

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, OCTOBER 26, 2020 – 7:00 P.M.
WEDDINGTON TOWN HALL*
1924 WEDDINGTON ROAD
WEDDINGTON, NC 28104
AGENDA**

**PLEASE NOTE: DUE TO THE CURRENT STATES OF EMERGENCY RELATED TO COVID-19, THE GOVERNOR'S EXECUTIVE ORDER NO. 121 PLACING LIMITS ON CERTAIN GATHERINGS AND REQUIRING CERTAIN SOCIAL DISTANCING METHODS, AND THE IMPORTANCE OF ENSURING THE SAFETY OF TOWN RESIDENTS, STAFF, AND THE PLANNING BOARD, THE MEETING WILL BE CONDUCTED VIRTUALLY AND HAVE LIMITED PHYSICAL ATTENDANCE. THE MEETING WILL BE LIVE STREAMED ON SOCIAL MEDIA.*

1. Open the Meeting
2. Determination of Quorum
3. Approval of Minutes – September 28, 2020 Regular Planning Board Meeting Minutes
4. Old Business
 - A. Discussion of Tree Save and Tree Replenish Requirements Text Amendment
5. New Business
 - A. Discussion and Consideration of Minor Subdivision - 218 Weddington Road
 - B. Review of Unified Development Ordinance Section 7
6. Update from Town Planner and Report from the October Town Council Meeting
7. Board member comments
8. Adjournment

**TOWN OF WEDDINGTON
REGULAR PLANNING BOARD MEETING
MONDAY, SEPTEMBER 28, 2020 – 7:00 P.M.
WEDDINGTON TOWN HALL*
MINUTES
PAGE 1 OF 3**

**PLEASE NOTE: DUE TO THE CURRENT STATES OF EMERGENCY RELATED TO COVID-19, THE GOVERNOR'S EXECUTIVE ORDER NO. 121 PLACING LIMITS ON CERTAIN GATHERINGS AND REQUIRING CERTAIN SOCIAL DISTANCING METHODS, AND THE IMPORTANCE OF ENSURING THE SAFETY OF TOWN RESIDENTS, STAFF, AND THE PLANNING BOARD, THE MEETING WILL BE CONDUCTED VIRTUALLY AND HAVE LIMITED PHYSICAL ATTENDANCE. THE MEETING WILL BE LIVE STREAMED ON SOCIAL MEDIA.*

1. Open the Meeting

Chairman Brad Prillaman called the meeting to order at 7:00 p.m.

2. Determination of Quorum

Quorum was determined with Chairman Brad Prillaman, Vice Chairman Walt Hogan, Board members Jim Vivian, Ed Goscicki, and Steve Godfrey present. Board members Tami Hechtel and Jen Conway were absent.

Staff Present: Town Administrator/Planner Lisa Thompson, Town Clerk Karen Dewey, Town Attorney Kevin Bringewatt.

3. Approval of Minutes – August 24, 2020 Regular Planning Board Meeting Minutes

Board member Goscicki made a word change in his comments on page 4: “efficient” to “sufficient”

- Motion:** Board member Goscicki made a motion to approve the August 24, 2020 Regular Planning Board Meeting minutes as amended.
- Second:** Board member
- Vote:** The motion passed with a unanimous vote.

4. Old Business

5. New Business

A. Review of Unified Development Ordinance Sections 1 through 6

Mr. Bringewatt presented the draft of Sections 1-6 of the Unified Development Ordinance and addressed comments sent by Planning Board members. This is a draft and there will be a proof-reading exercise at the end of the project when the substantive editing is finished. This will comply exactly with 160D and pulls in all applicable substance from the town current ordinances. The review of the sections:

- Table of Contents-same structure as in the state statutes
- Section D-109 Conflicts of Interest – language from state statute as legal standard- if one doesn't have a direct financial interest must cast vote
- Section D-112 non-conforming use – taken verbatim from current ordinance-broad language.

