

Hope Mills Zoning Chapter

P08-12: Amendment creating Conditional Use and Mixed Use Development standards for the Town of Hope Mills

NEXT MEETING: February 25, 2008, 3:00 pm, Hope Mills Zoning Board
Hope Mills Town Hall, 5770 Rockfish Road

UPDATE(S):

The Hope Mills Town Board approved the text amendment as submitted on March 3, 2008: a complete unedited version will be available soon on this website.

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REVISION AND AMENDMENT TO THE CODE OF ORDINANCES, TOWN OF HOPE MILLS, CHAPTER 102, ZONING, BY AMENDING: ARTICLE I. IN GENERAL, SECTIONS 102-5. DEFINITIONS, 102-7. APPLICATION SUBSECTION (4) SPECIAL DEVELOPMENTS, 102-8. AMENDMENTS, 102-9. FEES SUB-SECTION (A); ARTICLE II. ZONING DISTRICT CLASSIFICATION BY CREATING SECTIONS 102-46.1, CONDITIONAL USE DISTRICTS AND SECTION 102-46.2, DORMANT/CORRESPONDING ZONING DISTRICTS; ARTICLE III. PERMITTED PRINCIPAL USES AND STRUCTURES, TITLE AND SECTION 102-76. TABULATION OF PERMITTED USES, CREATING SECTIONS 102-76.1. USES BY RIGHT, 102-76.2. USE MATRIX. 102-80, RESIDENTIAL HABILITATION SUPPORT FACILITIES – MINIMUM PROVISIONS AND REQUIREMENTS, RELOCATING SECTION 102-143; ARTICLE IV. CONDITIONAL USES BY REPEALING SECTIONS 102-111. CONDITIONAL USES; CLARIFICATION AND 102-112 APPROVAL FOR CONDITIONAL USE PERMIT; ARTICLE IV. COMPANION DISTRICTS – CONDITIONAL USE DISTRICTS, CREATING SECTIONS 102-113. GENERAL, 102-114 RESTRICTIONS ON FILING OF APPLICATIONS, 102-115, CONTENT OF APPLICATION AND CONDITIONS, 102-116, ACTION BY THE ZONING BOARD, 102-117, ACTION BY THE BOARD OF COMMISSIONERS, 102-118. MODIFICATION TO APPROVED CONDITIONAL USE DISTRICTS AND PERMITS, 102-119. TIME LIMITS, 102-120. FAILURE TO COMPLY, AND 102-121. VALIDATION OF EXISTING CONDITIONAL USE OVERLAYS; ARTICLE V. SPECIAL USES, BY REPEALING SECTIONS 102-141. SPECIAL USES; CLARIFICATIONS AND 102-142. APPROVAL FOR SPECIAL USE PERMIT, CREATE SECTIONS 102-144. GENERAL, 102-145. MINIMUM CONDITIONS FOR APPLICATION, 102-146, USES ALLOWED, AND 102-147. DEVELOPMENT PERFORMANCE STANDARDS; CREATE ARTICLE V.I. PLANNED NEIGHBORHOOD DEVELOPMENT – CONDITIONAL USE DISTRICT, BY CREATING SECTIONS 102-148. PURPOSE, 102-149. GENERAL, 102-150. MINIMUM CONDITIONS FOR APPLICATION, 102-151, USES ALLOWED, 102-152, DEVELOPMENT STANDARDS, 102-153. CONTENTS OF APPLICATION, 102-154, SITE PLAN AND SUBDIVISION APPROVAL, 102-155. AMENDMENTS, 102-156. ABANDONMENT OF PND PLAN, AND 102-157. VALIDATION OF EXISTING PND PLANS; ARTICLE VII. PLANNED DISTRICTS, BY REPEALING SECTION 102-213. PLANNED NEIGHBORHOOD DISTRICT (PND); ARTICLE VIII. LOT AND YARD REGULATIONS, SECTION 102-248. DISTRICT DIMENSIONAL PROVISIONS; ARTICLE XI. ADMINISTRATION AND ENFORCEMENT, SECTION 102-339, SUB-SECTIONS (A) AND (C); ARTICLE XI. ADMINISTRATION AND ENFORCEMENT, SECTION 102-342. CONDITIONAL USE PERMIT, TITLE AND REPEALING SECTION 102-344. PLANNED NEIGHBORHOOD DEVELOPMENT; ARTICLE XII. BOARD OF ADJUSTMENT, SECTIONS 102-378, POWERS AND DUTIES, SUB-SECTION (C) CONDITIONAL USE, 102-379. REQUIRED VOTE; ARTICLE XIII. VESTED RIGHTS, SECTIONS 102-412. DEFINITIONS, SITE SPECIFIC DEVELOPMENT PLAN AND 102-413. ESTABLISHMENT OF A ZONING VESTED RIGHT, SUB-SECTION (E); AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE.

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AMEND Article I. In General, Section 102-5. Definitions, by inserting the following in alphabetical order:

Conditional use means a use or occupancy of a structure, or a use of land, permitted only upon the successful rezoning to a conditional use district and subsequent issuance of a conditional use permit and made subject to the limitations and conditions specified therein. (Article IV, Article V, and Article V.I)

Mixed use means a single building containing more than one type of land use where the ground floor use is a permitted non-residential use in the zoning district and all second floor and above uses are residential or a single development of more than one building and use with the different types of land uses in close proximity, planned as a unified complementary whole, and functionally integrated to the use of shared vehicular and pedestrian access and parking areas. (Article V)

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

Special use means those uses for which a permit is required for the proposed activities which are essentially compatible with other uses or activities permitted in a zoning district, but which present unique challenges or possess unique characteristics, or qualities that require comprehensive review at a quasi-judicial public hearing by the town board of adjustment and which may be allowed only after the findings of fact and the imposition of reasonable conditions. (Section 102-342)

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

Zoning board means the town's appointed body established for the purpose of conducting hearings to derive at and formulate recommendations to advise the town board of commissioners on zoning-related matters.

AMEND Article I. In General, Section 102-7. Application, sub-section (4) *Special developments*, as follows:

(4) *Special developments.* Special developments governed by this chapter and those governed by Chapter 86 ~~Group developments, variable lot residential developments, condominium developments, and zero lot line developments~~ may be exempt from the provisions of Article VIII ~~yard and lot requirements~~ of this chapter provided the development conforms with ~~Chapter 86~~ Chapter 86 of this Code and the overall dwelling unit density is maintained for the district in which it is located except where

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specifically exempted elsewhere. This section shall include, but not be limited to, Article V, Mixed Use-Conditional Use Districts, approved according to the provisions contained within this chapter, and group developments, variable lot residential, condominium developments, zero lot line developments and manufactured (mobile) home parks, which are regulated by Chapter 86.

AMEND Article I. In General, Section 102-8. Amendments, as follows:

The regulations and the number, area, and boundaries of districts, whether general or conditional, established by this chapter may be amended, supplemented, changed, modified, or repealed by the board of commissioners on its own motion or on a petition after a public notice and hearing as provided by law, but no amendment shall become effective unless it is first submitted to and reported on by the zoning board ~~planning department~~. The zoning board ~~planning department~~ upon its own initiative may hold public hearings, public notice of which shall be given, for the consideration of any proposed amendment of the provisions of this chapter, or the zoning map, and report its recommendation to the board of commissioners. Failure of the zoning board ~~planning department~~ to make a recommendation within a period of 30 days after the amendment has been referred to it shall constitute a favorable recommendation. After the initial zoning process, the next application to rezone that piece of property may be filed at any time. After there has been an application to rezone property subsequent to the initial zoning process, any application to rezone property thereafter shall be considered no earlier than one year after the previous application. Where there must be a period of one year before another application to rezone a property can be made, the one-year period shall begin to run from the date of the last public hearing to rezone the property. A petition to rezone property may be withdrawn without establishing a one-year time limit only if made in writing and submitted to the office of the planning staff who will immediately forward a copy of the request for withdrawal to the town clerk ~~planning director~~ prior to any notification of the public by the planning staff ~~department~~ by electronic or printed means. If an application to rezone property is withdrawn after public notification has begun, the one-year limitation before another application can be made shall still apply and shall begin to run from the date of the receipt of the letter of withdrawal. The time limit for rezoning applications shall not apply to rezonings initiated by the board of commissioners or the zoning board ~~planning department~~.
(Code 1985, § 154.009)

AMEND Article I. In General, Section 102-9. Fees, sub-section (a) as follows:

(a) Each applicant for rezoning, either general or conditional use district and permit overlay, text amendments, appeals from administrative decisions, variances, or special ~~specified conditional~~ use permits, shall pay a non-refundable fee to the town in accordance with the fee schedule as recommended by the zoning ~~planning~~-board and

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adopted by the board of commissioners. The schedule is on file and available in the town offices.

AMEND Article II. Zoning District Classification, by CREATING Section 102-46.1, entitled “Conditional Use Districts” to read as follows:

Sec. 102-46.1 Conditional use districts.

(a) Companion districts. Each district includes a companion conditional use district (e.g. RR has RR/CUD) where no uses are permitted by right. All uses in the companion conditional use districts also require a conditional use permit. (Article IV)

(b) Mixed use development – conditional use district (MXD/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 conditions. (Article V)

(c) Planned neighborhood development – conditional use district (PND/CUD). A district designed for the planned development of various residential densities concurrent with neighborhood-oriented non-residential uses in a single project. (Article V.I)

AMEND Article II. Zoning District Classification, by CREATING Section 102-46.2, entitled “Dormant/corresponding zoning districts” to read as follows:

Sec. 102-46.2. Dormant/corresponding zoning districts.

The PND planned neighborhood district is now dormant and development shall either comply with the standards of the R10 residential district or shall be submitted for approval under Article V.I of this chapter.

AMEND Article III. Permitted Principal Uses and Structures, and Article III. Permitted Principal Uses and Structures, Section 102-76. Tabulation of permitted uses, as follows:

ARTICLE III. PERMITTED, CONDITONAL AND SPECIAL USES ~~AND STRUCTUES~~

Sec. 102-76. General ~~Tabulation of permitted uses.~~

Within the various use districts, as established in Article III section 102-46, and subject to the requirements of this chapter, no land, building, or structure shall be used

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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 permitted by the various districts as 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 ~~an~~ allowable uses. Some land uses may be allowed through conditional use district and approval of a 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 ~~by an "X" mark~~ in the appropriate ~~district~~ column of the following matrix table in this article section. Special Conditional uses, with board of adjustment approval and issuance of the permit, and some conditional use districts, after allowed in certain districts after approval by the board of adjustment are indicated by the symbol "C" in the appropriate district column. Special uses are allowed in certain districts after approval by the board of commissioners approval and issuance of the permit, are also indicated by the symbol "S" in the matrix appropriate district column. Uses permitted in PND, planned neighborhood district are enumerated in section 102-213. All proposed uses in any planned district require site plan review and approval and shall be in compliance with the standards of this chapter and Chapter 86. (Code 1985, § 154.030; Ord. of 8-21-95; Ord. of 3-15-99, § 1, 102-76; Ord. of 7-15-02, § 3)

CREATE Article III. Permitted, Conditional and Special Uses, Section 102-76.1, entitled "Uses by right" to read as follows:

Sec. 102-76.1. Uses by right.

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

CREATE Article III. Permitted, Conditional and Special Uses, sub-section 102-76.2, entitled "Use matrix" to read as follows:

Sec. 102-76.2. Use matrix.

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

(Matrix begins on the following page.)

