

PROPOSED TEXT AMENDMENT
P14-12

Town of Hope Mills Zoning Ordinance

Proposing to amend the provisions to allow create conditional zoning district provisions, and updating the use matrix and Board of Adjustment provisions.

CURRENT MEETING INFORMATION:

A public hearing will be held by the Hope Mills Zoning Board on March 24, 2014, 4:00 pm in the Bill Luther Board Meeting Room at the Hope Mills Town Hall, 5770 Rockfish Road, Hope Mills.

CASE HEADING:

(See next page for complete formal case heading.)

P14-12: REVISION AND AMENDMENT TO THE TOWN OF HOPE MILLS ZONING ORDINANCE

ADDITIONAL INFORMATION:

The proposed changes, if approved, will amend several articles for purposes of converting the conditional use district and permit (quasi-judicial) district to conditional zoning (legislative), and update the use matrix and the Board of Adjustment provisions.

A copy of the complete text of the proposed amendment is attached.

P14-12

HOPE MILLS ZONING ORDINANCE TEXT AMENDMENT

[Replacing conditional use district & permit with conditional zoning (quasi-judicial process to legislative), updating the use matrix and modifying the Board of Adjustment provisions]

P14-12. REVISION AND AMENDMENT TO THE TOWN OF HOPE MILLS ZONING ORDINANCE REPLACING THE CONDITIONAL USE DISTRICT AND PERMIT PROCESS WITH CONDITIONAL ZONING, AND UPDATING THE USE MATRIX AND PROVISIONS REGULATING THE TOWN'S BOARD OF ADJUSTMENT EFFECTING THE FOLLOWING ARTICLES AND SECTIONS: ARTICLE I ADMINISTRATIVE PROVISIONS, SECTION 102A-110. FEES; ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS, SECTION 102A-203. DEFINITION OF SPECIFIC TERMS AND WORDS, SPECIFICALLY THE TERMS *CHAPTER 86*, *CONDITIONAL USE*, *EQUESTRIAN FACILITIES*, AND *SITE SPECIFIC DEVELOPMENT PLAN*; ARTICLE III ZONING DISTRICT CLASSIFICATION, SECTION 102A-302. ZONE CHARACTERISTICS, SUBSECTION (F) CONDITIONAL USE DISTRICTS (1) THROUGH (4); ARTICLE IV PERMITTED, CONDITIONAL AND SPECIAL USES, SECTIONS 102A-401. GENERAL, 102A-402. USES BY RIGHT, AND 102A-403. USE MATRIX; ARTICLE V COMPANION DISTRICTS – CONDITIONAL USE DISTRICTS, SECTIONS 102A-501. GENERAL, 102A-502. RESTRICTIONS ON FILING OF APPLICATIONS, 102A-503. CONTENT OF APPLICATIONS AND CONDITIONS, 102A-504. ACTION BY THE ZONING BOARD, 102A-505. ACTION BY THE BOARD OF COMMISSIONERS, 102A-506. MODIFICATION TO APPROVED CONDITIONAL USE DISTRICTS AND PERMITS, 102A-507. TIME LIMIT, 102A-508. FAILURE TO COMPLY, AND 102A-509. VALIDATION OF EXISTING CONDITIONAL USE OVERLAYS; ARTICLE VI MIXED USE DEVELOPMENT-CONDITIONAL USE DISTRICT, SECTIONS 102A-601. GENERAL, AND 102A-604. DEVELOPMENT PERFORMANCE STANDARDS; ARTICLE VII PLANNED NEIGHBORHOOD DEVELOPMENT-CONDITIONAL USE DISTRICT, SECTION 102A-702. GENERAL; ARTICLE VIII DENSITY DEVELOPMENT-CONDITIONAL USE DISTRICT, SECTIONS 102A-801. PURPOSE AND 102A-802. GENERAL; ARTICLE X INDIVIDUAL USES, SECTIONS 102A-1001. DEVELOPMENT STANDARDS FOR INDIVIDUAL USES AND 102A-1013. MIXED USE BUILDING; ARTICLE XII LOT AND YARD REGULATIONS, SECTION 102A-1203. SPECIAL DEVELOPMENTS; ARTICLE XIII OFF-STREET PARKING AND LOADING, SECTION 102A-1301. MINIMUM STANDARDS; ARTICLE XIV SIGNS, SECTION 102A-1406. SIGNS PERMITTED BY DISTRICT, (A) RESIDENTIAL AND CONSERVANCY DISTRICTS (4) INSTITUTIONAL, COMMERCIAL AND INDUSTRIAL SIGNS LOCATED IN RESIDENTIAL AND CONSERVANCY DISTRICTS; ARTICLE XVI AMENDMENTS, SECTION 102A-1604. BOARD OF COMMISSIONERS' HEARING AND FINAL DISPOSITION; ARTICLE XVII BOARD OF ADJUSTMENT, SECTIONS 102A-1705. VARIANCE; 102A-1706. SPECIAL USE PERMITS (D) FINAL DISPOSITION AND (F) MODIFICATIONS TO PLANS, 102A-1707. HEARINGS, 102A-1708. REQUIRED VOTE, 102A-1709. REVERSAL OF DECISION, 102A-1710. APPEAL OF FINAL DECISION; AND ARTICLE XVIII LEGAL PROVISIONS, SECTION 102A-1802. VESTED RIGHTS (A) ESTABLISHMENT ZONING VESTED RIGHT (5); AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (HOPE MILLS)