- Article 2 housekeeping
- Article 3 turn over date-update to reflect March
- Article 4 D-403(c) “substantially commenced” -may need to be defined as it could overlap with vested right and begins room for disagreement down the road.
- Article 5-anchor to comprehensive plan-housekeeping
- Article 6-parentetical overview of procedures-some existing Town of Weddington text will be replaced with 160D language
- D-104 permits Conditional Zoning-any approval goes with property, not owner or applicant

What to expect at the next Planning Board meetings:

- Article 7 for October
- Articles 8-9 for November
- Through Article 14 for December
- January-hold editorial meeting. See red lines to drafts. Get unanimous recommendation for Town Council in January.
- Approval process by end of 1st quarter 2021.

B. Discussion and Recommendation of Text Amendment to 58-8 Screening and Landscaping; Tree Save and Tree Replenish Requirements

Ms. Thompson presented text for a tree ordinance for R-40 subdivisions to be included in the final draft of the Unified Development Ordinance. Text will be reviewed by the arborist and town attorney. Amendment includes:

- No removal of trees except for the buildable area of lots; no clearing within the setbacks with the exception for easements
- Added tree landscaping protection and replacement requirements
- Required street and on-lot canopy trees (4 per lot less than one acre 6 per lot more than one acre).
- Required open space landscaping including around stormwater detention areas.

Board member Vivian suggested offering different species and stagger plantings for street trees.

Board member Goscicki stated that the arborist will have recommendations on acceptable trees, and he can review trees in the landscape ordinance.

Board member Hogan asked if this would prevent clear cutting. Ms. Thompson responded that it attempts to for major subdivisions. The initial idea was to allow a smaller detention area by saving trees, but the town will need a more in-depth study to figure out how to make that work.

Chairman Prillaman stated that the objective is to bring this amendment through the approval process as part of the UDO. This new text as written will be for new major residential development . The board discussed whether this should be included for single lot development as well.

6. Update from Town Planner and Report from the September Town Council Meeting

Ms. Thompson gave the update: At the September Town Council meeting Planning Board terms were extended to expire in March.

Ms. Thompson had an informal meeting with developers about a rezoning request at 12 Mile Creek and 84 for a multi-use development. Developers held meetings with adjacent neighborhoods causing some exchanges on social media. The town has not received an application and staff doesn't believe it would have the support needed.

7. Board member comments

Board member Hogan thanked everybody for all the hard work and suggested looking at Seven Devils, NC as an example of a Unified Development Ordinance.

8. Adjournment

- Motion:** Board member Hogan made a motion to adjourn the September 28, 2020 Planning Board Regular meeting at 7:58 p.m.
- Second:** Board member Goscicki
- Vote:** The motion passed with a unanimous roll call vote.

Approved: _____

Brad Prillaman, Chairman

Karen Dewey, Town Clerk

***Same text as September Documents-Discussion to be around requirements for single lots outside of subdivisions**

58-8 Screening and Landscaping (to be placed in Development Standards for the UDO and combined with this section).

58-8.1 Tree save and Tree replenish requirements.

In order to maintain or replenish the town tree canopy in any new major residential development the following shall apply:

- 1) The tree removal is not permitted within areas that have naturally occurring trees located outside the buildable area of a lot or development. For the purpose of these provisions “buildable area” means all areas located outside of:
 - a) Required zoning district setbacks;
 - b) Existing and proposed street rights-of-way and easements;
 - c) Utility and drainage easements.
- 2) Each lot created shall contain one existing or planted canopy tree for every 40 feet of street frontage or fraction thereof. Alternatively, the canopy trees can be placed at 40-foot intervals along a street front, irrespective of lot line locations. Street trees shall be a minimum of four feet and a maximum of 12 feet from the edge of right-of-way on private property.
- 3) Each lot less than one acre in area shall have a minimum of four canopy trees. Each lot that is one acre or more in area shall have a minimum of six canopy trees. At least two trees shall be located within the front yard and back yard of each lot. Required street trees may be counted towards the fulfillment of this requirement. Existing canopy trees, outside required zoning setbacks that are six inches or larger diameter at breast height, may be counted towards fulfilling this requirement. All canopy shade trees planted within the lot must be spaced to accommodate mature growth. New tree planting for each single-family lot shall be done on a lot-by-lot basis, prior to the issuance of a certificate of occupancy for each lot.
- 4) Areas not falling under the on-lot or perimeter landscaping requirements including detention areas and open space areas shall be landscaped with ten (10) understory, fifteen (15) evergreens, and thirty-five (35) shrubs per acre.