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Section 102-76.2 Use Matrix

Hope Mills Zoning Chapter

P = Permitted Use

C = Conditional Use (Board of Commissioners approval required)

S = Special Use (Board of Adjustment approval required)

LAND USES	ZONING CLASSIFICATION										
	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
<i>Permitted - <u>u</u> Uses <u>allowed</u></i>											
Abattoir operators										<u>PX</u>	
Accessory uses incidental to any permitted use	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>
Addressing service								<u>PX</u>			
Agricultural or rural farm use	<u>PX</u>	<u>PX</u>	<u>PX</u>								<u>PX</u>
Airport operations	<u>PX</u>									<u>PX</u>	
Alcoholic beverages, packaged, retail sales						<u>PX</u>		<u>PX</u>			
Ambulance service					<u>PX</u>	<u>PX</u>		<u>PX</u>	<u>PX</u>		
Animal medical care (including kennel operations)	<u>SC</u>							<u>SC</u>			
Apparel and accessory sales						<u>PX</u>		<u>PX</u>			
Assemblies, community (assembly hall, armory, stadium, coliseum, community center)	<u>SC</u>					<u>SC</u>		<u>SC</u>			
Auction sales (excluding livestock auctioning)						<u>PX</u>		<u>PX</u>			
Automobile off-street parking, (commercial lots)					<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	
Automobile parts and accessories sales								<u>PX</u>			
Automobile and truck rental						<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	<u>PX</u>	
Automobile repair or body work (excluding commercial wrecking, dismantling or storage of junked vehicles)								<u>PX</u>	<u>PX</u>	<u>PX</u>	
Automobile sales, new and used								<u>PX</u>			
Automobile service station operations						<u>PX</u>	<u>PX</u>	<u>PX</u>			
Automobile washing								<u>PX</u>			
Automobile wrecking yards and junk yards								<u>SC</u>		<u>SC</u>	
Bakery production and wholesale sales								<u>PX</u>	<u>PX</u>	<u>PX</u>	
Baking, on-premises and retail only						<u>PX</u>		<u>PX</u>			
Bank, savings and loan company and other financial activities					<u>PX</u>	<u>PX</u>		<u>PX</u>			
Barber or beauty college instruction								<u>PX</u>			

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LAND USES		ZONING CLASSIFICATION									
<i>Permitted u</i> <i>Uses allowed</i>	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
Barbering and hairdressing services					<u>P X</u>	<u>P X</u>		<u>P X</u>			
Bicycle sales and repairing								<u>P X</u>			
Blacksmith services	<u>P X</u>							<u>P X</u>		<u>P X</u>	
Boardinghouse operations		<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>						
Boats and accessories, retail sales and service								<u>P X</u>			
Book binding								<u>P X</u>	<u>P X</u>	<u>P X</u>	
Books and printed matter, distribution					<u>P X</u>	<u>P X</u>		<u>P X</u>	<u>P X</u>	<u>P X</u>	
Bottled gas distributing, bulk storage		<u>P X</u>								<u>P X</u>	
Bottling									<u>P X</u>	<u>P X</u>	
Builders supply (no outside storage)		<u>P X</u>						<u>SC</u>	<u>P X</u>	<u>P X</u>	
Builders supply (with outside storage)									<u>P X</u>	<u>P X</u>	
Bus repair and storage terminal activities								<u>P X</u>	<u>P X</u>	<u>P X</u>	
Bus station activities								<u>P X</u>	<u>P X</u>	<u>P X</u>	
Cabinet making									<u>P X</u>	<u>P X</u>	
Candy or confectionery making, on premises and retail only						<u>P X</u>		<u>P X</u>	<u>P X</u>		
Carpet and rug cleaning								<u>P X</u>	<u>P X</u>	<u>P X</u>	
Catalogue sales								<u>P X</u>			
Cemetery	<u>SC</u>			<u>SC</u>							
Children's day care facility	<u>SC</u>		<u>SC</u>	<u>SC</u>	<u>P X</u>			<u>P X</u>			
Clinic services, medical and dental					<u>P X</u>	<u>P X</u>		<u>P X</u>			
Club or lodge	<u>SC</u>			<u>SC</u>	<u>P X</u>	<u>P X</u>		<u>P X</u>			
Coal sales and storage										<u>P X</u>	
Construction storage (outside)										<u>P X</u>	
Convalescent home	<u>SC</u>		<u>SC</u>	<u>SC</u>	<u>P X</u>			<u>P X</u>			
Curio and souvenir sales							<u>P X</u>	<u>P X</u>			
Dairy products sales and processing									<u>P X</u>	<u>P X</u>	

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LAND USES	ZONING CLASSIFICATION										
	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
<i>Permitted - u</i> <i>Uses allowed</i>											
Dairy products sales, on premises retail sales only						<u>P</u> X		<u>P</u> X			
Delicatessen operations (including catering)					<u>P</u> X	<u>P</u> X	<u>P</u> X	<u>P</u> X			
Dry cleaning, commercial									<u>P</u> X	<u>P</u> X	
Dry cleaning and laundry collection, no cleaning on premises except in conjunction with service counter, provided not more than 2,500 square feet is devoted to these processes						<u>P</u> X		<u>P</u> X			
Dwelling, multiple-family		<u>C</u> S	<u>P</u> X	<u>P</u> X							
Dwelling, single-family	<u>P</u> X		<u>P</u> X	<u>P</u> X							
Eating or drinking facilities (drive-ins excluded)						<u>P</u> X	<u>P</u> X	<u>P</u> X			
Eating or drinking facilities (drive-ins included)							<u>P</u> X	<u>P</u> X			
Employee's service (not designed for or available to public customers)								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Exterminating service								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Fairground activities (including carnivals and circuses)								<u>S</u> C			
Farm machinery sales and servicing								<u>S</u> C	<u>P</u> X	<u>P</u> X	
Farm supplies merchandising (excluding farm machinery)								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Fire station operations	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>P</u> X	<u>P</u> X		<u>P</u> X	<u>P</u> X	<u>P</u> X	
Fish hatchery											<u>P</u> X
Flower shop						<u>P</u> X		<u>P</u> X			
Food freezer operations								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Food sales						<u>P</u> X		<u>P</u> X			
Funeral home					<u>P</u> X			<u>P</u> X			
Fur sales, including cold storage								<u>P</u> X	<u>P</u> X		
Greenhouse operations commercial	<u>P</u> X							<u>P</u> X	<u>P</u> X	<u>P</u> X	<u>P</u> X

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LAND USES	ZONING CLASSIFICATION										
<i>Permitted - U</i> <i>Uses allowed</i>	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
Group homes and therapeutic foster care homes	<u>P X</u>	<u>P X</u>	<u>P X</u>	<u>P X</u>							
Hardware, paint, and garden supply sales						<u>P X</u>		<u>P X</u>			
Hatchery operations										<u>P X</u>	
Home care unit	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>							
Home for the aged	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>P X</u>						
Home furnishing and appliance sales								<u>P X</u>			
Home occupation, incidental	<u>P X</u>	<u>P X</u>	<u>P X</u>	<u>P X</u>							<u>P X</u>
Hospital or sanitarium	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>P X</u>						
Ice manufacturing									<u>P X</u>	<u>P X</u>	
Industrial operations not otherwise prohibited										<u>P X</u>	
Industrial sale of equipment or repair service										<u>P X</u>	
Industry, pilot operation									<u>P X</u>	<u>P X</u>	
Janitorial service								<u>P X</u>	<u>P X</u>		
Kennel, indoor								<u>P X</u>			
Kennel, outdoor	<u>P X</u>										
Laboratory operations, medical or dental					<u>P X</u>			<u>P X</u>	<u>P X</u>		
Laboratory, research					<u>P X</u>			<u>P X</u>	<u>P X</u>	<u>P X</u>	
Laundry, commercial									<u>P X</u>	<u>P X</u>	
Laundry or dry cleaning customer self-service						<u>P X</u>		<u>P X</u>			
Library	<u>P X</u>	<u>P X</u>	<u>P X</u>	<u>P X</u>	<u>P X</u>	<u>P X</u>		<u>P X</u>			
Livestock sales and auctioning	<u>SC</u>									<u>P X</u>	
Locksmith, gunsmith								<u>P X</u>	<u>P X</u>		
Machine tool manufacturing or welding										<u>P X</u>	
Manufacturing (See <u>specific use or industrial industries</u>)											

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	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
<i>Permitted - u Uses allowed</i>											
*Mini-warehousing ¹								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Mobile home (individual) for construction, office, and exhibition	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>S</u> C	<u>S</u> C	
Mobile home (individual) for residential occupancy	<u>P</u> X		<u>P</u> X								
Mobile home park but excluding any mobile home sales			<u>P</u> X								
Mobile home sales but excluding any residential occupancy								<u>P</u> X			
Monument sales								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Monument works										<u>P</u> X	
Municipal building and activities					<u>P</u> X	<u>P</u> X		<u>P</u> X			
Newspaper publishing								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Newsstand sales					<u>P</u> X	<u>P</u> X	<u>P</u> X	<u>P</u> X			
Nursery operation (plants) retail and production	<u>S</u> C								<u>P</u> X	<u>P</u> X	<u>P</u> X
Nursing home	<u>S</u> C	<u>S</u> C		<u>S</u> C	<u>P</u> X			<u>P</u> X		<u>P</u> X	
Office supplies and equipment sales and service								<u>P</u> X			
Office use of a doctor, dentist, osteopath, chiropractor, optometrist, physiotherapist, or other medically oriented profession		<u>P</u> X (R-6)			<u>P</u> X	<u>P</u> X	<u>P</u> X	<u>P</u> X			

¹Site plan approval by Board of Commissioners required, regardless of district *Note: If more than one building is proposed the group development review process is required.

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C = Conditional Use (Town Board of Commissioners approval required)

S = Special Use (Board of Adjustment approval required)

LAND USES	ZONING CLASSIFICATION										
	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
<i>Permitted - u - Uses allowed</i>											
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 X	P X		P X			
Optician services					P X			P X			
Pawn shop								P X			
Pet sales, excluding kennel activities or outside storage of animals								P X			
Pharmaceutical sales						P X		P X			
Photography, commercial								P X			
Plant husbandry, including sale of produce raised on premises								P X	P X	P X	
Police station/building and police/public safety activities					P X	P X		P X			
Post office					P X	P X		P X			
Printing and reproduction					P X			P X	P X	P X	
Private recreation club or swimming club activities not operated as a business for profit	SC	SC	SC	SC	P X			P X			CS
Public recreation (such as neighborhood center buildings, parks, museums, playgrounds, and similar facilities operated on a nonprofit basis)	SC	SC	SC	SC	SC	SC	SC	SC			CS
Public utility stations or substations	SC	SC	SC	SC	SC	SC	SC	SC	P X	P X	P X
Public utility works, shops or storage yards								P X	P X	P X	
Quarry operations										SC	
Radio or television studio activities only					P X						
Radio or television transmitting	P X									P X	

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Section 102-76.2 Use Matrix

Hope Mills Zoning Chapter

P = Permitted Use

C = Conditional Use (Town Board of Commissioners approval required)

S = Special Use (Board of Adjustment approval required)

