 feet with the western line of the Milton R. Smith 53.03 acre tract to an iron stake; thence South 47 degrees 10 minutes West 206.5 feet to an iron stake; thence along the various courses and distances of McDuffie Creek South 75 degrees 09 minutes West 837.87 feet as a straight line to a stake and the original northwest corner of the 114.9 acre tract of which this is a portion of; thence South 12 degrees 15 minutes East 2,145 feet with the eastern line of the Odell A. Smith 48.8 acre tract to an iron stake and northwest corner of a tract of land owned by Harold Fail; thence with Harold Fail's northern line North 75 degrees 10 minutes East 161.92 feet to an iron stake and northeast corner of the Harold Fail land; thence South 12 degrees 15 minutes East 541.84 feet with the Harold Fail eastern property line to an iron stake; thence South 12 degrees 57 minutes East 167.73 feet to an iron stake located on the northern margin of Odell

3205  
0550

Tract 2<sup>m</sup>

32716

BOOK 3205 PAGE 550

020319

RECEIVED

'86 SEP 17 AM 10 49

Excise Tax *NONE*

Recording Time, Book and Page

Tax Lot No. .... Parcel Identifier No. 020319  
Verified by ..... County on the ..... day of ..... 19 .....

Mail after recording to J. Gates Harris, Post Office Box 128, Red Springs,  
North Carolina 28377

This instrument was prepared by J. Gates Harris  
Brief description for the index

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 16 day of September, 19 86, by and between

GRANTOR  
CALVIN M. SMITH and wife,  
ELMA S. SMITH

GRANTEE  
CALVIN M. SMITH and wife,  
ELMA S. SMITH  
*500 Thelie Rd  
Spring Lake, NC 28390*

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of ..... Township, ..... County, North Carolina and more particularly described as follows:

BEGINNING at a point in the western right-of-way of an easement to Carolina Power and Light Company, and runs thence South 77 degrees 45 minutes West 210.98 feet to a new iron stake; thence North 24 degrees 40 minutes West 292.84 feet to a new iron stake; thence North 61 degrees 52 minutes 26 seconds East 328.57 feet to a new iron stake in the western margin of the Carolina Power and Light Company right-of-way; thence as that right-of-way South 1 degree 29 minutes 4 seconds East 128.49 feet to an iron stake, a corner of that right-of-way; thence continuing as that right-of-way South 8 degrees 8 minutes 30 seconds East 250.25 feet to the beginning, containing 1.956 acres, as shown on a map entitled "Plot Plan and Survey for Calvin M. Smith, Manchester Township, Cumberland County, N.C.", dated August 11, 12, 1986, and prepared by Artis P. Spence, RLS.

Together with an easement 35 feet in width for the purpose of ingress, egress, and regress more particularly described as follows:

BEGINNING at the beginning of the tract hereby conveyed, and runs thence as the Carolina Power and Light Company right-of-way and as the fifth line of the conveyed tract, North 8 degrees 8 minutes 30 seconds West 35.09 feet to a point, thence North 77 degrees 45 minutes East 30.33 feet to the pt of a curve; thence as a curve to the right, a cord of



BOOK 3205 PAGE 551

South 51 degrees 42 minutes 6 seconds East 1073.80 feet to the northern right-of-way of SR 1450 (Odell Road); thence as SR 1450 35.46 feet to a point in the northern right-of-way of SR 1450; thence North 1 degree 42 minutes 6 seconds West 1079.50 feet to the pt of a curve; thence as a curve to the left a cord of North 51 degrees 58 minutes 35 seconds West 36.99 feet to a point; thence South 77 degrees 45 minutes West 32.84 feet to the beginning.

The property hereinabove described was acquired by Grantor by instrument recorded in .....

A map showing the above described property is recorded in Plat Book ..... page.....  
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions:

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, this day and year first above written.