REVISE and AMEND the following sections as indicated below:

ARTICLE I ADMINISTRATIVE PROVISIONS

Sec. 102A-110. Fees.

Each applicant for a zoning amendment, either general or for a conditional zoning district ~~use district and permit~~, 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.

ARTICLE II INTERPRETATIONS, CALCULATIONS, AND DEFINITIONS

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

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*.

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

Equestrian facilities: An integral part of and developed in conjunction with residential developments, including: ~~approved as a conditional use district with a permit being issued. This definition includes~~ 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.

Site specific development plan: A land development plan ~~of land development~~ 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 use or special use permit or zoning permit. (Sec. 102A-1802)

ARTICLE III ZONING DISTRICTS ~~CLASSIFICATION~~

Sec. 102A-302. Zone characteristics.

(f) Conditional zoning ~~use~~ districts.

(1) *Companion districts* (___/CZ ~~CUD~~). Each district includes a companion conditional zoning ~~use~~ district (e.g. RR has RR/ CZ ~~CUD~~) 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. ~~All uses in the companion conditional use districts also require a conditional use permit.~~ (Article V)

(2) *Mixed use development - conditional zoning ~~use~~ district* (MXD/ CZ ~~CUD~~). The purpose of this district is to encourage innovative development on a conditional ~~use~~ 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. (Art. VI)

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

(4) *Density development - conditional zoning ~~use~~ district* (___/CZ ~~CUD~~). 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 ~~CUD~~. (Art. VIII)

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 upon approval of a

~~through~~ conditional zoning use 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 uses in conditional zoning use districts, after Board of Commissioner approval ~~and issuance of the permit~~, are also indicated in the matrix. All proposed non-residential uses, including changes in an existing use, ~~in any planned district~~ require site plan review and approval and shall be in compliance with the standards of this ordinance and the town's subdivision ordinance ~~Chapter 86~~.

Sec. 102A-402. Uses by right.

All uses of property allowed as a use by right ~~are prohibited~~ except where those that are permitted or otherwise allowed under the terms of this ordinance specifies otherwise or where this ordinance specifically prohibits the use. ~~In the event, a use of property is proposed that is not addressed by the terms of this ordinance, the minimum ordinance standards for the use addressed by this ordinance that is most closely related to the land use impacts of the proposed use shall apply. In addition, the Chief Building Inspector or the Planning Director may request that an ordinance amendment be initiated addressing such proposed use, provided that the drafting and adoption of said amendment will not cause delay in the permitting of the proposed use.~~

Sec. 102A-403. Use matrix.

The matrix on the following pages indicates permitted, special and some ~~conditional~~ uses allowed only in a conditional zoning district.

Sec. 102A-403. Use matrix

Hope Mills Zoning Ordinance

P = Permitted use

ZC = Conditional zoning use (Board of Commissioners approval required)

S = Special use (Board of Adjustment approval required)

Editor's note: The formatting of the use matrix is out of sync, but will be cleaned up before the final print when adopted.