LAND USES	ZONING CLASSIFICATION										
<i>Permitted u Uses <u>allowed</u></i>	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
Railroad station operations								<u>P X</u>			
Railroad yard operations											
Reducing salon care					<u>P X</u>	<u>P X</u>		<u>P X</u>			
Recreation or amusement enterprise conducted outside a building and for profit, and not otherwise listed herein								<u>P X</u>			<u>CS</u>
Recreational vehicle park: subject to 14-day term limitation				<u>P X</u>			<u>P X</u>				<u>CS</u>
Religious worship activities	<u>P X</u>	<u>P X</u>	<u>P X</u>	<u>P X</u>	<u>P X</u>	<u>P X</u>					
Repair, rental, or servicing of any product the retail sale of which is a use by right in the same district						<u>P X</u>		<u>P X</u>		<u>P X</u>	
Residential habilitation support facilities	<u>CS</u>				<u>CS</u>	<u>CS</u>		<u>CS</u>			
Retailing or servicing with operations conducted and merchandise stored entirely within a building and not otherwise listed herein								<u>P X</u>			
Riding academy activity	<u>P X</u>										
Roominghouse operation		<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>						
Sawmill or planing activities										<u>P X</u>	
Secondhand, pawn, and swap shop sales								<u>P X</u>		<u>P X</u>	
School, business and commercial								<u>P X</u>	<u>P X</u>		
School for nurses or other medically oriented profession	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>P X</u>			<u>P X</u>			
School, private, elementary or secondary	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>						
School, public	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>	<u>SC</u>						
School, trade or vocational								<u>P X</u>	<u>P X</u>		

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Section 102-76.2 Use Matrix

Hope Mills Zoning Chapter

P = Permitted Use

C = Conditional Use (Town Board of Commissioners approval required)

S = Special Use (Board of Adjustment approval required)

LAND USES	ZONING CLASSIFICATION										
	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
<i>Permitted + Uses allowed</i>											
Seasonal sales establishments								P X			
Sheet metal fabrication										P X	
Sign (See article X of this chapter)										P X	
Solid waste disposal facilities	SC									SC	
Storage, flammable										P X	
Storage, open										P X	
Storage, warehouse										P X	
Tailoring (dressmaking)						P X		P X		P X	
Taxicab stand operations								P X			
Teaching of art, music, dance, dramatics, or other fine arts					P X	P X		P X			
Telephone exchange operations	SC	SC	SC	SC	P X	P X		P X	P X	P X	
Temporary construction building	P X	P X	P X	P X	P X	P X	P X	P X	P X	P X	
Temporary mobile home use		P X	P X	P X							
Theater productions, indoor							P X	P X			
Theater productions, outdoor	SC							SC			
Tire recapping										P X	
Tobacco processing										P X	
Tobacco sales warehouse										P X	
Trades contractor activities excluding outside storage of equipment or supplies								P X		P X	
Trades contractor activities with outside storage of equipment or supplies										P X	
Trading stamp redemption											
Trailer rentals								P X			
Transient lodgings								P X		P X	
Truck terminal activities repair and hauling or storage							P X	P X			

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Section 102-76.2 Use Matrix

Hope Mills Zoning Chapter

P = Permitted Use

C = Conditional Use (Town Board of Commissioners approval required)

S = Special Use (Board of Adjustment approval required)

LAND USES	ZONING CLASSIFICATION										
	RR	R-15 R-10 R-6	R6A	R-5 R-5A	O & I	C-1(P)	HS(P)	C(P) C-3	M-1	M(P) M-2	CD
<i>Permitted - u</i> <i>Uses allowed</i>											
Upholstering or furniture refinishing								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Variety, gift and hobby supply sales						<u>P</u> X		<u>P</u> X			
Vehicle (commercial, government) repair or storage								<u>P</u> X	<u>P</u> X	<u>P</u> X	
Vending machines operations outdoor						<u>P</u> X		<u>P</u> X			
Vending machine rental								<u>P</u> X			
Warehouse (See "storage, warehouse")											
Wholesale sales with operations conducted and merchandise stored entirely within a building and not otherwise herein								<u>P</u> X			

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CREATE Article III. Permitted, Conditional and Special Uses, Sec. 102-80. Residential Habilitation Support Facilities-minimum provisions and requiand reads as follows:

Sec. 102-~~80~~ 143. Residential habilitation support facilities-minimum provisions and requirements.

Regardless of other requirements of this article, the following specific provisions shall be met as minimum standards prior to the approval of residential habilitation support facilities as a special use:

- (1) Minimum lot size: 20,000 square feet;
 - (2) Building must pass all health and fire inspections;
 - (3) A one-half mile radius of distance separation from an existing or approved residential habilitation support facility or an existing or approved family care home;
 - (4) Minimum setback of 50 feet from any public or private street right-of-way;
 - (5) Minimum rear yard setback: 35 feet, regardless of district;
 - (6) Minimum side yard setback: 25 feet, regardless of district;
 - (7) Minimum setback from interior lines on corner lots: 25 feet;
 - (8) Minimum paved off-street parking: two spaces plus one space for each care-giver;
 - (9) Located on a paved public street meeting town standards.
- (Ord. of 7-15-02, § 1)

Secs. 102-~~81~~ 80—102-110. Reserved.

AMEND ARTICLE IV. CONDITIONAL USES as follows:

ARTICLE IV. COMPANION DISTRICTS – CONDITIONAL USES~~S~~ DISTRICTS

REPEAL Article IV. Conditional Uses, Section 102-111. Conditional uses; clarification:

Sec. 102-111. Repealed. ~~Conditional uses; clarification.~~

~~Some land uses have a particular impact on the surrounding area that cannot be adequately controlled by general regulations. Their establishment shall be allowed only~~

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~~after review and approval of plans and shall be called conditional uses. Conditional uses, because of special site or design requirements, operating characteristics, or potential adverse effects on surrounding property and the neighborhood, shall be permitted only upon approval by the board of adjustment in accordance with the standards and conditions as set forth in section 102-112.
(Code 1985, § 154.040)~~

REPEAL Article IV. Conditional Uses, Section 102-112. Approval for conditional use permit:

Sec. 102-112. Repealed. ~~Approval for conditional use permit.~~

~~(a) In granting approval for a conditional use permit, the board of adjustment shall impose such reasonable terms and conditions as it may deem necessary for protection of health, the general welfare, and the public interest, including the requirement that detailed plans for each conditional use proposal be submitted as part of the application for a conditional use permit. Any change, enlargement, or alteration in such use shall be reviewed by the board of adjustment and new conditions may be imposed where findings require. In granting a conditional use permit the board shall give due consideration to:~~

~~(1) The location, size, design, and operating characteristics of the proposed development so that it will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood;~~

~~(2) The harmony in scale, bulk, coverage, function, and density of the proposed development;~~

~~(3) The availability of public facilities and utilities;~~

~~(4) The generation of traffic and the capacity of surrounding streets; and~~

~~(5) The purpose and intent of the general land use plans for the physical development of the district and the protection of the environment.~~

~~(b) Developers are encouraged to discuss their conditional use plans with the planning department staff before submission. The staff shall assist the developer upon request by reviewing conditional use plans to insure that the technical requirements of this section are met before submission to the board of adjustment.
(Code 1985, § 154.041)~~

AMEND Article IV. Companion districts – conditional use districts, by CREATING and ENACTING Sections 102-113. General; 102-114. Restrictions on filing of

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applications; 102-115. Content of application and conditions; 102-116. Action by the zoning board; 102-117. Action by the board of commissioners; 102-118. Modification to approved conditional use districts and permits; 102-119. Time limits; 102-120. Failure to comply; and 102-121. Validation of existing conditional use overlays; to read as follows:

(Editor's note: Secs. 102-113—102-140 are currently reserved section numbers.)

Sec. 102-113. General.

The conditional use zoning districts set forth herein are authorized by N.C. GEN. STAT. §160A, Article 19, §§ 160A-360 *et seq.*, and are intended to modify the use to which the parallel zoning district is restricted. Generally, an applicant, by seeking to rezone property to a conditional use district, will propose to restrict or eliminate permitted, conditional or special uses. Request for conditional use district rezoning shall be processed administratively in the same manner as for amendments to this chapter as established in Section 102-8.

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

Parallel conditional 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. 102-114. Restrictions on filing of applications.

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

Sec. 102-115. Content of applications 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 use district application shall provide the minimum information requirements set forth below, however, additional information may be required by the planning and town 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. Such requests may include a requirement for a more detailed site plan, or one modified in accordance with additional or modified conditions and other performance criteria.

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(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 alternative dimension criteria in lieu of those provisions set forth herein 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 signs in accordance with Article X of this chapter. If the applicant proposes alternative sign provisions in lieu of those provisions set forth herein 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 the provisions of Article IX of this chapter. If the applicant proposes alternative off-street parking provisions in lieu of those provisions set forth herein 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 Section 102-212. If the proposed uses involve development subject to Chapter 86, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to Chapter 86, the site plan shall be of sufficient detail to allow the planning and town 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. 102-116. 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 request provided the modifications

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are more restrictive than the original 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 use district rezoning and make a recommendation to the board of commissioners. When favorably recommending approval of the conditional 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:

(1) The use will not materially endanger the public health or safety if located according to the plan submitted and recommended;

(2) The use meets all required conditions and specifications;

(3) The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

(4) The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and in general conformity with town's most recent land use plan and adopted planning policies.

Sec. 102-117. Action by the board of commissioners.

The board of commissioners shall hold a public hearing to consider the conditional use district rezoning and conditional use permit. The hearing shall follow quasi judicial requirements including sworn testimony, the reliance on competent evidence, avoiding ex parte contact and bias, and basing findings of fact on evidence in the record. Board members shall disclose on the record at the public hearing any site visit they may have made to the affected property or any incidental ex parte contact 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 approves the rezoning application, a statement analyzing the reasonableness of the proposed rezoning along with addressing the consistency of the request with the current land use plan shall be made a part of the record. Only upon approval of the conditional use district shall the board of commissioners consider approval of the conditional use permit. In approving the application, the board of commissioners, 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 Section 102-116, sub-sections 1 through 4. All

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conditions shall be stated in the permit and no condition shall be less restrictive than the standards of the parallel general use district. The conditions may include, but shall not be limited to:

- (1) The location of the proposed use on the property;
- (2) The number and location of structures;
- (3) The location and extent of accessory and support facilities, such as parking lots, driveways, fences and access streets;
- (4) The location and extent of buffer areas and other special purpose areas on the property;
- (5) The height of any structure;
- (6) The phasing of development;
- (7) Other restrictions on the use of the property that adhere to the purposes of this chapter and maintain the public health, safety and welfare; and
- (8) Such other matters as the applicant shall propose.

The record shall reflect that the applicant voluntarily agrees to all conditions proposed for approval of the conditional use permit.

Sec. 102-118. Modification to approved conditional use districts and permits.

All modifications, including changes in use and/or increase in density, to approved conditional use districts and permits, other than those listed below, shall be reviewed in the same manner as a new project. The following minor modifications to the conditional use permit may be approved by the planning and town staff without re-hearing 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 and/or structure size is not increased, conditions of approval are not violated, and such changes do not cause a significant adverse impact:

- (1) Slight variations in the building dimensions that do not depart from the general approved layout and not exceeding ten percent of the original approved dimensions;
- (2) Minor changes in parking lot or traffic lane dimensions;
- (3) Minor dimensional changes to individual lots;
- (4) Minor site modifications due to necessary engineering requirements;

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

(6) Other similar insignificant changes.

In reviewing such changes, the planning and/or the town staff may require that the modification be handled in the same manner as a new application.

Sec. 102-119. Time limits.

Once the conditional use district rezoning and conditional use permit are approved, all conditions attached thereto shall be binding upon the property and all subsequent development and use of the property shall be in accordance with the approved permit and conditions. Since the intent of this type of district is to provide for workable alternative uses of property, it is intended that land will be zoned in accordance with firm plans to develop. Therefore, at the end of two years from the date of approval, the 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 its previous zoning classification.