BY: \_\_\_\_\_ (Corporate Name)  
\_\_\_\_\_  
President  
ATTEST: \_\_\_\_\_  
\_\_\_\_\_  
Secretary (Corporate Seal)

USE BLACK INK ONLY

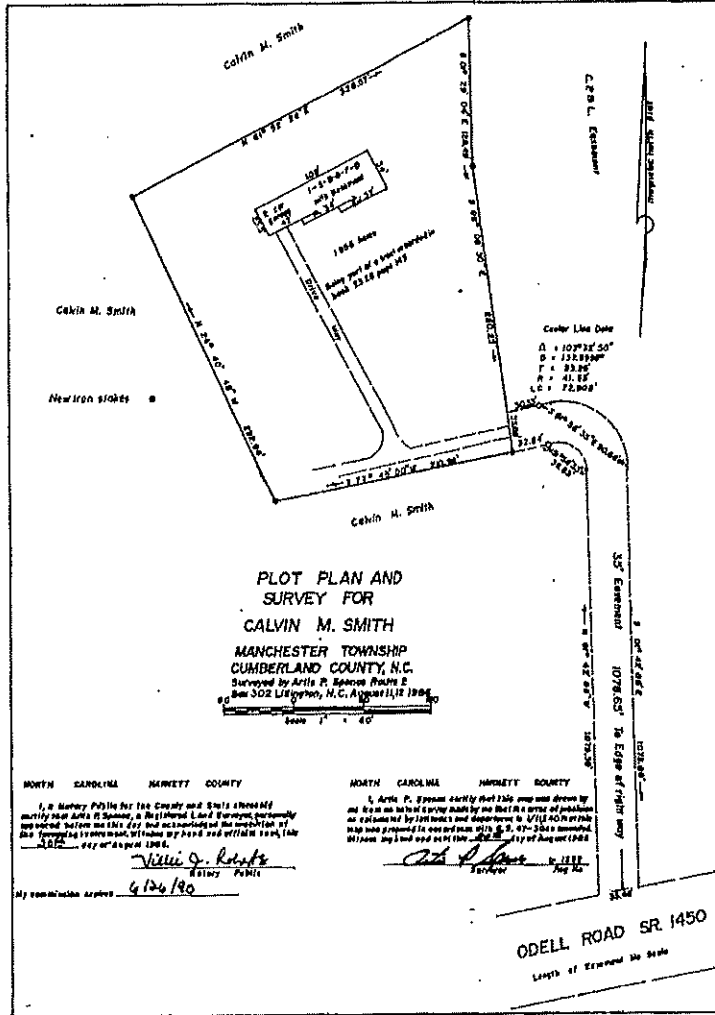
*Calvin M. Smith* (SEAL)  
CALVIN M. SMITH  
*Elma S. Smith* (SEAL)  
ELMA S. SMITH  
\_\_\_\_\_  
(SEAL)

SEAL-STAMP NORTH CAROLINA, Cumberland County.  
I, a Notary Public of the County and State aforesaid, certify that Calvin M. Smith and wife, Elma S. Smith Grantor, personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my hand and official stamp or seal, this 17th day of September, 1926.  
My commission expires: August 13, 1929 Lois Ann Green, Notary Public

SEAL-STAMP NORTH CAROLINA, \_\_\_\_\_ County.  
I, a Notary Public of the County and State aforesaid, certify that \_\_\_\_\_ Secretary of \_\_\_\_\_ personally came before me this day and acknowledged that \_\_\_\_\_ is \_\_\_\_\_ a North Carolina corporation, and that by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its \_\_\_\_\_ President, sealed with its corporate seal and attested by \_\_\_\_\_ as its \_\_\_\_\_ Secretary. Witness my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

NORTH CAROLINA, CUMBERLAND COUNTY  
The foregoing or annexed certificate of Lois Ann Green  
Notary Public/Notaries Public is/are certified to be correct.  
This instrument was presented for registration and recorded in this Office at Book 3205 Page 551  
This 17 day of September, 1926 at 10:49 o'clock A.M.  
By George E. Tatum Deputy Register of Deeds  
Register of Deeds

NO REVENUE



Tract 3<sup>u</sup>

BK3334 PG 01988671

RECEIVED  
67 OCT 29 PM 3:15

GENERAL TOWN  
REGISTERED DEEDS  
CUMBERLAND COUNTY

TITLE NOT CERTIFIED

39858

Excise Tax - 0 -

Recording Time, Book and Page

Tax Lot No. .... Parcel Identifier No. ....  
Verified by ..... County on the ..... day of ..... 19 ..  
by .....