Tree Protection

- 1) Property owners are responsible for ensuring that all existing trees shown on approved plans as being retained to meet the requirements of this article are protected during the construction process from removal, destruction, or injury.
- 2) Before any excavation takes place on the subject site, a barrier must be erected around the drip line of all such trees sufficient to put on notice all construction personnel that any disturbance of the area within the dripline of such trees is prohibited, except as expressly

approved by the administrator. Required tree barriers must be shown on construction plans including the demolition and grading plans.

- 3) Clearing or grading shall not commence on the site until tree protection measures have been inspected and approved by the Administrator.
- 4) No soil disturbance, filling, compacting or material storage shall occur within tree protection areas.

In association with the approval of any permit herein required or any site plan or subdivision plat, the Zoning Administrator and/or Town Council may require additional tree preservation measures above and beyond those listed herein that are deemed to support the tree preservation objectives of this chapter.

Maintenance

- 1) The property owner is responsible for the maintenance and protection of all required landscaping and screening, in accordance with American Standard for Nursery Stock (ANSI Z60.1) as published by the American Association of Nurserymen
- 2) Failure to maintain landscaping is a violation of this ordinance.

Planting size and specifications

- 1) Ornamental and understory tree species planted to satisfy the tree planting requirements of this article must have a 2-inch minimum caliper size and a minimum height of 6 feet at the time of planting.
- 2) Conifers or evergreen tree species planted to satisfy the tree planting requirements of this article must have a minimum height of 6 feet at the time of planting.
- 3) Canopy tree species planted to satisfy the tree planting requirements of this article must have a 2.5-inch minimum caliper size and a minimum height of 8 feet at the time of planting.
- 4) Tree and Plant Species Tree and plant species listed in the North Carolina Department of Transportation's Invasive Exotic Plants of North Carolina may not be credited toward satisfying the landscaping and screening requirements of this article.
- 5) All new trees planted shall be selected from the suggested species list, which is provided as Appendices A and B, provided that additional species may be used subject to specific approval of the Administrator. All trees must comply with the *American Standard for Nursery Stock* published by the American Association of Nurserymen.
- 6) All plant material shall be free from disease when planted and shall be maintained in a healthy condition. All plant material shall be installed in a fashion that ensures the availability of sufficient soil and water to sustain healthy growth. All trees shall be properly guyed and staked at the time of planting. All plant materials shall be planted in a manner which is not intrusive to utilities or pavement.

Time for Installation.

All perimeter and open space landscaping for single-family major residential developments shall be completed in accordance with the approved site plan at the time that seventy (70) percent of the development is completed or within the next planting season following occupancy,

whichever comes first. If the development is built in phases, then the landscaping shall be completed as seventy (70) percent of each phase is completed or within the next planting season following occupancy, whichever comes first. If plantings cannot be installed, the Zoning Administrator may issue a temporary permit and take surety until the landscaping is completed equal to one hundred ten (110) percent of the estimated cost for landscaping improvements.

Replacement.

All landscaping shall be guaranteed for two (2) years from the date of acceptance and shall be replaced by the applicant at no charge to the Town should they die or be in a declining condition in the opinion of the Arborist. The replacement tree shall be the same size, species and quality, unless said species is no longer on the approved species list and shall carry the same two (2) year guarantee. The Town may use the bond or surety to replace plants if the developer fails to perform adequately. After the initial two (2) year period, the landowner or, in the case of plant material in common open space, the homeowners' or property owners' association shall be responsible for maintaining and replacing any plants that die.