Sec. 102-120. 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 use permit shall be null and void and of no effect, and the property shall remain in, or revert to, its previous zoning classification. Compliance with all conditions of a conditional use permit is an essential element of the conditional use permit's continued validity and effectiveness. If the Town Manager or the County Planning and Inspections Director determine that a developer has failed to comply with a condition of an approved conditional use permit, the manager or director shall so notify the developer or the developer's successor in interest in writing and shall place the matter on the board of commissioners' agenda, after consideration by the zoning board and upon issuance of its recommendation, for the board of commissioners' hearing and decision whether or not to revoke the conditional use permit. Such hearing shall be on reasonable written notice to the developer or the developer's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the board of commissioners shall be a final decision, and a decision to revoke the conditional use permit may be appealed to the Superior Court of Cumberland County within 30 days after the developer or the developer's successor in interest has been served with written notice of the board of commissioners' decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the board of commissioners' approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the Board of Commissioners' decision hereunder.

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Sec. 102-121. Validation of existing conditional use overlays.

Nothing in this chapter shall be interpreted to affect or impair any rights accrued pursuant to any conditional use overlay district and permit, approved under the adopted provisions at the time the overlay was approved or any subsequent amendments to this chapter. All valid and legally approved conditional use overlay districts and permits shall continue to be valid provided that terms of the permit are not substantially or materially altered or expanded in any manner, that all conditions and requirements of the permit are and continue to be complied with and that the use does not cease for a period of one year. Failure to comply with the conditions of the permit for the conditional use overlays will subject the developer and/or current owner to possible revocation pursuant to Section 102-120 above.

Secs. 102-122 ~~113~~--102-140. Reserved.

AMEND Article V. Special Uses, as follows:

ARTICLE V. MIXED USE DEVELOPMENT – CONDITIONAL USE DISTRICT ~~SPECIAL USES~~

REPEAL Article V. Special Uses, Section 102-141. Special uses; clarifications:

Sec. 102-141. Repealed. ~~Special uses; clarifications.~~

~~Some land uses have a particular impact on the surrounding area that cannot be adequately controlled by general regulations. Their establishment shall be allowed only after review and approval of plans and shall be called special uses, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and the neighborhood, shall be permitted only upon approval by the board of commissioners in accordance with the standards and conditions as set forth in section 102-142.
(Code 1985, § 154.045)~~

REPEAL Article V. Special Uses, Section 102-142. Approval for special uses permit:

Sec. 102-142. Repealed. ~~Approval for special uses permit.~~

~~Special use permits shall be issued by the board of commissioners upon recommendation of the planning board after public hearings as required for amendment to this article, only after a finding is made that such use shall fit in with the character of~~

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~~the area in which such use is to be located and that such use is not detrimental to the surrounding neighborhood. All applications for a special use permit shall be accompanied by an accurate and detailed plot plan of the proposed use showing the location of all buildings, yard dimensions, driveways, parking areas, planting screens, service areas, recreation areas, and other pertinent data. Before acting upon such special use permit, the planning board and/or the board of commissioners may require additional plans and/or other data concerning such use and may stipulate such conditions pertaining to the proposed use as it may deem advisable in furtherance of the purposes of this chapter.~~

~~(Code 1985, § 154.046)~~

REPEAL Article V. Special Uses, Section 102-143. Residential habilitation support facilities – minimum provisions and requirements:

(Editor's note: Sec. 102-143. Residential habilitation support facilities – minimum provisions and requirements, has been relocated in its entirety to Sec. 102-80.)

Sec. 102-143. Repealed. Residential habilitation support facilities-minimum provisions and requirements.

~~Regardless of other requirements of this article, the following specific provisions shall be met as minimum standards prior to the approval of residential habilitation support facilities as a special use:~~

- ~~(1) Minimum lot size: 20,000 square feet;~~
 - ~~(2) Building must pass all health and fire inspections;~~
 - ~~(3) A one-half mile radius of distance separation from an existing or approved residential habilitation support facility or an existing or approved family care home;~~
 - ~~(4) Minimum setback of 50 feet from any public or private street right-of-way;~~
 - ~~(5) Minimum rear yard setback: 35 feet, regardless of district;~~
 - ~~(6) Minimum side yard setback: 25 feet, regardless of district;~~
 - ~~(7) Minimum setback from interior lines on corner lots: 25 feet;~~
 - ~~(8) Minimum paved off-street parking: two spaces plus one space for each caregiver;~~
 - ~~(9) Located on a paved public street meeting town standards.~~
- ~~(Ord. of 7-15-02, § 1)~~

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(Editor's note: Secs. 102-144—102-175 are currently reserved section numbers.)

AMEND Article V. Mixed Use Development – Conditional Use District, by CREATING and ENACTING Sections 102-144. General; 102-145. Minimum conditions for application; 102-146. Uses allowed; and 102-147. Development performance standards; to read as follows:

Sec. 102-144. General.

This zoning district incorporates the provisions of Article IV, Conditional 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. 102-145. Minimum conditions for application.

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

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

Sec. 102-146. Uses allowed.

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

- (a) Any residential use except manufactured homes and manufactured home parks;
- (b) Commercial and office uses in the C1(P) local business district and O&I office and institutional district; and
- (c) Allowed uses from the C(P) planned commercial districts are as follows:
 - (1) Alcoholic beverages, packaged, retail sales;
 - (2) Automobile washing;
 - (3) Home furnishings and appliance sales;

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- (4) Janitorial service;
- (5) Locksmith, gunsmith;
- (6) Office supplies and equipment sales and service;
- (7) Pet sales (excluding kennel operations or outside storage of animals);
- (8) Private recreation club or swimming club activities not operated as a business for profit;
- (9) Public recreation (such as neighborhood center buildings, parks, museums, playgrounds, and similar facilities operated on a non-profit basis;
- (10) Recreation or amusement enterprise conducted outside a building and for profit, and not otherwise listed herein; and
- (11) Retailing or servicing with operations conducted and merchandise stored entirely within a building. [Note: The remainder of this use, as listed in the "use matrix" (Sec. 102-76.2) "and not otherwise listed herein" is not included in this section.];

Any combination of the above allowed uses shall not exceed fifty percent of the total land area within the district for non-residential development.

Sec. 102-147. Development performance standards.

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

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

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

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

(b) Open space provisions.

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

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

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

(c) Development standards.

(1) A site plan including all information required for detailed site plans enumerated in Section 102-212 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 submitted, including signature and seal, by the developer's private engineer, in the same manner as required by Chapter 86, Section 86-36, prior to the completion of the approved commercial portion of the plan. In the event, the developer fails to complete the residential portion of the development, the funds from the guarantee shall be used toward recouping any legal cost associated with enforcement of the permit and toward construction of any improvement within the development reasonably necessary to provide for the safety, health, and welfare of the public.

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

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

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

(6) The site plan shall indicate the minimum number, size, and location of off-street parking spaces for all commercial development and must comply with the standards of Article IX of this chapter, unless otherwise specifically approved by the board of commissioners upon their consideration of a recommendation from the zoning board.

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

(8) Streets and drives will comply with the town and/or North Carolina Department of Transportation (NCDOT) standards and shall be capable of carrying the projected traffic volumes.

(9) All signage within the district shall comply with the sign regulations for residential developments of Article X of this chapter, unless otherwise specifically approved by the board of commissioners upon their consideration of a recommendation from the zoning board.

(10) Buffering shall be provided in accordance with the standards of Section 102-432, unless otherwise specifically approved by the board of commissioners upon their consideration of a recommendation from the zoning board.

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

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

(1) All provisions of Chapter 86, Subdivision Regulations, and Chapter 67, Stormwater Management, Stormwater Regulations, of the town are to be complied with, where applicable;

(2) Compliance with the *Highway Plan*;

(3) The plans are in harmony with the most current comprehensive land use plan and current adopted policies; and

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

CREATE Article V.I, Planned Neighborhood Development – Conditional Use District, as follows:

ARTICLE V.I. PLANNED NEIGHBORHOOD DEVELOPMENT – CONDITIONAL USE DISTRICT

(Editor's note: Provisions for PND zoning currently exist in the zoning regulations but are not clear and are not located all in one area of the regulations. The following sections are relocating and attempting to clarify the provisions for approval of a PND plan. Because new language has been used in almost every section, all proposed provisions are being indicated as being added and following the proposed provisions,

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the existing provisions are shown as being deleted from the zoning chapter. Since PND zoning is being proposed as a “dormant district”, no new applications for a rezoning to PND can be accepted; however, under this proposal, properties already zoned “PND” could be submitted as a conditional use district and permit and could get a PND plan approved, if all of the following provisions are met.)

AMEND Article V.I, Planned Neighborhood Development – Conditional Use District, by CREATING and ENACTING Sections 102-148. Purpose; 102-149. General; 102-150. Minimum conditions for application; 102-151. Uses allowed; 102-152. Development standards; 102-153. Contents of application; 102-154. Site plan and subdivision approval; 102-155. Amendments; 102-156. Abandonment of PND plan; and 102-157. Validation of existing PND plans; to read as follows:

Sec. 102-148. Purpose.

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

Sec. 102-149. 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 county planning and town staff prior to submission of any application and site plan for rezoning to this conditional use district. This zoning district incorporates the provisions of Article IV, Conditional Use Districts, in its entirety. In addition, the restrictions and standards set forth below shall be considered minimum standards for the conditional use district and permit and must be satisfied or surpassed.

Sec. 102-150. Minimum conditions for application.

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

- (a) The subject property must be served by public or community water and sewer;
- (b) The subject property must have permitted access to a public paved street that can support the development; and
- (c) The subject property must contain at least 50 contiguous acres under one ownership or control. An area shall be deemed contiguous which is composed of one

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un-separated continuity of land; or is separated by street rights-of-way to which abutting property has direct access rights; or is separated by minor streams, creeks, other bodies of water or railroad rights-of-way across which vehicular crossings are feasible and practicable and which will be provided for in the PND plan.

Sec. 102-151. Uses allowed.

The following uses are permitted subject to restrictions placed on the PND by the zoning board and/or board of commissioners, and as agreed to by the record property owner(s):

(a) Any residential use permitted in the R10 zoning district, including a variety of single-family, multifamily, patio homes, townhouses, condominiums and zero lot line developments;

(b) Commercial and office uses in the C1(P) local business district and O&I office and institutional district; and

(c) Allowed uses from the C(P) planned commercial district are as follows:

(1) Automobile washing;

(2) Home furnishings and appliance sales;

(3) Janitorial service;

(4) Locksmith, gunsmith;

(5) Office supplies and equipment sales and service;

(6) Pet sales (excluding kennel operations or outside storage of animals);

(7) Private recreation club or swimming club activities not operated as a business for profit;

(8) Public recreation (such as neighborhood center buildings, parks, museums, playgrounds, and similar facilities operated on a non-profit basis;

(9) Recreation or amusement enterprise conducted outside a building and for profit, and not otherwise listed herein; and

(10) Retailing or servicing with operations conducted and merchandise stored entirely within a building. [Note: The remainder of this use, as listed in the "use matrix" (Sec. 102-76.2) "and not otherwise listed herein" is not included in this section.];

Sec. 102-152. Development standards.

(a) Land use proportions.

(1) Non-residential uses: A maximum of five percent of the gross land area of the development may be devoted to such convenience commercial uses as listed above, with no one tract to exceed ten acres. If more than one tract of land is proposed for commercial uses, no one tract shall be less than two acres and all tracts shall be separated from each other by at least one-quarter mile measured in a straight line.