Mailed after recording to Calvin M. Smith, 500 Thalia Road, Spring Lake, N.C. 28390

This instrument was prepared by J. Gary Ciccone

Brief description for the Index

### NORTH CAROLINA GENERAL WARRANTY DEED

THIS DEED made this 26th day of October, 1987, by and between

| GRANTOR   | GRANTEE   |
|---|---|
| CALVIN M. SMITH, JR. and wife,<br>ELMA S. SMITH | CALVIN M. SMITH, JR. and wife,<br>ELMA S. SMITH<br><br>500 Thalia Road<br>Spring Lake, N.C. 28390 |

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in the City of SPRING LAKE, MANCHESTER Township, CUMBERLAND County, North Carolina and more particularly described as follows:

BEING all of Lot No. 1, in a subdivision known as THE SMITH PROPERTY, according to a plat of same duly recorded in Book of Plates 63, Page 64, Cumberland County Registry, North Carolina.

BK3334 PG0196

The property hereinabove described was acquired by Grantor by instrument recorded in .....  
Book 3331, Page 570, Cumberland County Registry, North Carolina.

A map showing the above described property is recorded in Plat Book .....63 ..... page..... 64.....  
TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to  
the Grantee in fee simple.

And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey  
the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and  
defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated,  
Title to the property hereinabove described is subject to the following exceptions:

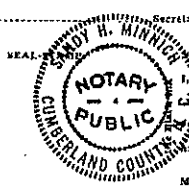
Subject to easements, restrictions and rights of way of record, if any.

Subject to the currently accruing ad-valorem property taxes for 1987 and subsequent years.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal, or if corporate, has caused this instrument to be signed in its  
corporate name by its duly authorized officers and its seal to be hereunto affixed by authority of its Board of Directors, the day and year first  
above written.

..... (Corporate Name) .....  
My: .....  
..... President  
ATTEST:  
..... Secretary (Corporate Seal)  
..... (SEAL)  
CALVIN M. SMITH, JR.  
*Calvin M. Smith, Jr.* (SEAL)  
*Elma S. Smith* (SEAL)  
ELMA S. SMITH (SEAL)

USE BACKING ONLY

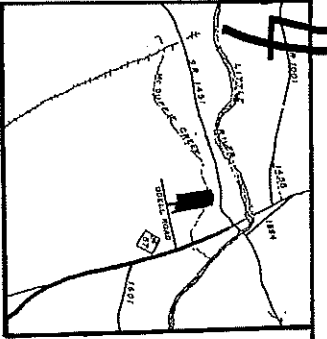


NORTH CAROLINA, CUMBERLAND County.  
I, a Notary Public of the County and State aforesaid, certify that  
CALVIN M. SMITH, JR. and wife, ELMA S. SMITH Grantor,  
personally appeared before me this day and acknowledged the execution of the foregoing instrument. Witness my  
hand and official stamp or seal, this 27th day of October, 1987.  
My commission expires 10-1-90 *Andy H. Minnick* Notary Public

SEAL-STATE NORTH CAROLINA, County.  
I, a Notary Public of the County and State aforesaid, certify that  
personally came before me this day and acknowledged that he is Secretary of  
a North Carolina corporation, and that by authority duly  
given and as the act of the corporation, the foregoing instrument was signed in its name by its  
President, sealed with its corporate seal and attested by Secretary.  
Witness my hand and official stamp or seal, this day of 1987.  
My commission expires Notary Public

The foregoing Certificate(s) of *Andy H. Minnick*  
is/are certified to be correct. This instrument and this certificate are duly registered at the date and time and in the Book and Page shown on the  
first page hereof.  
GEORGE H. TATUM REGISTER OF DEEDS FOR CUMBERLAND COUNTY,  
By *Arnold J. Hargrove* Deputy/Assistant - Register of Deeds

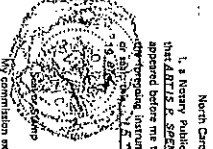
NO REVENUE



NORTH CAROLINA  
 I, ARTIS P. SPENCE, RLS do hereby certify that this plat was drawn under my supervision from an actual survey made under my supervision using references shown hereon; that the boundaries and surveyed are shown as broken lines plotted from information shown hereon; that the ratio of precision as calculated by latitudes and departures is 1:10,000; that this plat was prepared in accordance with G.S. 47-30 as amended. Witness my original signature, registration number, and seal this 23 day of October, A.D. 1987.