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)
Accessory uses incidental to any permitted use	P	P	P	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	P	P	P	P	P								
Airport operations (minor)														S	S
Airport operations (major) (Sec.102A-1002)															P
Alcoholic Beverages, (Control sales)													P		
Apparel and accessory sales											P	P	P		
Assemblies (including assembly hall, armory, stadium, coliseum, community center, fairground activities) (Sec.102A-1015)		S	S	S	S	S	S	S	S	P	P	P	P	P	P
Auction sales (excluding livestock auctioning & motor vehicles)													P	P	P
Bakery production and wholesale sales													P	P	P
Baking, on-premises and retail only											P	P	P		
Bank, savings and loan company and other financial activities										P	P	P	P		
Barbering, and hairdressing and salon services											P	P	P		
Bars & night clubs, not regulated by Sec. 102A-1023													P		
Bed and breakfast (Sec.102A-1003)		P	P	P	P	P	P	P	P			P	P		
Billboards (Sec. 102A-1407)													ZS		P

Sec. 102A-403. Use matrix.

<p>Hope Mills Zoning Ordinance</p> <p>P = Permitted use</p> <p><u>Z</u> C = Conditional <u>zoning use</u> (Board of Commissioners approval required)</p> <p>S = Special use (Board of Adjustment approval required)</p>															
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)
Bingo											P	<u>P</u>	P		
Boats and accessories, retail sales and service													P		
Books & printed matter- sales, <u>not regulated by Sec. 102A-1023</u>										P	P	P	P	P	P
Borrow source operations (Sec.102A-1004)															S
Bottled gas distributing, bulk storage															P
Bottling														P	P
Building supply												P	P	P	P
Bus station activities (storage terminal activities)													P	P	P
Cabinet making and other woodworking														P	P
Call center														<u>P</u>	P
Carpet and rug cleaning													P	P	P
Catalogue sales—see Call center													P		
Cemetery, public (Sec.102A-1015)		S	<u>S</u>	<u>S</u>	<u>S</u>					P	P	P	P		
Club or lodge not regulated under Sec. 102A-1023 (Sec.102A-1005)		S	S	S	S	S	S	S	S	S	P	<u>P</u>	P		
<u>Convenience container and recycling facility (Sec.102A-1005.1)</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>
Convenience <u>retail w/ gasoline sales, including incidental motor vehicle washing store</u> ⁵											P	P	P	P	P
Crematorium														P	P
Day care facility (Sec.102A-1006)		S	S	S	S	S	S	S	S	S	P	P	P	S ¹	S ¹
Delicatessen operations (including catering)										P	P	<u>P</u>	P		

Sec. 102A-403. Use matrix.

<p>Hope Mills Zoning Ordinance</p> <p>P = Permitted use</p> <p><u>Z</u>C = Conditional <u>zoning</u> use (Board of Commissioners approval required)</p> <p>S = Special use (Board of Adjustment approval required)</p>
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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)
Dry cleaning/laundry, commercial													P	P	P
Dry cleaning/laundry, self service											P	<u>P</u>	P		
Dry cleaning/ <u>and</u> 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	<u>P</u>	P		
Dwelling, <u>single and</u> multiple family		<u>P</u> C	<u>P</u> C	<u>P</u> C	<u>P</u> C	P	P	P	P	P ²	P ²	P ²	P ²		
Dwelling, single family		P	P	P	P	P	P	P	P	P ²	P ²	P ²	P ²		
Equestrian facilities		S ³	S ³	S ³											
Exterminating service													P	P	P
Farm machinery sales and servicing													S	P	P
Farm supplies merchandising <u>& (excluding farm machinery) sales/servicing</u>												P	P	P	P
Fire station operations/emergency service (Sec.102A-1015)		P	P	P	P	P	P	P	P	P	P	P	P	P	P
Fish hatchery	P													P	P
Florist											P	P	P		
Food processing														P	P
Food production, with on premises retail sales of product												P	P		

Sec. 102A-403. Use matrix.