(2) Residential uses: The maximum density of residential units per acre of the gross land area shall be six except as follows. In determining the maximum number of units, the acreage denoted to commercial uses shall not be included. The commercial land area may be proportioned if the developer wishes, i.e., three and three quarters percent commercial and six and one-half residential units per acre of gross land area; two and one-half percent commercial and seven residential units per acre of gross land area; one and one-quarter percent commercial and seven and one-half residential units per acre of gross land area. In lieu of all commercial development, a developer may increase the maximum residential density not to exceed eight units per acre of gross land area.

(b) Open space and recreational facilities. Where any officially adopted town parks and recreation master plan or any other open space/recreation-related plan of the town, subsequently adopted after the effective date of this amendment identifies land in the proposed PND as a proposed recreation area, a minimum of 15 percent of the gross land area to be committed to a PND shall either be placed in an owners' association, under the same provision and conditions as provided for in Chapter 86, or be dedicated to the town for use as parks, recreation areas, and open space. At least fifty percent of the area offered for dedication must be suitable for recreational use. The board of commissioners', after their consideration of the zoning board's recommendation, shall determine that the quality and location of the land to be dedicated is sufficient to serve the PND.

The entire dedication may be made when the preliminary plat is presented to the board of commissioners; or, if the development is to be accomplished through a series of stages, the open spaces may be dedicated in parts proportionate to the number of units to be developed as approved in the PND plan. No parcel of land dedicated shall be less than one contiguous acre which shape is acceptable to the board of commissioners and all such areas shall be physically a part of the PND. Detached single-family dwelling units are exempt from any further open space dedication requirements of Chapter 86.

Residential group developments must provide the recreation areas required by Chapter 86. When according to officially adopted town plans, no land is required for recreation purposes, 15 percent of the land shall be either placed in an owners' association, under the same provision and conditions as provided for in Chapter 86; the land shall be dedicated to the town for use as parks and recreation and open space; or

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a fee shall be paid to the town for the acquisition of land for recreation purposes in accordance with the provision of N.C. GEN. STAT. § 160A-372. The board of commissioners shall decide which option is appropriate. If a fee is chosen, it shall be equivalent to 15 percent of the tax-assessed value of the land contained in the PND. The entire dedication of land or fee may be made at the time the preliminary plat is presented for approval or may be made in proportion to the number of units to be developed of the total approved for the PND. A fee in lieu does not entitle the PND to additional residential units or commercial acreage.

(c) *Buffer requirement.* Buffers meeting the standards of Section 102-432 shall be provided. The board of commissioners' upon recommendation from the zoning board may require additional buffering, when the proposed non-residential area abuts land not included in the development plan and the required buffer would not protect the adjoining properties from the non-residential character of the uses.

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

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

(f) *Dimensional provisions.* Residential uses shall meet or exceed the minimum standards for setbacks of the R10 residential district along all public streets and on the periphery of the development. All non-residential uses shall observe the yard regulations for the C1(P) zoning district along the public streets and on the periphery of the PND.

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

<u>Size of PND</u>	<u>Percent of Residential Units</u>
<u>50 to 100 acres</u>	<u>50%</u>
<u>Over 100 acres, up to 150 acres</u>	<u>40%</u>
<u>Over 150 acres, up to 200 acres</u>	<u>30%</u>
<u>Over 200 acres</u>	<u>25%</u>

Sec. 102-153. Contents of application

In addition to the requirements of Section 102-115, the application shall contain the following items:

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

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

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

(d) The proposed uses for the commercial area(s);

(e) Floodplain areas where applicable;

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

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

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

Sec. 102-154. Site plan and subdivision approval.

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

Sec. 102-155. Amendment to approved PND plan.

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

Sec. 102-156. Abandonment of PND plan.

In the event the developer abandons the PND plan as approved, all undeveloped or un-platted land shall be used further only under the regulations of the R10 residential district unless a subsequent application is approved for the remaining land. Such subsequent plans must be based, however, on the overall residential density planned on the original tracts of land and may not include additional commercial land except if a portion was not developed under the original plan.

Sec. 102-157. Validation of existing PND plans.

PND plans approved prior to the effective date of this amendment to the zoning chapter shall not be affected by this amendment; however, any amendment to any

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existing PND after the effective date of this chapter shall be processed under the amended approval process outlined in this article.

Secs. 102-~~158~~ ~~144~~-102-175. Reserved.

AMEND Article VII. Planned Districts, by REPEALING Section 102-213. Planned neighborhood district (PND):

Sec. 102-213. Repealed. ~~Planned neighborhood district (PND).~~

~~(a) *Purpose.* This district, which is a separate and complete zoning district, encourages the development of residential land in such a manner as to provide a more desirable living environment characterized by open space, recreation amenities, landscaping, a variety of housing types in order to best meet the demands of all socioeconomic age groups and allows new methods by which land and facility costs can be reduced on a per unit basis so that more people can afford better living conditions.~~

~~(b) *Permitted uses.* Any land, building, or structure in the planned neighborhood district may be used in accordance with the provisions of this chapter for the R-10 residential district. As an alternative, land may be planned and used for a variety of residential districts including R-10, R-6, R-5A, and R-5 and related shopping areas, C(P), planned commercial district in accordance with the provisions of this section and chapter.~~

~~(c) *Standards and requirements.* Standards and requirements for the planned neighborhood development in a planned neighborhood district shall be as follows:~~

~~(1) *Minimum development size.* Fifty contiguous acres under one ownership or control. An area shall be deemed contiguous which is composed of one un-separated continuity of land; or is separated by street right-of-way to which abutting property has direct access rights; or is separated by minor streams, creeks, other bodies of water, or railroad rights-of-way across which vehicular crossings are feasible and practicable and which will be provided for in the planned neighborhood development.~~

~~(2) *Community water and sewer.* Any area proposed as a planned neighborhood development shall be served by both community water and sewer systems.~~

~~(3) *Open space standards.*~~

~~a. A minimum of 15 percent of the gross area of land to be committed to a planned neighborhood development shall be either placed in a homeowners association, under the same provisions and conditions as provided for in the county subdivision ordinance, or be dedicated to the county for use as parks, recreation areas, open space, school sites, or other public purposes other than right-of-way or easements. The entire dedication may be approved when final site plan is presented to the board of commissioners; or if the development is to be accomplished through a series of stages the open space may be dedicated in parts proportionate to the density of development as noted:~~

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Area Development	Required Percentage of Open Space
R-10	10
R-6	15
R-5A	25
R-5	50

~~b. No such parcel of land, dedicated for open space, shall be less than one contiguous acre and all such areas shall be physically a part of the planned neighborhood development. Open space provided to meet the minimum open space standards of a variable lot residential development in accordance with the county subdivision ordinance shall not be considered as meeting this open space requirement.~~

~~(4) Residential land use standards. Of the net land devoted to residential purposes in a planned neighborhood development 65 percent shall be developed to meet or exceed the dimensional requirements of the R-10 district; 20 percent shall be developed to meet or exceed the dimensional requirements of the R-6 district; ten percent shall be developed to meet or exceed the dimensional requirements of the R-5A district; and five percent shall be developed to meet or exceed the dimensional requirements of the R-5 district.~~

~~(5) Commercial land use standards. Shopping areas developed in accordance with the C(P) requirements of this chapter may be incorporated into a planned neighborhood development provided that the areas are designed to serve primarily the residents of the planned neighborhood development and provided that the areas are compatibly incorporated into the design of the planned neighborhood development. Land devoted to shopping purposes shall not exceed five percent of the gross area of the planned neighborhood development and no single shopping area shall be less than two acres.
(Code 1985, § 154.067)~~

AMEND Article VIII. Lot and Yard Regulations, Section 102-248. District dimensional provisions, to read as follows:

Sec. 102-248. District dimensional provisions.

Except for the special provisions as noted in [§ Sections 102-246 and 102-247](#) [and Articles IV, V, and V.I](#), the following district dimensional regulations shall be met. See also section 86-95 for zero lot line development exception.

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AMEND Article XI. Administration and Enforcement, Section 102-339. Hearings, sub-sections (a) and (c), to read as follows:

Sec. 102-339. Hearings.

(a) Any case involving an appeal, variance, or a special ~~conditional~~ use permit requires a public hearing to be held by the board of adjustment and any case involving a change of zoning district classification and other ordinance changes requires a public hearing to be held by the board of commissioners.

(b) The board of adjustment and board of commissioners shall fix a reasonable time for hearing and give public notice as well as due notice to the parties in interest. At the hearing any person or party may appear in person or by agent or attorney. The board of adjustment and the board of commissioners shall take action on a matter within a reasonable time after the termination of the proceedings.

(c) After a public hearing has been held and approval granted for a special ~~conditional~~ use or variance the board of adjustment may reverse any decision without a public hearing upon finding that the:

- (1) Approval was obtained by fraud.
 - (2) Use for which such approval was granted is not being executed.
 - (3) Use for which such approval was granted has ceased to exist or has been suspended for one year or more.
 - (4) Permit granted is being, or recently has been, exercised contrary to the terms of conditions of such approval or in violation of any ordinance or statute.
 - (5) 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.
- (Code 1985, § 154.128(A))

AMEND Article XI. Administration and Enforcement, Section 102-342. Conditional use permit, to read as follows:

Sec. 102-342. Special ~~Conditional~~ use permits.

The various special uses set forth in the use matrix in Article III, because of special site or design requirements, operating characteristics or potential adverse effects on surrounding property and neighborhoods, shall be permitted only upon approval by the board of adjustment in accordance with the standards and conditions as set forth in this section.

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(a) Purpose. Permitting special uses adds flexibility to this chapter. Subject to high standards of planning and design, certain property uses are allowed in the several districts where these uses would not otherwise be acceptable. By means of controls exercised through the special use permit procedures, property uses that would otherwise be undesirable in certain districts can be developed to minimize any negative effects they might have on surrounding properties.

(b) Procedure. Special use permits shall be granted by the board of adjustment as permitted for only those uses enumerated in Section 102-76 (use matrix) as special uses. Uses specified as a special use in Section 102-76 shall be permitted only upon the issuance of a special use permit by the board of adjustment.

The owner or owners of all property included in the petition for a special use permit shall submit a complete application and three copies of a detailed site plan (drawn in accordance with the specifications listed in Section 102-212) to the county planning staff. The staff will schedule the application to be heard by the board of adjustment in accordance with the adopted time schedule. The county planning staff shall also notify the commanders of the military bases of any application affecting the use of property located within five or less miles of the perimeter boundary of said bases in accordance with N.C. GEN. STAT. § 160A-364.

Developers are encouraged to discuss their special use plans with the county planning and town staff prior to submission of the application. The staff shall assist the developer upon request by reviewing special use plans to ensure that the technical requirements of this chapter are met before submission to the board of adjustment.

(c) Consideration of application. The board of adjustment shall consider the application, site plan and any other evidence presented in accordance with this article and may grant or deny the special use permit requested. In granting a special use permit, the board shall find that:

(1) The use will not materially endanger the public health or safety if located according to the plan submitted and proposed;

(2) The use meets all required conditions and specifications;

(3) The use will maintain or enhance the value of adjoining or abutting properties, or that the use is a public necessity; and

(4) The location and character of the use, if developed according to the plan as submitted and recommended, will be in harmony with the area in which it is to be located and is in general conformity with Hope Mills' most recent and officially adopted land use plan, either comprehensive or a detailed area plan.