Plan Required.

All applications for development and construction activities that are subject to the landscape and screening regulations of this article must be accompanied by a landscape plan. No building permit or similar authorization may be issued until the administrator determines that the landscaping and screening regulations of this article have been met.

These measures shall include, but not be limited to, the following:

- 1) *Tree landscape plan.* The tree landscape plan must show that there will be no grading or land disturbing in the root protection zone. Land disturbing is also considered trenching, placing backfill in the root protection zone, driving or parking equipment in the root protection zone, and dumping of materials detrimental to plant health in close proximity of the tree(s).
- 2) *Tree landscape protection.* Tree protection fencing shall be indicated on the tree landscape plan, grading plan and demolition plans around the perimeter of tree protection areas. Fencing in or around an existing tree canopy to be preserved/saved shall contain an area bounded by a line situated five feet beyond the drip line, for a single tree, and five feet beyond the perimeter drip line for a group of trees. The protection fencing shall consist of colored mesh fabric fencing material, three feet minimum height, with posts eight feet or less on center.

Inspections.

- 1) Agents, officials or other qualified persons authorized by the town are authorized to inspect the sites subject to the provisions of this chapter to determine compliance with this chapter or rules or orders adopted or issued pursuant to this chapter.
- 2) No person shall refuse entry or access to any authorized representative or agent of the town who requests entry for the purpose of inspection, nor shall any person resist, delay, obstruct or interfere with the authorized representative while in the process of carrying out official duties.

- 3) If, through inspection, it is determined that a property owner or person in control of the land has failed to comply or is no longer in compliance with the provisions of this chapter or orders issued pursuant to this chapter, the town will serve a written notice of violation. The notice may be served by any means authorized under G.S. § 1A-1, Rule 4, or any other means reasonably calculated to give actual notice, such as facsimile or hand delivery.
- 4) The town shall have the power to conduct the investigation as it may reasonably deem necessary to carry out its duties as prescribed in this chapter, and may enter, at reasonable times, upon any property, public or private, for the purpose of investigating and inspecting the sites subject to the provisions of this chapter.

Appeals.

Any applicant aggrieved or affected by the determination of the Administrator shall have the right, within 30 days from the date of action by the Administrator, to appeal to the Board of Adjustment and shall state the reason for the appeal. Such appeal process shall be similar in nature and scope to the process stated in § 58-232 of the town regulations, as amended.

Penalty.

- 1) Violation of this chapter is not an infraction or misdemeanor under G.S. § 14-4.
- 2) Any person, firm or corporation that violates any of the provisions of this chapter shall be subject to:
 - a) A civil penalty \$500 plus an additional \$50 per day per offense, for each day that the violation continues to exist;
 - b) A planting requirement of 4 trees for every tree removed, which may be assessed in addition to or in lieu of any monetary penalties; and/or
 - c) The order as a court of competent jurisdiction may issue directing a violator to replace any removed trees with new trees and planted within a specified time.
- 3) For purposes of this section, a separate offense shall be deemed to have occurred for each protected or planted tree removed or unplanted tree missing from the approved site plan or subdivision plat shall be considered a separate offense.
- 4) Where the Administrator has determined that a violation of this chapter has occurred, no certificate of occupancy or certificate of compliance shall be issued until required replacement plantings have been completed or the violation otherwise remedied.
- 5) Pursuant to G.S. § 160A-175, the violation of this chapter shall subject the offender to a civil penalty to be recovered by the town in a civil action in the nature of debt. The town may file a civil action to recover the penalty if the offender does not pay the penalty within five days being cited for violation of this chapter.
- 6) Pursuant to G.S. §§ 160A-175, 160A-365 and 160A-389, the town may also seek any appropriate equitable relief issuing from a court of competent jurisdiction that it deems necessary to ensure compliance with the provisions of this chapter. In this case, the General Court of Justice shall have jurisdiction to issue orders as may be appropriate, and it shall not be a defense to the application of the town for equitable relief that there is an adequate remedy at law.
- 7) Pursuant to G.S. § 160A-389, if a building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building, structure or land is used in violation of this chapter or other regulation made under authority

conferred thereby, the town in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