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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
Food sales/grocery stores											P	P	P		
Funeral home, including incidental crematorium										P	P	P	P		
Golf courses (Sec.102A-1007)		P	P	P	P	P	P	P	P	P	P	P	P	P	P
Group homes, six or less clients (Sec.102A-1008)		P	P	P	P	P	P	P	P						
Group quarters (Sec.102A-1009)		S	S	S	S	S	S	S	S						
Hardware, paint, and garden supply sales											P	P	P		
Hazardous waste storage/disposal facility (Sec.102A-1009.1)														Z	P
Home furnishing and appliance sales												P	P		
Home occupation, incidental (Sec.102A-1102)		P	P	P	P	P	P	P	P	P ²	P ²	P ²	P ²		
Hotel/motel (not regulated by Sec.102A-1023)												P	P		
Industrial operations not otherwise prohibited															P
Industrial sale of equipment or repair service														P	P
Industry, pilot operation														C	C
Internet café/video gaming (Sec. 102A-1009.1) ⁶													P S		
Janitorial service												P	P	P	P
Kennel operations (Sec.102A-1010)		S										P	P	P	
Laboratory operations, medical or dental										P	P	P	P	P	
Laboratory, research													P	P	P
Landfill, demolition/inert debris														P	P
Library (Sec.102A-1015)		P	P	P	P	P	P	P	P	P	P	P	P		
Livestock sales& auctioning															P
Locksmith, gunsmith												P	P	P	

Machine tool manufacturing or welding																P
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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 <u>and/or Class B</u> 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, <u>including Class C manufactured homes approved under §102A-1011, but</u> excluding any manufactured homes sales (<u>Hope Mills Subdivision Ord Chapter 86</u>)							P								
Manufactured home sales													<u>P</u>	P	P
Massage & bodyworks therapy											P	P	P		
Milling or grinding grain and seed into food														P	P
Mini-warehousing (self-storage facility) (no outside commercial storage of motor vehicles) (Sec.102A-1012)								S	S	<u>S</u>	<u>S</u>	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														<u>P</u>	P
Motor vehicle parking lot, commercial										P	P	P	P	P	P

Sec. 102A-403. Use matrix.

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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)
Motor vehicle parts and accessories sales, contained within a building and with no outside storage											P	P	P		
Motor vehicle repair and/or body work, excluding commercial wrecking/dismantling/storage of junked vehicles													P	P	P
Motor vehicle rentals												P	P	<u>P</u>	<u>P</u>
Motor vehicle sales, new and used, including motor vehicle auctions													P	P	P
Motor vehicle service station operations											P	P	P	P	
Motor vehicle storage yard														P	P
Motor vehicle washing												P	P	P	P
Motor vehicle wrecking yards and junkyards, including sales of parts (Sec.102A-1014)														S	P
Municipal building and activities	P									P	P	P	P	<u>P</u>	<u>P</u>
Nursery operations/plant husbandry/greenhouses (Sec.102A-1015)	P	P										P	P	P	P
Nursing home/convalescent home/hospital/retirement home, etc. Sec.102A-1016)		S	S	S	S	S	S	S	S	P	P	P	P		
Office supplies and equipment sales and service/mailbox service												P	P		

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance P = Permitted use <u>ZC</u> = Conditional <u>zoning use</u> (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)
Office use of a doctor, dentist, osteopath, chiropractor, optometrist, physiotherapist, or other medically oriented profession, clinic (Sec. 102A-1015)		<u>P</u>								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										<u>P</u>	<u>P</u>	P	P		
Post office (See Office use)										P	P	P	P		
Printing and reproduction small scale, <4000 sq. ft.										P	P	P	P		
Printing and reproduction large scale, =>4000 sq. ft.													P	P	P
Public/ <u>community</u> utility stations/ or substations (Sec.102A-1015)		<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	<u>P</u> S	P	P
Public utility works, shops or storage yards (Sec.102A- 1017)													P	P	P
Publishing														P	P
Quarry operations (Sec.102A-1018)															<u>ZC</u>
Radio or television studio activities only										P	P	P	P		
Radio or television transmitting (See Tower)										S	S	S	S		P

Sec. 102A-403. Use matrix.