(d) Final disposition. In granting approval of a special use permit, the board of adjustment shall impose such reasonable terms and conditions as it may deem

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necessary for the protection of the public health, general welfare and public interest. In granting a special use permit, the board of adjustment shall give due consideration to:

1. The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;

2. The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;

3. The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;

4. The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;

5. The added noise level created by activities associated with the proposed use;

6. The requirements for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;

7. Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;

8. The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;

9. The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;

10. The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;

11. The availability of public facilities and utilities;

12. The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and

13. The reasonableness of the request as compared to the purpose and intent of the most recent land use plan, this chapter, and adopted policies, for the physical development of the district, and protection of the environment.

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All such additional conditions shall be entered in the minutes of the meeting, at which the special use permit is granted, on the special use permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the special use permit, their heirs, successors and assigns. The applicant for the special use permit is responsible for the recordation of the *Notice of Special Use Permit* with the Cumberland County Register of Deeds prior to application for any zoning permit.

If the board denies the special use permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the board of adjustment shall not consider resubmission of the application for the same special use permit on the same property without a substantial material change concerning the property and the application.

(d) *Final disposition.* In granting approval of a special use permit, the board of adjustment shall impose such reasonable terms and conditions as it may deem necessary for the protection of the public health, general welfare and public interest. In granting a special use permit, the board of adjustment shall give due consideration to:

(1) The compatibility of the proposal, in terms of both use and appearance, with the surrounding neighborhood;

(2) The comparative size, floor area and mass of the proposed structure in relationship to adjacent structures and buildings in the surrounding area and neighborhood;

(3) The frequency and duration of various indoor and outdoor activities and special events, and the impact of these activities on the surrounding area;

(4) The capacity of adjacent streets to handle increased traffic in terms of traffic volume, including hourly and daily levels and weight-bearing limitations;

(5) The added noise level created by activities associated with the proposed use;

(6) The requirements for public services where the demands of the proposed use are in excess of the individual demands of the adjacent land uses, in terms of police and fire protection, and the presence of any potential or real fire hazards created by the proposed use;

(7) Whether the general appearance of the neighborhood will be adversely affected by the location of the proposed use on the parcel;

(8) The impact of night lighting in terms of intensity, duration and frequency of use, as it impacts adjacent properties and in terms of presence in the neighborhood;

(9) The impact of the landscaping of the proposed use, in terms of maintained landscaped areas, versus areas to remain in a natural state, as well as the openness of landscaped areas, versus the use of buffers and screens;

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(10) The impact of a significant amount of hard-surfaced areas for buildings, sidewalks, drives, parking areas and service areas, in terms of noise transfer, water runoff and heat generation;

(11) The availability of public facilities and utilities;

(12) The harmony in scale, bulk, coverage, function and density of the proposed development and compliance with the development standards of the individual uses; and

(13) The reasonableness of the request as compared to the purpose and intent of the most recent land use plan, this chapter, and officially adopted policies, for the physical development of the district, and protection of the environment.

~~(Existing Sec. 102-342. Conditional use permits.) (a) The board of adjustment, upon request of a property owner or his authorized agent after public hearing may authorize and subject to appropriate conditions and safeguards which the board deems necessary, conditional permits, when in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured.~~

All such additional conditions shall be entered in the minutes of the meeting at which the special use permit is granted, on the special use permit itself, and on the approved plans submitted therewith. The specific conditions shall run with the land and shall be binding on the original applicants for the special use permit, their heirs, successors and assigns. The applicant for the special use permit is responsible for the recordation of the *Notice of Special Use Permit* with the Cumberland County Register of Deeds prior to application for any zoning permit.

If the board denies the special use permit, it shall enter the reason for its action in the minutes of the meeting at which the action is taken. In the event of a denial, the board of adjustment shall not consider re-submission of the application for the same special use permit on the same property without a substantial material change concerning the property and the application.

(e) *Expiration of permits.* Any special use granted becomes null and void if not exercised within the time specified in such approval, or if no date is specified, within one calendar year from the date of such approval. Furthermore, once the certificate of occupancy has been issued for a special use and then the special use ceases to exist for a time period of one calendar year or more, the special use permit shall become void.

~~(Existing Sec. 102-342. Conditional use permits.) (b) Any conditional use granted becomes null and void if not exercised within the time specified in such approvals, or if no date is specified, within one year from the date of such approval.~~

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(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 102-108 for conditional use permits, provided that the changes do not materially alter the original plan as approved, and the intent and objectives of the original approval are not deviated from.

(g) *Noncompliance.* If for any reason any condition imposed pursuant to this section is found to be illegal or invalid, the special use permit shall be null and void and of no effect, and the county planning staff or the town staff shall institute proceedings for the case to be reheard by the board of adjustment.

Compliance with all the conditions of a special use permit is an essential element of the special use permit's continued validity and effectiveness. If the town zoning/building inspector shall determine that a permittee has failed to comply with a condition of an approved special use permit, they shall so notify the permittee or the permittee's successor in interest and shall place the matter on the board of adjustment's agenda for the board's decision whether or not to revoke the special use permit. Such hearing shall be on reasonable written notice to the permittee or the permittee's successor in interest and shall be a quasi-judicial proceeding according to quasi-judicial procedures. The decision of the board of adjustment shall be a final decision, and a decision to revoke the special use permit may be appealed to the Superior Court of Cumberland County within 30 days after the permittee or the permittee's successor in interest has been served with written notice of the board of adjustment's decision. Service by personal delivery or certified mail, return receipt requested, of a certified copy of the board of adjustment's approved minutes for its meeting at which such decision is made, shall constitute written notice and service of the board of adjustment's decision hereunder.

(h) *Appeals.* No appeal may be taken from the action of the board of adjustment in granting or denying a special use permit except through the Superior Court of Cumberland County in the same manner as set forth in this article for appeal of any board of adjustment decision.

[Code 1985, § 154.128(D)]

REPEAL Article XI. Administration and Enforcement, Section 102-344. Planned neighborhood development, in its entirety:

Sec. 102-344. Repealed. ~~Planned neighborhood development.~~

~~(a) The developer shall present a general development plan in eight copies to the planning department for approval at least 15 days prior to a regularly scheduled meeting at which subdivision plats are considered. The general development plan shall contain the following items:~~

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~~(1) General land use areas, including residential, commercial, open space and recreational, and other public facility areas to be developed for the entire site.~~

~~(2) The proposed density for each residential area.~~

~~(3) The primary streets.~~

~~(4) The proposed uses for the commercial area.~~

~~(b) The planning department shall have the authority to approve or disapprove of the general development plan. The general development plan shall be valid for two years. Thereafter, the plan shall be reapproved prior to subsequent submission and approval of the detailed site plan.~~

~~(c) Upon approval of the general development plan, the developer shall submit at least 15 days prior to the regularly scheduled meeting at which subdivision plats are considered, a detailed site plan, which shall be consistent with the general development plan, to the planning department for approval. The detailed site plan shall show the following items:~~

~~(1) Detailed plans for each land use on the entire site sufficient to allow the planning department to analyze in depth the character of the proposed development.~~

~~(2) A plat and description, by metes and bounds, of the proposed areas of the planned neighborhood development which corresponds to the conventional zoning districts as contained in this chapter.~~

~~(d) Approval of the detailed site plan by the planning department shall constitute the official approval of the planned neighborhood development and no zoning permit or certificate of occupancy as required by this chapter shall be issued for any building or use of land which is not in conformance with such approved plan unless the land is developed wholly as an R-10 residential district. Preliminary subdivision plat may also accompany the submission of the detailed site plan to the planning department for approval and may be approved with the approval of the detailed site plan.~~
~~(Code 1985, § 154.128(F))~~

AMEND Article XII. Board of Adjustment, Section 102-378, Powers and duties, sub-section (c) Conditional use, to read as follows:

Sec. 102-378. Powers and duties.

(c) Special ~~Conditional~~ use. The board of adjustment shall have the authority to permit exceptions, called special conditional uses, in the classes of cases or situations

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and in accordance with the principles, conditions, safeguards, and procedures specified in the chapter.

AMEND Article XII. Board of Adjustment, Section 102-379. Required vote, to read as follows:

Sec. 102-379. Required vote.

The concurring vote of four-fifths of the members of the board of adjustment shall be necessary to reverse any order, requirement, decision, or determination of any administrative official charged with the enforcement of this chapter. A concurring vote of four-fifths of the members of the board is also required to decide in favor of an applicant on any matter which the board is required to pass including granting variance from the provisions of this chapter and issuing a special ~~conditional~~ use permit.
(Code 1985, § 154.118)

AMEND Article XIII. Vested Rights, Section 102-412. Definitions, specifically: *Site specific development plan*, to read as follows:

Site specific development plan means a plan of land development submitted to the town for purposes of obtaining one of the following zoning or land use permits or approvals: A subdivision plat, a conditional use permit, a special use permit or zoning permit.

Notwithstanding the foregoing, neither a variance, a sketch plan nor any other document that fails to describe with reasonable certainty the type and intensity of use for a specified parcel or parcels of property shall constitute a site specific development plan.

AMEND Article XIII. Vested Rights, Section 102-413. Establishment of a zoning vested right, sub-section (e), to read as follows:

(e) The establishment of a zoning vested right shall not preclude the application of conditional use district and permit ~~overlay~~ zoning that imposes additional requirements 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.

**HOPE MILLS ZONING CHAPTER
CONDITIONAL USE DISTRICT & PERMIT
FEE SCHEDULE**

REQUESTED ZONING 100+ DISTRICTS¹ ACRES	LESS THAN 5 ACRES	5 TO 50 ACRES	50 TO 100 ACRES
CONDITIONAL USE <u>DISTRICTS²</u> \$500 RESIDENTIAL	\$500	\$500	\$500
CONDITIONAL USE <u>DISTRICTS²</u> NONRESIDENTIAL PND/CUD MXD/CUD	\$700	\$800	\$800
<p>1 If more than one zoning district is requested in the same application, the highest fee for the district requested will apply.</p> <p>2 If a general rezoning is requested and based on recommendations of the Zoning Board or Town Commissioners, the applicant desires to submit a Conditional Use District and Permit application, the original application fee will be credited towards the Conditional Use District and Permit application fee.</p>			

EXAMPLE



TOWN OF HOPE MILLS

County Planning Staff

CASE #: _____

ZONING BOARD
MEETING DATE: _____

DATE APPLICATION
SUBMITTED: _____

RECEIPT #: _____

RECEIVED BY: _____

APPLICATION FOR CONDITIONAL USE DISTRICT & PERMIT REZONING REQUEST HOPE MILLS ZONING CHAPTER

Upon receipt of this application (petition), the County Planning Staff will present to the Zoning Board the application at a hearing. In accordance with state law and Board's policy, a notice of the hearing will be mailed to the owners of the adjacent and surrounding properties, which may be affected by the proposed Conditional Use.

The Zoning Board will make a recommendation to the Hope Mills Board of Commissioners concerning the request. The Board of Commissioners will schedule a public hearing and make a final decision on the matter. Generally, the Commissioners will hold a public hearing two to four weeks following the meeting of the Zoning Board. The Conditional Use District and Permit shall not be made effective until the request is heard and has received approval from the Board of Commissioners.

The following items are to be submitted with the completed application:

1. A copy of the recorded deed and/or plat;
2. If a portion of an existing tract, an accurate written legal description of only the area to be considered for rezoning;
3. A copy of a detailed site plan drawn to engineering scale, showing the location of all buildings, yard dimensions, driveways, fencing, lighting parking areas, landscaping, buffering and any other data pertinent to the case;
4. A check made payable to "Town of Hope Mills" in the amount of \$_____. (See attached Fee Schedule).