- 8) In addition, the town may enforce this chapter in accordance to the remedies set out in G.S. § 160A-175. Hence, pursuant to G.S. § 160A-175, the town may seek a mandatory or prohibitory injunction and an order of abatement commanding the offender to correct the unlawful condition upon or cease the unlawful use of the subject premises. The action shall be governed in all respects by the laws and rules governing civil proceedings, including the Rules of Civil Procedure in general and Rule 65 in particular.
- 9) The above remedies are cumulative, and the town may pursue any or all of the same as its direction. Each day that the violation exists shall constitute a separate and distinct offense.

**TOWN OF
WEDDINGTON**

MEMORANDUM

TO: Chairman and Planning Board

FROM: Lisa Thompson, Town Administrator/Planner

DATE: October 26, 2020

SUBJECT: Plyler Minor Subdivision

The applicant, Syl Stewart Plyler and Terry F. Plyler are seeking minor subdivision approval for property located at 218 Weddington Road (parcel 061500072C). It is a total of 7 acres and is zoned RCD residential conservation district.

The resultant lots are approximately 5 acres and 1.505 acres (Tracts A and B) and an open space lot (Tract C) of .163 acres. The two buildable lots meet the minimum size requirement, the minimum front, side and rear yard setbacks and are at least 120' wide at the established front setback. Tract A meets the requirements for panhandle lots.

The proposed minor subdivision is in general conformity with the Town of Weddington Zoning and Subdivision Ordinances; therefore, staff recommends approval.

Article 7. Zoning Regulation.

D-701. Purposes. These zoning regulations are made in accordance with the Town's comprehensive plan and are designed to promote the public health, safety, and general welfare. To that end, the regulations are intended to address the following public purposes: to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to lessen congestion in the streets; to secure safety from fire, panic, and dangers; to facilitate the efficient and adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and to promote the health, safety, morals, or general welfare of the community. The regulations shall be made with reasonable consideration, among other things, as to the character of the 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 local government's planning and development regulation jurisdiction. The regulations may **not** include, as a basis for denying a zoning or rezoning request from a school, the level of service of a road facility or facilities abutting the school or proximately located to the school.

Specifically, the zoning regulations set forth herein are intended to:

- (1) Conserve open land, including those areas containing unique and sensitive natural features such as forestlands, steep slopes, streams, floodplains and wetlands, by setting them aside from development;
- (2) Provide design flexibility and efficiency in the siting of services and infrastructure;
- (3) Reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes;
- (4) Provide alternative lot sizes to accommodate a variety of age and income groups, and broader residential preferences, so that the community's population diversity may be enhanced;
- (5) Implement adopted land use and development policies, as contained in the town's land use plan, which may be revised from time to time;
- (6) Protect areas with productive agricultural soils for continued or future agricultural use by conserving blocks of land large enough to allow for efficient farm operations;
- (7) Create neighborhoods with direct visual access to open land, with amenities in the form of neighborhood conservation lands, and with a strong neighborhood identity;
- (8) Provide for the conservation and maintenance of open land within the town to achieve the aforementioned purposes and for active or passive recreational use by residents;
- (9) Provide multiple options for landowners in order to minimize impacts on environmental resources (sensitive lands such as wetlands, floodplains, and steep

slopes) and disturbance of natural or cultural features such as mature forestlands, hedgerows and tree lines, critical wildlife habitats, historic sites, and fieldstone walls;

(10) Provide standards reflecting the varying circumstances and interests of individual landowners, and the individual characteristics of their properties;

(11) Conserve scenic views and the town's residential character, and to minimize visual density, by minimizing views of new development from existing roads;

(12) Regulate the height, number of stories, and size of buildings and other structures; the percentage of lot that may be occupied; the location and use of buildings; structures and land for trade and residence, and other purposes, so as to lessen congestion in the streets;

(13) Secure safety from fire, panic and other dangers; to promote the public health, safety and general welfare; to provide adequate light and air;

(14) Prevent overcrowding of land;

(15) Promote economy in governmental expenditures; and

(16) Encourage the most appropriate use of land, buildings, and other structures within the area of jurisdiction of this chapter.