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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 <u>station</u> /yard operations													<u>P</u>	<u>P</u>	P
Recreation/amusement indoor (conducted inside building for profit, not otherwise listed & not regulated) (Sec.102A-1019)		<u>P</u>										P	P		
Recreation/amusement outdoor (conducted outside building for profit, not otherwise listed & not regulated) (Sec.102A-1019)		<u>P</u> S	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>Z</u>	<u>P</u> S	P		
Recreation/amusement outdoor (with mechanized vehicle operations) ⁴		<u>P</u>											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) (Sec.102A-1019)	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C	<u>Z</u> C
Recreation vehicle park and/or campgrounds(Sec.102A-1020)	S	S										P	P		
Religious worship activities (Sec.102A-1015)		P	P	P	P	P	P	P	P	P	P	P	P	<u>P</u>	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	<u>P</u>	P
Residential habilitation support facilities (Sec.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		

Sec. 102A-403. Use matrix.

<p>Hope Mills Zoning Ordinance</p> <p>P = Permitted use</p> <p><u>Z</u> <u>C</u> = Conditional <u>zoning use</u> (Board of Commissioners approval required)</p> <p>S = Special use (Board of Adjustment approval required)</p>															
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)
Restaurant, operated as commercial enterprise, drive-ins included, except as regulated by Sec.102A-1023												P	P		
Retailing or servicing with operations conducted and merchandise stored entirely within a building and not otherwise listed herein												P	P		
Sanitarium (Sec.102A-1016)										<u>S</u>			S		
Sawmill or planing activities														<u>P</u>	P
School, business and commercial for nurses or other medically-oriented professions , trade, vocational & fine arts										P	P	P	P		
<u>Schools, private (not otherwise listed)</u>										<u>S</u>	<u>S</u>	<u>P</u>	<u>P</u>		
Schools, public, private , elementary or secondary (Sec.102A-1015)		P	P	P	P	P	P	P	P	P	P	P	P		
Seasonal sales establishments [Sec.102A-1101(f)]												P	P		
Second hand, pawn and flea market (Sec.102A-1022)													P		
Sexually oriented businesses (Sec.102A-1023)															<u>S</u> <u>P</u>
Solid waste disposal facilities (Sec.102A-1024)															S
Special informational signs [Sec.102A-1404(g)]	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Storage, flammable, <u>open, and/or warehouse</u>															P
Storage, open															P
Storage, warehouse															P

Sec. 102A-403. Use matrix.

Hope Mills Zoning Ordinance P = Permitted use <u>ZC</u> = Conditional <u>zoning use</u> (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)
Swimming pools, incidental to a principal use [Sec. 102A-1102(c)]	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Tailoring											P	P	P		
Taxicab stand operations													P		
Telephone switching/booster station (§102A-1015) (See Public utility stations/substations)	P	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. 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 (Sec.102A-1025)		S										S	P		
Tire recapping															P
Tobacco processing & sales warehouse															P
Towers (Sec. 102A-1026)	S	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	P
Trades contractor activities with outside storage of equipment or supplies													<u>P</u>	P	P

Sec. 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)
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	P
Variety, gift and hobby supply sales											P	P	P		
Vending machines s-operations outdoor											P	P	P		
Vending machine rental													P	P	P
Veterinarian		<u>P</u>									P	P	P		
Wholesale sales with operations conducted and merchandise stored entirely within a building and not otherwise herein													P	P	P
Wireless communications & accessory sales											P	P	P		

¹ Only in approved Industrial Parks

² Second floor and above only

³ Unless approved in conjunction w/ ~~CZ~~ ~~CUD~~

⁴ Amd. 06-15-09

⁵ Amd. 04-19-10

⁶ Amd. 04-16-12

ARTICLE V
COMPANION DISTRICTS – CONDITIONAL ZONING ~~USE~~ DISTRICTS

Sec. 102A-501. General.

The conditional ~~use~~-zoning districts set forth herein are authorized by N.C. GEN. STAT. §160A-382, 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 ~~use~~-district, will propose to restrict or eliminate permitted, conditional or special uses. Request for conditional zoning ~~use~~-district rezoning shall be processed administratively in the same manner as for amendments to this ordinance as established in Article XVI.

Conditional zoning ~~use~~ districts are floating districts that parallel general zoning districts. Conditional zoning ~~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.

Parallel conditional zoning ~~use~~ 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.

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

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

Sec. 102A-503. Content of applications~~s~~ and conditions.