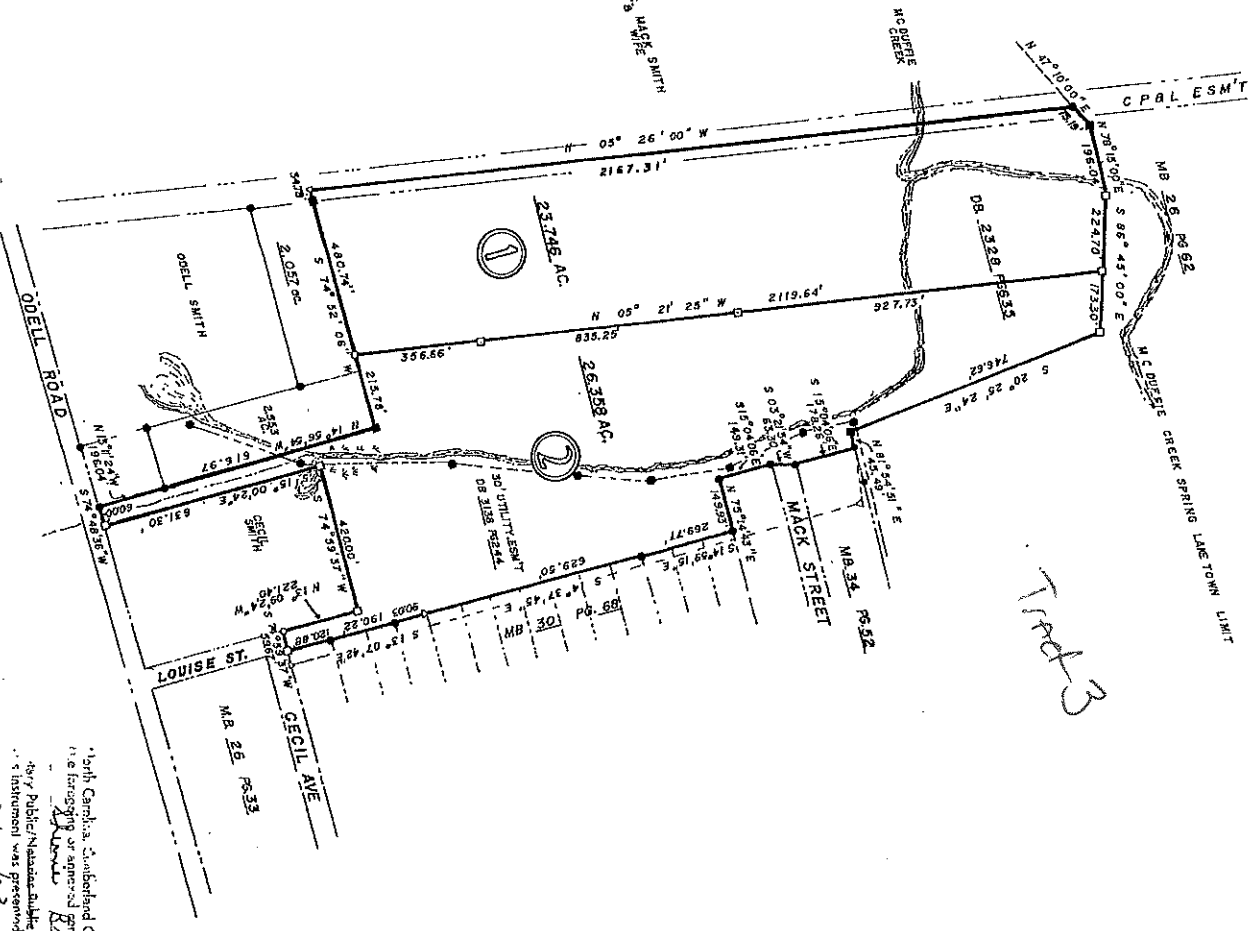
Artis P. Spence  
 Surveyor  
 Registration Number 17822