(b) The zoning districts and maps have been made with due consideration of future growth, development, and change in land development according to objectives expressed in the land development plan for the development of the community, as well as with due consideration of existing development and uses of land within the town.

(c) These regulations and districts represent reasonable consideration of the character of the districts and their peculiar suitability for particular uses of land and have been made with a view to preserving the existing environment, and assuring the development of a future environment that realizes the most appropriate use and enjoyment of land throughout the town. This is balanced against the necessary protection of the values of buildings and land and the use and enjoyment of land on adjacent properties, and with the objective of promoting and protecting the public welfare through the regulation of land use and the process of land development.

D-702. Grant of power; Limitations regarding regulation of “building design elements”. N.C.G.S. 160D-702 authorizes the Town to adopt zoning regulations. N.C.G.S. 160D-702 specifically limits the application of any regulation relating to building design elements. Specifically any regulation relating to building design elements adopted under this Chapter may not be applied to any structures subject to regulation under the North Carolina Residential Code for One- and Two-Family Dwellings except under one or more of the following circumstances:

- (1) The structures are located in an area designated as a local historic district pursuant to Part 4 of Article 9 of this Chapter.
- (2) The structures are located in an area designated as a historic district on the National Register of Historic Places.
- (3) The structures are individually designated as local, State, or national historic landmarks.
- (4) The regulations are directly and substantially related to the requirements of applicable safety codes adopted under G.S. 143-138.
- (5) Where the regulations are applied to manufactured housing in a manner consistent with G.S. 160D-908 and federal law.
- (6) Where the regulations are adopted as a condition of participation in the National Flood Insurance Program.

Regulations prohibited by this subsection may not be applied, directly or indirectly, in any zoning district or conditional district unless voluntarily consented to by the owners of all the property to which those regulations may be applied as part of and in the course of the process of seeking and obtaining a zoning amendment or a zoning, subdivision, or development approval, nor may any such regulations be applied indirectly as part of a review pursuant to G.S. 160D-604 or G.S. 160D-605 of any proposed zoning amendment for consistency with an adopted comprehensive plan or other applicable officially adopted plan.

For the purposes of this subsection, the phrase "building design elements" means exterior building color; type or style of exterior cladding material; style or materials of roof structures or porches; exterior nonstructural architectural ornamentation; location or architectural styling of windows and doors, including garage doors; the number and types of rooms; and the interior layout of rooms. The phrase "building design elements" does not include any of the following: (i) the height, bulk, orientation, or location of a structure on a zoning lot, (ii) the use of buffering or screening to minimize visual impacts, to mitigate the impacts of light and noise, or to protect the privacy of neighbors, or (iii) regulations adopted pursuant to this Article governing the permitted uses of land or structures subject to the North Carolina Residential Code for One- and Two-Family Dwellings.

Nothing in this subsection shall affect the validity or enforceability of private covenants or other contractual agreements among property owners relating to building design elements.

D-703. Zoning districts

- A. **Conventional Districts.** The Town's existing conventional zoning districts are as follows::
- R-80
 - R-60
 - R-40
 - R-40(D)
 - R-CD
 - RE
 - MX
 - ED
- B. **Conditional Zoning Districts.** As of the date of this UDO, the Town has two existing Conditional Zoning (CZ) districts as follows:
- B-1 (CZ)
 - B-2 (CZ)

Additionally, this UDO permits property owners to petition the Town Council to consider creating conditional zoning (CZ) districts on a site-specific basis.