NOTE: Any revisions, inaccuracies or errors to the application or site plan may cause the case to be delayed and will be scheduled for the next available board meeting according to the board's meeting schedule. Also, the application fee is *nonrefundable*.

The County Planning and Town Staff are available for advice on completing this application; however, they are not available for completion of the application or preparation of the site plan.

EXAMPLE

EXAMPLE

TO THE HOPE MILLS ZONING BOARD AND THE TOWN OF HOPE MILLS BOARD OF COMMISSIONERS, HOPE MILLS, NC:

I (We), the undersigned, hereby submit this application, and petition the Town Commissioners to amend and to change the zoning map of the Town of Hope Mills as provided for under the provisions of the Hope Mills Zoning Chapter. In support of this petition, as hereinafter requested, the following facts are submitted:

1. APPLICANT/AGENT: _____
2. ADDRESS: _____ ZIP CODE: _____
3. TELEPHONE: (Home) _____ (Work) _____
4. Location of Property: _____

5. Parcel Identification Number (PIN #) of subject property: _____
(also known as Tax ID Number or Property Tax ID)
6. Acreage: _____ Frontage: _____ Depth: _____
7. Water Provider: _____
8. Septage Provider: _____
9. Deed Book _____, Page(s) _____, Cumberland County Registry. (Attach copy of deed of subject property as it appears in Registry).
10. Existing use of property: _____
11. Proposed use(s) of the property: _____

NOTE: Be specific and list all intended uses.

12. Do you own any adjacent property? ____ If so, where: _____
13. It is requested that the foregoing property be rezoned FROM: _____

TO: (select one)

- _____ Conditional Use District, with an underlying zoning district of _____
(Article IV)
- _____ Mixed Use/Conditional Use District (Article V)
- _____ Planned Neighborhood District/Conditional Use District (Article VI)

EXAMPLE

EXAMPLE
MAILING LIST

The following are the tax record owners, with complete mailing address, of all properties immediately adjacent to the subject property. This includes those properties separated from the subject properties by any right-of-way. **(This information should be obtained from the Tax Mapping Office on the 5th floor of the New Courthouse).**

ADJACENT TAX RECORD PROPERTY OWNERS

NAME	ADDRESS	ZIP CODE

EXAMPLE
APPLICATION FOR
CONDITIONAL USE PERMIT

1. PROPOSED USE(S):

- A. List the use(s) proposed for the Conditional Use Permit. (Use of the underlying district will be restricted only to the use(s) specified in this application.)

- B. Density: List the amount of acreage that will be residential, commercial, and/or open space, and the number of lots and/or dwelling units proposed, and the square footage of the non-residential units.

2. DIMENSIONAL REQUIREMENTS:

- A. Reference either the dimensional requirements of the district, Sec 102-248 or list the proposed setbacks.

- B. Off-street parking and loading, Article IX: List the number of spaces, type of surfacing material and any other pertinent information.

3. SIGN REQUIREMENTS:

Reference the district sign regulations proposed from Article X.

EXAMPLE

4. LANDSCAPE AND BUFFER REQUIREMENTS:

- A. For all developments required to provide off-street parking, indicate the number and type of large shade or flowering or ornamental trees used in the streetyard, and/or parking facilities, plus the number and type of shrubs (Article XIV). **NOTE: All required landscaping must be included on the site plan.**

- B. Indicate the type of buffering and approximate location, width and setback from the property lines.

5. MISCELLANEOUS:

List any information not set forth above, such as the days and hours of the operation, number of employees, exterior lighting, noise, odor and smoke, emission controls, etc.

6. SITE PLAN REQUIREMENTS:

The application shall include a site plan drawn to the specifications of Sec. 102-212. If the proposed use(s) involve development subject to Chapter 86, the site plan required may be general in nature, showing a generalized street pattern, if applicable, and the location of proposed uses. If the proposed uses include development not subject to Chapter 86, the site plan shall be of sufficient detail to allow the Planning and Town Staff and Zoning Board to analyze the proposed uses and arrangement of uses on the site. It shall also include the footprints of all buildings (proposed and existing), the proposed number of stories, location and number of off-street parking and loading spaces, proposed points of access to existing streets and internal circulation patterns. In addition, the location of all proposed buffers and fences and landscaping shall be included on the site plan.

EXAMPLE

7. ACKNOWLEDGEMENT:

It is understood by the undersigned that the official zoning map, as originally adopted and subsequently amended, is presumed to be appropriate to the property involved and that the burden of proof for a zoning amendment (change) rests with the petitioner.

It is the responsibility of the petitioner (personally or by agent) to submit to the County Planning Staff a valid request, not incompatible with existing neighborhood zoning patterns.

In order for the Zoning Board to offer a favorable recommendation, and for the Town Board of Commissioners to approve, any Conditional Use District and Permit they must find from the evidence presented at their respective public hearing 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 Town's most recent Comprehensive Land Use Plan and adopted planning policies.

I further understand I must voluntarily agree to all conditions proposed for the Conditional Use Permit.

The undersigned hereby acknowledge that the County Planning Staff has conferred with the petitioner or assigns, and the application as submitted is accurate and correct.

NAME OF OWNERS (PRINT OR TYPE)

ADDRESS OF OWNER(S)

HOME TELEPHONE #

WORK TELEPHONE #

SIGNATURE OF OWNER(S)

SIGNATURE OF OWNER(S)

EXAMPLE

NAME OF AGENT, ATTORNEY, APPLICANT (by assign) (PRINT OR TYPE)

ADDRESS OF AGENT, ATTORNEY, APPLICANT

HOME TELEPHONE #

WORK TELEPHONE #

SIGNATURE OF AGENT, ATTORNEY
OR APPLICANT

- * **ALL record property owners must sign this petition.**
- * **The contents of this application, upon submission, becomes “public record.”**

**HOPE MILLS ZONING CHAPTER
CONDITIONAL USE DISTRICT & PERMIT
FEE SCHEDULE**

REQUESTED ZONING DISTRICTS¹	LESS THAN 5 ACRES	5 TO 50 ACRES	50 TO 100 ACRES	100+ ACRES
CONDITIONAL USE DISTRICTS ² RESIDENTIAL	\$500	\$500	\$500	\$500
CONDITIONAL USE DISTRICTS ² NONRESIDENTIAL PND/CUD MXD/CUD	\$700	\$800	\$800	\$800

1

If more than one zoning district is requested in the same application, the highest fee for the district requested will apply.

2

If a general rezoning is requested and based on recommendations of the Zoning Board or Town Commissioners, the applicant desires to submit a Conditional Use District and Permit application, the original application fee will be credited towards the Conditional Use District and Permit application fee.

EXAMPLE
**REQUIREMENTS FOR
SITE PLAN REVIEW**

1. *Drawing done to engineering scale*

2. *Drawing will reflect:*

- *metes and bounds of entire site with adjoining street right-of-way shown and name or state road number of that street or road;*
- *foot print of all existing and/or proposed buildings or additions with dimensions and square footage indicated;*
- *location and size of all existing and/or proposed curbcuts and indicate such on the plan;*
- *parking plan to include the location of all proposed spaces (standard size is 8.5' by 20'), parking isle width and traffic circulation scheme;*
- *existing or proposed location and drain field area of wells and/or septic tanks;*
- *existing or proposed fencing;*
- *setbacks of all existing and/or proposed buildings or additions from all other building and from all property lines-
Note: If setbacks shown are not in accordance with the minimum setbacks of the zoning district of the property, and if appropriate, attach a letter requesting an alternate yard with a reasonable explanation or justification as to why the alternate yard is necessary and logical in order to develop the site;*
- *Any easements which may exist on the subject property are accounted for and shown on the plan, not encumbered and that no part of the development is violating the rights of the easement holder;*
- *Location, type and size of all freestanding signs;*
- *Location of buffer with the type and size indicated;*
- *Location of landscaping and type of plantings.*

3. *Vicinity map to show location of property or site within the Town*

4. *Correct north arrow*

5. *Data block to reflect the following:*

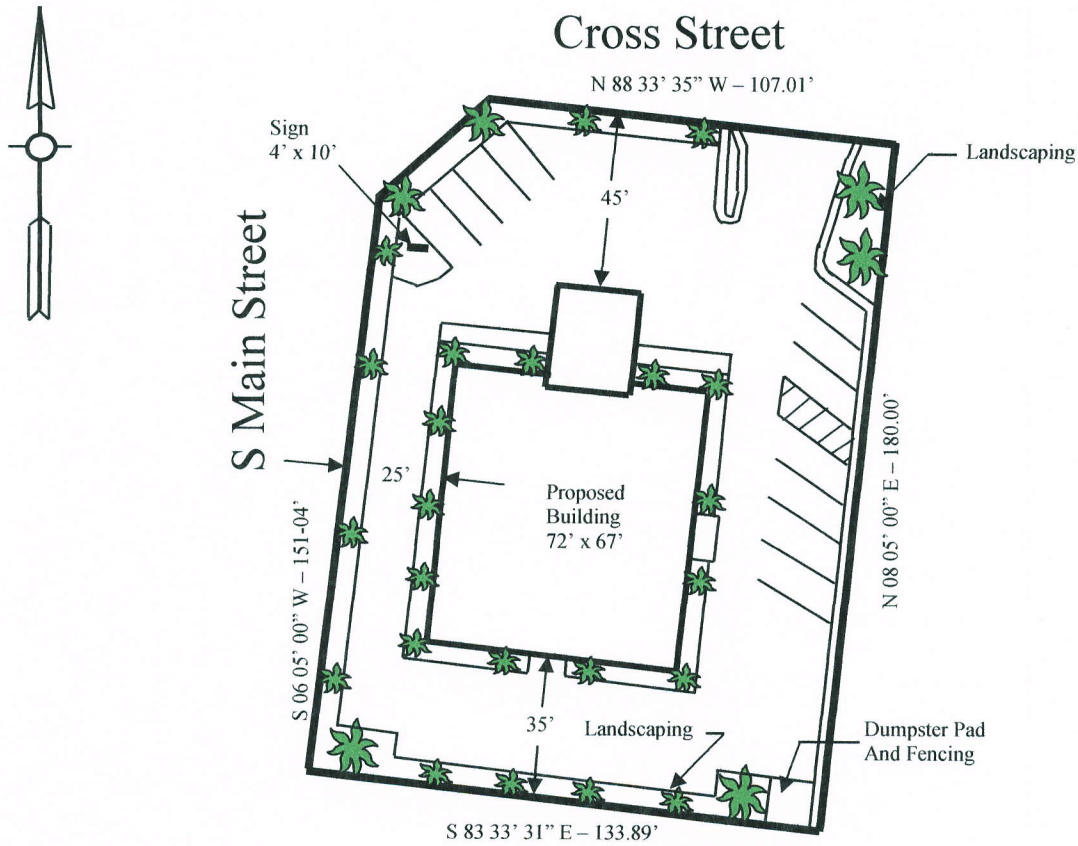
- *name of development*
- *owner*
- *zoning of property*
- *acreage of site*
- *scale of drawing*
- *proposed building or addition square footage*
- *number of off-street parking spaces (to include handicapped spaces)*

6. *If the subject property contains split zoning, zoning lines must be shown on the site plan.*