Sheila Bowling  
 Notary Public  
 My commission expires 1-28-92

TOWN OF SPRING LAKE  
 NO APPROVAL NECESSARY

Town Clerk  
 Sheila Bowling  
 DATE



T-1-1-3

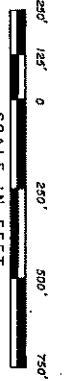
DIVISION OF  
 THE SMITH PROPERTY  
 MANCHESTER  
 CUMBERLAND  
 NORTH CAROLINA  
 SCALE 1" = 250'  
 OCTOBER, 1987

SURVEY BY  
 ARTIS P. SPENCE RLS  
 ROUTE TWO BOX 302 LILLINGTON N.C.  
 DRAWN BY JRR

North Carolina, Cumberland County  
 The foregoing or approved plat  
 Surveyor  
 This 23 day of October 1987 at 11:50 clock A.M.  
 County Register of Deeds

- LEGEND
- Existing Iron Pipe
  - Iron Pipe Set (Unless otherwise designated)
  - ▭ Existing concrete foundation
  - ▭ Existing concrete foundation
  - EXISTING MANHOLE
- Zone  
 Tax Parcel

RECORDED COUNTY BOOK 63 PAGE 64



R 63 P 64

8427  
0493

BK 08427 PG 0493

tract 4<sup>n</sup>

FILED  
 CUMBERLAND COUNTY NC  
 J. LEE WARREN, JR.  
 REGISTER OF DEEDS

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FILED Jul 02, 2010  
 AT 12:40:00 pm  
 BOOK 08427  
 START PAGE 0493  
 END PAGE 0495  
 INSTRUMENT # 20765  
 RECORDING \$25.00  
 EXCISE TAX \$196.00

DJ

### NORTH CAROLINA GENERAL WARRANTY DEED

Excise Tax \$196.00 M & P File #1664-2  
 Parcel Identifier No.: 0502-20-0708  
 Prepared by/Mail after recording to: Rebecca F. Person, 1308 Fort Bragg Rd., Ste 101, Fayetteville, NC 28305  
 Brief Description for the Index: M&B Description .96 AC N/RW Odell Rd.

THIS DEED made this June 17, 2010 by and between:

| GRANTOR  | GRANTEE  |
|--|--|
| JEREMY U. MCGUIRE and wife, CELINE J. MCGUIRE<br><br>Mailing Address:<br>1401 N. Western<br>Mexico, MO 65265 | ELMA S. SMITH, widowed<br>Mailing Address:<br>500 Thalia Rd.<br>Spring Lake, NC 28390<br><br>Property Address:<br>524 Odell Rd.<br>Spring Lake, NC 28390 |

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g., corporation or partnership

The designation Grantor and Grantee as used herein shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that the Grantor, for a valuable consideration paid by the Grantee, the receipt of which is hereby acknowledged, has and by these presents does grant, bargain, sell and convey unto the Grantee in fee simple, all that certain lot or parcel of land situated in or near the City of Spring Lake, Manchester Township, Cumberland County, North Carolina and more particularly described as follows:

See Exhibit A attached hereto and made a part hereof.

The property hereinabove described was acquired by instrument recorded in Book 08427, Page 0490, Cumberland County, North Carolina, Registry.

A map showing the above described property is recorded in Plat Book , Page , Cumberland County, North Carolina, Registry.

TO HAVE AND TO HOLD the aforesaid lot or parcel of land and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

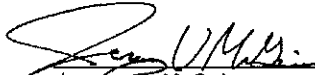
And the Grantor covenants with the Grantee, that Grantor is seized of the premises in fee simple, has the right to convey the same in fee simple, that title is marketable and free and clear of all encumbrances, and that Grantor will warrant and defend the title against the lawful claims of all persons whomsoever except for the exceptions hereinafter stated. Title to the property hereinabove described is subject to the following exceptions: utility easements, permits, and rights of way as the same may appear of record

IN WITNESS WHEREOF, the Grantor has hereunto set his hand and seal effective the day and year first above written.