CZ districts are zoning districts in which the development and use of the property is subject to the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying the CZ district, and the agreed upon site-specific development requirements, to the particular property. All of the property specific standards and conditions (typically including a site plan) are incorporated into the zoning district regulations.

As provided in the Table of Permissible Uses some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and/or the entire community that cannot be predetermined and controlled by general district standards and thus are only permitted with a Conditional Zoning district rezoning approval. Additionally, there may be instances where a general zoning district designation is clearly inappropriate for a certain property, but a specific use permitted under that district and subject to restrictive conditions would be consistent with the spirit and objectives of this Ordinance and applicable land plans. Both of these circumstances are reasonably addressed through a Conditional Zoning process.

The process for approval of a CZ district is explained in [Article 6](#).

The rezoning of any parcel of land to a CZ district shall be a voluntary process initiated by the property owner or his authorized agent.

To provide guidance and information to applicants, some rules, regulations and conditions that may be incorporated as part of the CZ zoning approval are identified in this UDO. Conditional Zoning is a legislative procedure under which the Town Council has the authority to increase, tighten, add, vary, modify or waive specific conditions or standards.

Once a property has been rezoned to a CZ , it shall be referenced with the letters "CZ" on the Zoning Map. 2.

C. **Zoning Map.** The Town’s Zoning Map is incorporated herein by reference. The Zoning Map may be changed by Town Council from time-to-time in accordance with the procedures set forth herein.

D. **Permitted Uses.**

1. **By-right Uses.** Certain primary uses of land are permitted “by right” (BR) in each conventional zoning district, provided all applicable provisions of this UDO (and any other applicable legal requirements) are satisfied. This UDO also provides for additional supplemental requirements (SR) that are applicable to a certain “by-right” uses of land as set forth in Article 9.
2. **Conditional Uses.** Others primary uses of land are permitted through the CZ zoning process. This UDO also identifies, in some cases, supplemental requirements (SR) that are likely to be applicable and desirable in connection with any CZ approval. Additionally a property owner may petition the Town Council through the CZ zoning process to consider permitting primary uses that are not identified as permitted in this UDO (although the Town Council has no obligation to approve any such requests).

E. **District Regulations.** Permitted uses (BR and CZ) are identified in Table 1, Permitted Uses – Zoning Districts. Standard yard requirements (lot sizes and setbacks) are identified in Table 2, Yard Requirements and Setbacks – Zoning Districts. Use specific regulations are set forth in Article 9. In the event of a conflict between the standard yard/setback requirements set forth in Table 2 and any yard/setback requirements specific to a particular use as set forth in Article 9, the use-specific requirement shall control.

Use	Supplemental Regulations	R-80	R-60	R-40	R-40(D)	R-CD	B-1 CD(CZ)	B-2 CD(CZ)	MX- CZ	ED
Residential										
single family dwellings		BR	BR	BR	BR	BR				
mobile homes, classes a and b		BR	BR	BR						
Agricultural uses	Move from 58-52	BR	BR	BR		BR				
Agritourism	58-88	CZ	CZ	CZ		CZ				
horse farm or academy	Move from 58-52	BR	BR	BR		BR				
family care home for up to 6 clients	Move from 58-52	BR	BR	BR	BR	BR				
Daycare center (Small Group)		BR	BR	BR		BR				
two family dwellings	-	-	-	-	BR				-	-
Customary home occupations	58-7	BR	BR	BR	BR	BR				
Conventional-Residential Subdivision Development <10 lots	Move from 58-52	BR	BR	BR		BR				
Conventional-Residential Subdivision Development 10+ lots		CZ	CZ	CZ		CZ				
conservation subdivision residential development						CZ				
Planned Residential Developments - Gated or Private Road Developments	58-23	CZ	CZ	CZ		CZ				
Governmental and Other Non-Residential										
country clubs	58-88	CZ	CZ	CZ	CZ	CZ				
churches, synagogues, and other places of worship	58-88	CZ	CZ	CZ		CZ				
Golf Courses, parks, playgrounds, and community rec centers	58-88	CZ	CZ	CZ		CZ				
emergency governmental service facilities, including police, fire, and rescue		CZ	CZ	CZ	CZ	CZ				
Cemeteries		CZ	CZ	CZ		CZ				
Essential services, classes I and IV		BR	BR	BR	BR	BR				
Essential services, classes II and III	58-88	CZ	CZ	CZ		CZ				
Private Airstrips	Move from 58-52	CZ	CZ	CZ						
telecommunication towers		CZ	CZ	CZ	CZ	CZ				
Public libraries		CZ	CZ	CZ		CZ				
Amateur radio towers	move from 58-52 58-88	CZ	CZ	CZ		CZ				
Government or town facility		CZ	CZ	CZ		CZ				
post offices										
small cell telecommunication facility										
School, public and private	58-88		CZ	CZ						CZ
Retail/Office										
							these are site specific development approvals and shall follow the uses allowed in those approvals			