~~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 zoning ~~use~~ 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, ~~a required finding the~~ application. Such requests may include a requirement for a more detailed site plan, or one modified in accordance with additional or revised ~~modified~~ 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 ~~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.

(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 Chapter 86](#), the [required](#) 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 town's subdivision ordinance Chapter 86](#), 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.

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 ~~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 he/she may have had with an affected party.~~ The Zoning Board shall review the request for a ~~conditional use permit and~~ conditional zoning use district rezoning and make a recommendation to the Board of Commissioners. When favorably recommending approval of the conditional zoning use 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. ~~In recommending the conditional use permit, the Zoning 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 in general conformity with the Town's most recent Land Use Plan and adopted planning policies.~~

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

The Board of Commissioners shall hold a public hearing to consider the conditional zoning use district rezoning ~~and conditional use permit. The hearing shall follow quasi-judicial requirements including sworn testimony, questioning of witnesses, 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 he/she may have had with an affected party.~~

~~The Board of Commissioners~~ shall review the application, recommendations from the Zoning Board, suggested conditions, and other information presented at the

public hearing. If the Board of Commissioners approve~~s~~ 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 for the area in which the subject property is located shall be made a part of the record. ~~Only upon approval of the conditional use district shall the Board of Commissioners consider approval of the conditional use permit.~~

In approving the application, the Board of Commissioners, with mutual agreement of the property owner(s), ~~by separate motion, shall approve the conditional use permit and~~ may attach such reasonable requirements in addition to those specified in the Zoning Board's recommendation, ~~and shall find that the application meets the findings listed in Sec. 102A-504, sub-sections (a) through (d). 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:

- (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.

The record shall reflect that the property owner(s) ~~applicant~~ voluntarily agree~~s~~ to all conditions proposed ~~for approval of the conditional use permit.~~

Sec. 102A-506. Modification to approved conditional zoning use districts ~~and permits.~~

All modifications, including changes in use and/or increase in density, to approved conditional zoning 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 approved conditional zoning district use ~~permit~~ may be approved by the County Planning staff with the agreement of the Town staff without reconsideration ~~approval~~ 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.

Sec. 102A-507. Time limit.

Once the conditional zoning ~~use~~ district rezoning is ~~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 application ~~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 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 ~~its~~ previous zoning classification.

Sec. 102A-508. Failure to comply.

If for any reason any condition imposed pursuant to this article is found to be illegal or invalid, or if the applicant should fail to accept any condition, the authorization of such conditional zoning permit shall be null and void and of no effect, and the County Planning Staff shall initiate a rezoning to revert the zoning of the property to ~~property shall remain in, or revert to,~~ its previous zoning classification.

Compliance with all conditions of a conditional zoning district use permit is an essential element of the conditional zoning district's use permit's 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 zoning district use permit, the Director and/or Manager shall so notify the property owner(s) or the property owner(s)' 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 approval of the conditional zoning district use permit and revert the zoning of the property to its previous zoning district. Such hearing shall be on reasonable written notice to the property owner(s) or the property owner(s)' 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 zoning district, reverting to the previous zoning district use permit may be appealed to the Superior Court of Cumberland County within 30 days after the property owner(s) or the property owner(s)' developer or the developer's successor in interest ~~have 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, may shall constitute written notice and service of the Board of Commissioners' decision hereunder.

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 and permit approved prior to <insert amendment approval date>. 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 will subject the property owner and/or developer ~~and/or current owner~~ to possible revocation and reversion pursuant to Sec. 102A-508 above.

ARTICLE VI MIXED USE DEVELOPMENT – CONDITIONAL ZONING ~~USE~~ DISTRICT

Sec. 102A-601. General.

This zoning district incorporates the provisions of Article V, Conditional Zoning ~~Use~~ 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.

Sec. 102A-604. Development performance standards.

(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 ~~Chapter 86~~ 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 ~~permit~~ and toward construction of any improvement within the development reasonably necessary to provide for the safety, health, and welfare of the public.

ARTICLE VII
PLANNED NEIGHBORHOOD DEVELOPMENT -CONDITIONAL ZONING ~~USE~~
DISTRICT

Sec. 102A-702. General.