8427  
.0494

BK08427 PG0494

If initialed, the property includes the primary residence of at least one of the Grantors. (NC GS § 105-317.2) \_\_\_\_\_

  
Jeremy U. McGuire (SEAL)

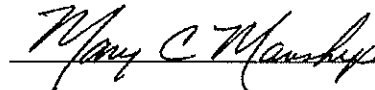
  
Celine J. McGuire (SEAL)

STATE OF NORTH CAROLINA

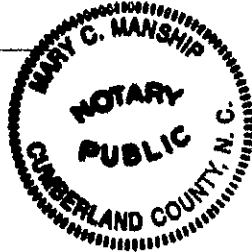
COUNTY OF CUMBERLAND

I certify that the following person(s) personally appeared before me this day and I have personal knowledge of the identity of the principal(s) or have seen satisfactory evidence of the principal's identity, by a current state or federal identification with the principal's photograph in the form of a driver's license or a credible witness has sworn to the identity of the principal(s); each acknowledging to me that he or she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Name of Principal: Jeremy U. McGuire, Celine J. McGuire,

Date: 6/17/10

  
Mary C. Manship  
Printed Name of Notary Public

My Commission Expires: 05/12/15



(N.P. SEAL)

**BEGINNING** at a point, said point being located in the northern right-of-way margin of Odell Road, the same point being North 38 degrees 30 minutes 51 seconds East 45.14 feet from the center-line intersection of said Odell Road and Goodyear Drive;

**THENCE** South 75 degrees 09 minutes 46 seconds West for a distance of 239.60 feet along said right-of-way margin to an iron pipe;

**THENCE** North 11 degrees 57 minutes 24 seconds West for a distance of 167.92 feet to an iron pipe;

**THENCE** North 75 degrees 10 minutes 00 seconds East for a distance of 259.22 feet to a concrete monument;

**THENCE** South 05 degrees 20 minutes 18 seconds East for a distance of 170.02 feet to the point and place of **BEGINNING**; and being that property described in Deed Book 2108, Page 0591, and Deed Book 2150, Page 0049, Cumberland County Registry, excepting that property described in Deed Book 2331, Page 407, Cumberland County Registry.

Together with and subject to covenants, easements, and restrictions of record.

Said property contains 0.9602 acres more or less.

This description prepared by Larry King & Associates, R.L.S., P.A. on this 6th day January, 1994.

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"Tract 5"

NORTH CAROLINA  
CUMBERLAND COUNTY

BOOK 2109 PAGE 161

THIS DEED, made this 13th day of June, 1968, by MILTON R. SMITH, SR. and wife, LOTTIE M. SMITH, of Harnett County, North Carolina, and C. MACK SMITH and wife, ELMA S. SMITH, of Virginia Beach, Virginia, parties of the first part, to the TOWN OF SPRING LAKE, a North Carolina Municipal Corporation of Cumberland County, North Carolina, party of the second part:

W I T N E S S E T H:

That the said parties of the first part, for and in consideration of the sum of TEN DOLLARS and other good and valuable considerations to them paid by the said party of the second part, the receipt of which is hereby acknowledged, have this day given, granted, bargained, sold and conveyed and by these presents do hereby give, grant, bargain, sell and convey unto the said party of the second part, its successors and assigns, all that certain tract or parcel of land lying and being in Manchester Township, Cumberland County, North Carolina, and more particularly described as follows, to wit:

BEGINNING at a point in the northern margin of the right of way for Odell Road, said point being situated South 75° 10' West 70 feet from the Southwest corner of the Odell Smith 7.4 acre tract or parcel of land, said beginning point also being the intersection of the right of way for Odell Road with the West margin of the Carolina Power & Light Company transmission line easement, and running thence South 75° 10' West 130 feet with the right of way for Odell Road to an iron stake and corner of the Harold Ray Fail tract; thence North 5° 21' West 170 feet with the Harold Ray Fail property line to an iron stake; thence North 75° 10' East 130 feet to the western margin of the Carolina Power & Light Company easement; thence along the said easement right of way South 5° 21' East 170 feet to the point of beginning, and being a portion of the Milton R. Smith, Sr. and C. Mack Smith 114.9 acre tract of land described in the Cumberland County Registry.

TO HAVE AND TO HOLD the aforesaid described lands and real estate together with all the privileges and appurtenances thereunto belonging unto it, the said party of the second part, its

DOCK G. SMITH, JR.  
ATTORNEY AT LAW  
110 E. SALISBURY ST.  
ROBBINS, N. C.