	R-80	R-60	R-40	R-40(D)	B-1(CZ)	B-2(CZ)	R-CD Conventional/ Conservation	RE	MX
Minimum Lot Size	80,000 sq.ft.	60,000 sq. ft	40,000 sq. ft.	40,000 sq ft	None	None	40,000 sq ft (conventional) /12,000 sq ft (conservation)	20,000 sq ft	
Maximum Height	35'	35'	35'	35'			35'	35'	40'
Maximum Density									.2 FAR
Minimum Lot Width	150'	125'	120'	100'	none	none	120'(conventional)/80'(conservation)	100'	
Minimum Front Yard Setback									
residential uses	65'	60'	50'	40'	80'	80'	50'(conventional)/20'(conservation)		25
all other uses	75'	75'	75'				75'		
Minimum Side Yard Setback	25'/45' corner	25' / 45' corner	15/25' corner	12'			15'(conventional)/ 5' with 30' separation (conservation)	12'	
Minimum Rear Yard Setback	60'	60'	40'	40'	35'	35'	40'(conventional)/30'(conservation)	40'	

D-704. Incentives [to Encourage the Construction that Uses Sustainable Design Principles]. Reserved

D-705. Quasi-judicial zoning decisions.

(a) The board of adjustment shall hear and decide quasi-judicial zoning decisions. The board shall follow quasi-judicial procedures as specified in D-406 when making any quasi-judicial decision.

(b) Appeals. - The board of adjustment shall hear and decide appeals from administrative decisions regarding administration and enforcement of the zoning regulation or unified development ordinance and may hear appeals arising out of any other ordinance that regulates land use or development. The provisions of G.S. 160D-405 and G.S. 160D-406 are applicable to these appeals.

(c) Special Use Permits. [reserved]

(d) Variances. - When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the board of adjustment shall vary any of the provisions of the zoning regulation upon a showing of all of the following:

- (1) Unnecessary hardship would result from the strict application of the regulation. It shall not be 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 shall not be regarded as a self-created hardship.
- (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.

No change in permitted uses may be authorized by variance.

Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. Any other development regulation that regulates land use or development may provide for variances from the provisions of those ordinances consistent with the provisions of this subsection.

D-706. Zoning conflicts with other development standards.

(a) When regulations made under authority of this Article require a greater width or size of yards or courts, or require a lower height of a building or fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required in any other statute or local ordinance or regulation, the regulations made under authority of this Article shall govern. When the provisions of any other statute or local ordinance or regulation require a greater width or size of yards or courts, or require a lower height of a building or a fewer number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Article, the provisions of that statute or local ordinance or regulation shall govern.

(b) When adopting regulations under this Article, a local government may not use a definition of dwelling unit, bedroom, or sleeping unit that is more expansive than any definition of the same in another statute or in a rule adopted by a State agency.