The developer is strongly encouraged to submit a preliminary sketch of the proposed planned neighborhood development (PND) 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 ~~use~~ district. This zoning district incorporates the provisions of Article V, Conditional Zoning ~~Use~~ Districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional zoning ~~use~~ district ~~permit~~ and must be satisfied or surpassed.

ARTICLE VIII
DENSITY DEVELOPMENT- CONDITIONAL ZONING ~~USE~~ DISTRICT

Sec. 102A-801. Purpose.

Density development-conditional zoning ~~use~~ 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.

Sec. 102A-802. General.

The property owner ~~developer~~ 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 ~~use~~ district. This zoning district incorporates the provisions of Article V, Conditional Zoning ~~Use~~ Districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional zoning ~~use~~ permit and must be satisfied or surpassed.

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 zoning district use permit. Those uses requiring approval as a special use permit (Section 102A-1706) or a conditional zoning district use permit (Article V) shall also be subject to these standards and any additional standards or conditions required by the approval permit.

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, as specified in Section 102A-403, required for the entire structure (i.e., site plan review, special use permit or conditional zoning use district and permit).

ARTICLE XII LOT AND YARD REGULATIONS

Sec. 102A-1203. Special developments.

Special developments governed elsewhere in this ordinance and those governed by the town's subdivision ordinance 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 town's subdivision ordinance 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 Zoning Use Districts and Article VIII, Density Development-Conditional Zoning Use Districts, contained within this ordinance, and zero lot line developments, unit ownership developments

(condominiums and townhouses), and manufactured home parks, which are regulated in [the town's subdivision ordinance](#) ~~Chapter 86~~.

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 [zoning district 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.

ARTICLE XIV SIGNS

Sec. 102A-1406. Signs permitted by district.

(a) *Residential and conservancy districts.*

(4) *Institutional, commercial and industrial signs located in residential and conservancy districts.* Any institutional, commercial or industrial use, which is a permitted, [or](#) special [use](#), or [an approved use allowed in a](#) conditional [zoning district use](#) in a residential or conservancy district, may erect and maintain signs as follows:

ARTICLE XVI AMENDMENTS

Sec. 102A-1604. Board of Commissioners' hearing and final disposition.

(c) When adopting or rejecting any zoning amendment, the Board of Commissioners shall also approve a statement describing whether its action is consistent with an adopted comprehensive plan 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 ~~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 zoning use district is also governed by Article V of this ordinance.

ARTICLE XVII BOARD OF ADJUSTMENT

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) Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property. ~~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) 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. ~~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 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. ~~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 is consistent with the spirit, ~~will be in harmony with the purpose,~~ and intent of this ordinance, such that public safety is secured, and substantial justice is achieved. ~~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; and~~

~~(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.~~

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 any use approved in a conditional zoning use permit issued in ~~conjunction with a conditional use~~ 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.

(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 may ~~shall~~ give due consideration to any or all of the following:

(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 zoning districts ~~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.

Sec. 102A-1707. Hearings.

Any appeal, 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 ~~reverse any order, requirement, decision or determination of any administrative official charged with the enforcement of this ordinance and to decide in favor of an applicant on any matter, including variances from the provisions of this ordinance, except for matters relating to special use permits, which the board is required to pass.~~ Decisions for all matters not a variance ~~issuance of a special use permit~~ shall be made by the majority vote of the board members ~~present at the meeting in which the request is heard.~~

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 once effective upon the filing of the written decision with the Town Clerk; however, by proceedings in the nature of certiorari. ~~The~~ any aggrieved party shall file a *Notice of Intent to Appeal* with the Secretary to the board ~~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.~~ A cover memorandum briefly detailing the board's decision together with the approved minutes from the meeting in which the board's decision was made final attached shall constitute the board's written decision. The decision of the board shall be delivered by personal delivery, electronic mail, or by first-class mail to the applicant, property owner, and to any person who has submitted a written request for a copy, prior to the date the decision becomes effective. The Secretary shall certify that proper notice has been made. 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 effective 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.~~

ARTICLE XVIII LEGAL PROVISIONS

Sec. 102A-1802. Vested rights.

(a) *Establishment zoning vested right.*

(5) The establishment of a zoning vested right shall not preclude the application of conditions in a conditional ~~use~~ zoning district 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.