EXAMPLE

SAMPLE MAP

SITE PLAN

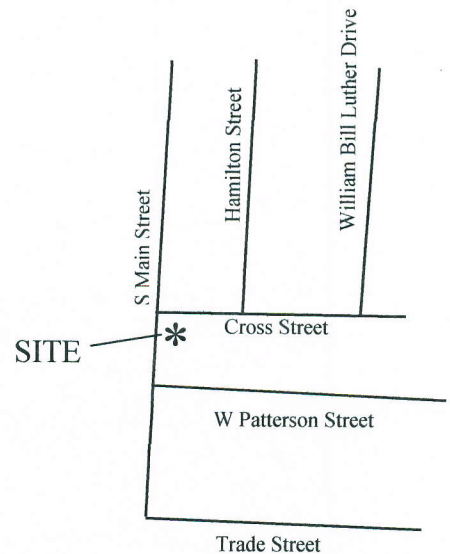


Property of: _____

Zoned: _____ Scale: _____

PIN#: _____

Hope Mills, NC



EXAMPLE

Donovan McLaurin,
Chair
Wade, Falcon & Godwin

Lori Epler,
Vice-Chair
Cumberland County

Garland C. Hostetter,
Town of Spring Lake
Harvey Cain, Jr.,
Town of Stedman
Patricia Hall,
Town of Hope Mills
Charles C. Morris,
Town of Linden



COUNTY of CUMBERLAND

Planning & Inspections Department

Thomas J. Lloyd,
Director

Cecil P. Combs,
Deputy Director

Clifton McNeill, Jr.,
Roy Turner,
Sara E. Piland,
Cumberland County

Benny Pearce,
Town of Eastover

2008 TOWN OF HOPE MILLS ZONING DEADLINE/MEETING SCHEDULE

<u>Application Deadline</u>	<u>Zoning Board Meeting Date</u>
Thursday, December 6, 2007	Monday, January 28, 2008
Tuesday, January 15, 2008	Monday, February 25, 2008
Wednesday, February 13, 2008	Monday, March 24, 2008
Tuesday, March 11, 2008	Monday, April 28, 2008
Wednesday, April 16, 2008	Monday, May 26, 2008
Tuesday, May 13, 2008	Monday, June 23, 2008
Tuesday, June 10, 2008	Monday, July 28, 2008
Wednesday, July 16, 2008	Tuesday, August 25, 2008
Tuesday, August 12, 2008	Tuesday, September 22, 2008
Wednesday, September 17, 2008	Tuesday, October 27, 2008
Tuesday, October 14, 2008	Tuesday, November 24, 2008
Friday, November 7, 2008	Tuesday, December 22, 2008

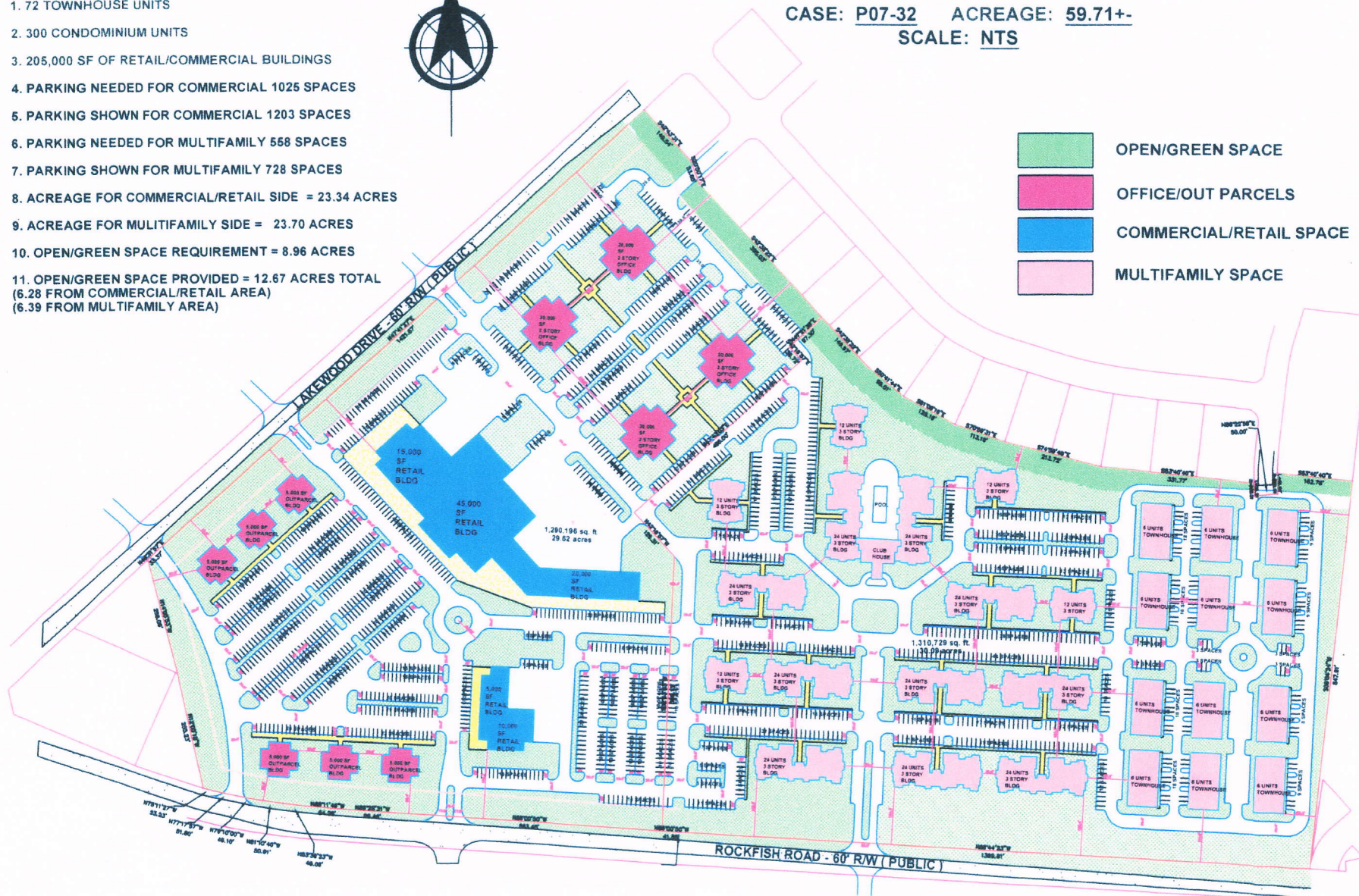
EXAMPLE

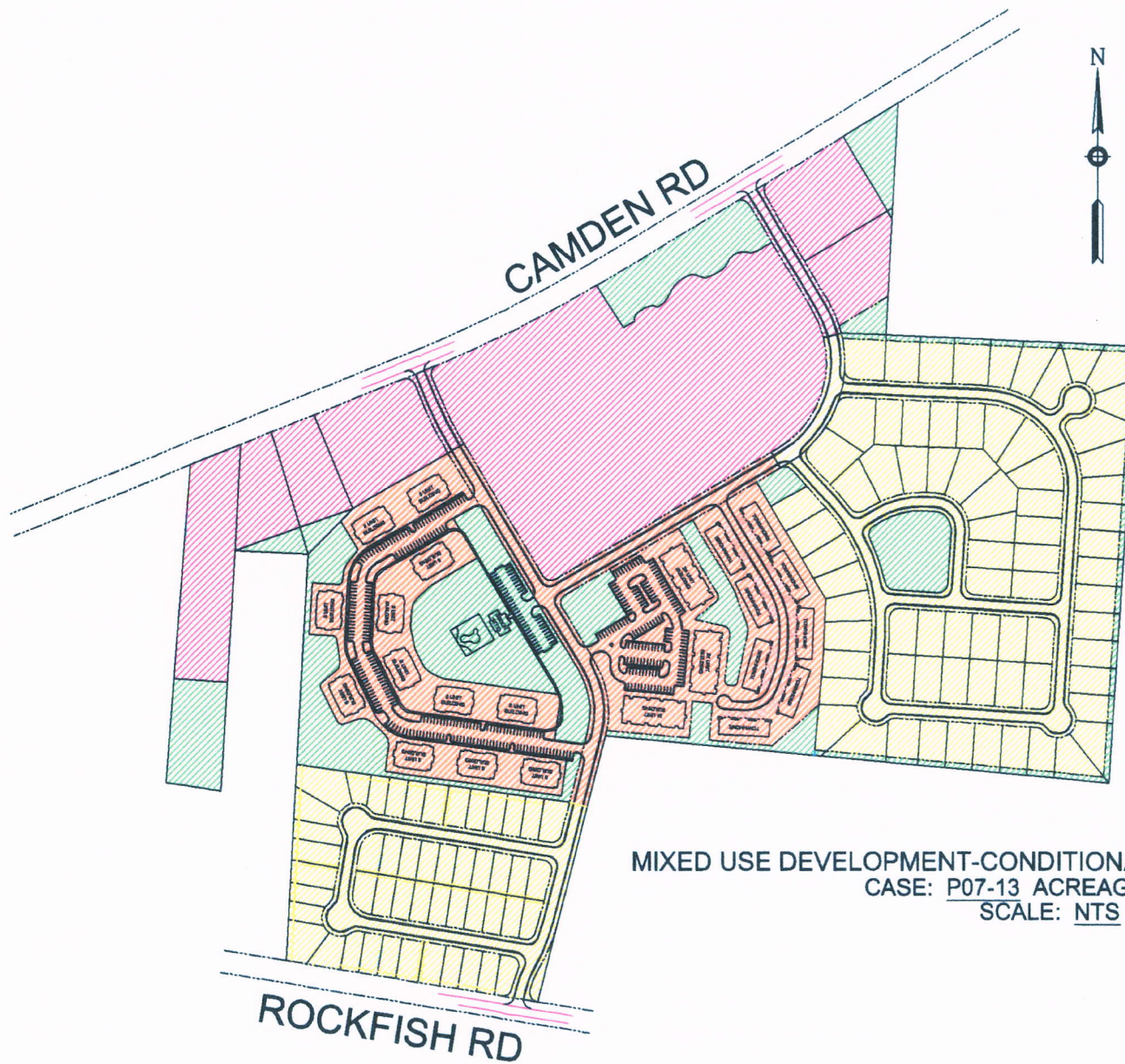
1. 72 TOWNHOUSE UNITS
2. 300 CONDOMINIUM UNITS
3. 205,000 SF OF RETAIL/COMMERCIAL BUILDINGS
4. PARKING NEEDED FOR COMMERCIAL 1025 SPACES
5. PARKING SHOWN FOR COMMERCIAL 1203 SPACES
6. PARKING NEEDED FOR MULTIFAMILY 558 SPACES
7. PARKING SHOWN FOR MULTIFAMILY 728 SPACES
8. ACREAGE FOR COMMERCIAL/RETAIL SIDE = 23.34 ACRES
9. ACREAGE FOR MULTIFAMILY SIDE = 23.70 ACRES
10. OPEN/GREEN SPACE REQUIREMENT = 8.96 ACRES
11. OPEN/GREEN SPACE PROVIDED = 12.67 ACRES TOTAL
(6.28 FROM COMMERCIAL/RETAIL AREA)
(6.39 FROM MULTIFAMILY AREA)







CASE: P07-32 ACREAGE: 59.71+-

SCALE: NTS





	27% COMMERCIAL 21.53 ± ACRES
	15% OPEN SPACE 11.98 ± ACRES
	37% SINGLE FAMILY RESIDENTIAL 29.89 ± ACRES
	21% MULTI FAMILY RESIDENTIAL 16.45 ± ACRES

MIXED USE DEVELOPMENT-CONDITIONAL USE DISTRICT & PERMIT
CASE: P07-13 ACREAGE: 79.88±
SCALE: NTS

2/13/07