

LAND DEVELOPMENT ORDINANCE TEXT AMENDMENTS
Round 28, Items A, C, D, E, F and H
Town Council Meeting
August 14, 2014

EXECUTIVE SUMMARY

Staff has compiled a series of proposed amendments to the Land Development Ordinance (LDO) in response to concerns raised by Town Council, citizens and staff. Town Council conducted a public hearing on the Round 28 LDO amendment items (Items A through H) on May 22, 2014. The Planning and Zoning Board recommended approval of the proposed Round 28 LDO amendments, specifying options related to food trucks and slab-on-grade construction.

Item G (Connectivity) was removed from consideration at this time and will be included in a future round of amendments. Item B (Rezoning Procedures) is not included in this agenda item. Staff anticipates that Item B will be brought forward for consideration at a council meeting in August or September.

OVERVIEW

SCHEDULE:

Public Hearing	May 22, 2014
Planning and Zoning Board Work Session	June 30, 2014
Planning and Zoning Board Meeting	July 21, 2014
Final Action by Town Council	August 14, 2014
Effective	August 14, 2014

I. SUMMARY OF PROPOSED AMENDMENTS

A brief description of each proposed amendment is provided below. More detailed background information and the proposed text is provided in the section of this report entitled "DETAILS REGARDING PROPOSED LDO AMENDMENTS". Additional time-sensitive items may be added prior to the public hearing.

Item A Food Trucks – The proposed amendment would allow Food Trucks as a temporary use in certain zoning districts subject to use-specific standards.

Item B Rezoning Procedures – Item B includes the following 3 components related to rezoning approval:

- 1) Timing and procedural requirements for neighborhood meetings;
- 2) Allowing a concept plan as a zoning condition for a conditional use rezoning case; and
- 3) Specifying the extent to which a concept plan may be modified administratively.

Unlike most of the other proposed amendment items, there are significant operational and administrative changes associated with Item B. Staff is continuing to refine and clarify this item, particularly with regard to requirements related to rezoning concept plans. In addition to ensuring clarity in the LDO text itself, staff is revising applications and other forms and informational materials related to the rezoning process, and developing internal processes and procedures in preparation for implementation of the proposed changes. Staff anticipates bringing this item forward at the second council meeting in August or first meeting in September.

Item C Slab-on-Grade Construction - The proposed amendment would clarify and modify slab-on-grade construction standards related to requirements for entry steps and building materials.

Item D Temporary Uses and Events

D-1 Intermittent Institutional Use - The proposed amendment would allow institutional uses to temporarily occupy other facilities such as schools and places of assembly (e.g. club, lodge or hall), for up to one day each week. Associated signage would be allowed as well.

D-2 Temporary Signs for Institutional Uses – The proposed amendment would allow institutional uses that currently are requesting temporary use permits to gain the ability to display temporary signs to alternatively just need a temporary sign permit for such activity.

Item E Central Delivery Mailboxes – The proposed amendment would add standards related to central delivery mailbox units in subdivisions in response to changes in delivery methods implemented by the US Postal Service.

Item F Miscellaneous Development Standards

F-1 Setbacks in TC-MDR and TR Districts – The proposed amendment would provide greater flexibility in the size and placement of residential structures in the areas that allow the highest densities for detached dwellings.

F-2 Replacement of Detached Dwellings – The proposed amendment would allow certain detached dwellings that are destroyed to be replaced utilizing building setbacks that were in effect at the time of original site plan or subdivision plan approval.

F-3 Model Homes – The proposed amendment would allow parking for a model home to be located at an adjacent undeveloped residential lot.

F-4 Traffic Management Plan – The proposed amendment would require traffic management plans for large assembly uses, which are generally those that exceed 200 persons.

Item G Connectivity - The proposed amendment would allow street connectivity requirements to be addressed at the time of rezoning in some cases. *(This item has been removed from Round 28 LDO Amendments and will be included in a future Round.)*

Item H Technical and Minor Amendments -

Procedures:

- Protest Petition - Reason for protest not required
- MXD/CPA - Simultaneous processing allowed
- Posted Notice - Clarification
- Notice of Public Hearing - Remove reference to newspaper notice
- Filing of Decisions - Final Decisions to be filed with Planning Department
- Increases in Impervious Surface in Watershed Protection Overlay – Clarification related to approval procedures
- Retaining walls - Clarification related to approval procedures

Terminology:

- Change all “multi-use trail” references to “street-side trail”
- Change “Special Exception” to “Reasonable Accommodation”
- Change Town department names consistent with recent reorganization *(specific text changes to be identified prior to final action)*
- Change references to NC Division of Water *Quality* to NC Division of Water *Resources*

Other

- Allow Temporary Sales of Agricultural Products on all non-residential sites (not just retail).
- Increase separation between light poles and canopy trees from 10 feet to 20 feet.
- Eliminate gathering space requirement in conservation subdivisions.
- Correct reference to minimum lot size in TR district.
- Clarify building setbacks applicable to at-grade sidewalks, steps, ramps, handrails, and supporting elements per administrative determination of the Planning Director.
- Clarify timing of construction of greenway and trail connectors.

FISCAL IMPACT: Implementation of most of the proposed changes will have to be absorbed by existing staff during the review and approval process for various development applications and/or construction plan submittals. LDO amendments, in general, have a cumulative impact on staff resources.

STAFF RECOMMENDATION: Staff recommends approval of the proposed Round 28 LDO Amendment Items A, C, D, E, F and H, including the following options:

- **Item A (Food Trucks): Option 1b** *(would allow up to three food trucks per lot); Option 2a* *(would allow the property owner to provide seating); and Option 3* *(would allow food trucks on construction sites.)*
- **Item C (Slab-on-Grade Construction): Option 1** *(would prohibit use of parking for slab-on-grade construction).*

SUMMARY OF PROCESS AND ACTIONS TO DATE

Town Council Public Hearing (*May 22, 2014*)

The Town Council conducted a public hearing on the proposed Round 28 LDO Amendments on May 22, 2014.

PUBLIC HEARING

Ms. Suzanne Harris with the Homebuilders Association of Raleigh-Wake County expressed concern with additional costs associated with the larger notification area for rezonings and suggested putting the QRC code on the signs. The cost associated with the proposed changes to slab-on-grade construction was also of concern. She asked that Town staff coordinate with USPS and the development community before finalizing requirements related to cluster mailboxes.

DISCUSSION

Item A - Food Trucks

There were questions regarding how separation requirements would affect food truck rodeos. Staff was asked to investigate options to have several food trucks in the same parking lot. There were also comments related to managing noise and emissions from food trucks.

Item C - Slab-on-Grade Construction

There was discussion regarding the lower construction costs associated with slab-on-grade construction and appearance issues associated with parking. Some council members felt that landscaping would be a cost-effective way to address aesthetic concerns. The view was also expressed that a requirement for a 24-inch brick height was excessive. Another member noted that slab construction was associated with mass grading and changing the natural topography, and requiring crawlspaces would help preserve the topography.

The need for citizens to be aware that the legislature is taking a stance on this issue was noted, and a council member stated that the council should not hold back on any requirements that advance Cary's values because of HB150.

Several council members agreed with removing the requirement for two front steps, especially considering accessibility issues.

Staff was asked to provide options for consideration.

Item E – Central Delivery Mailboxes

In response to questions from council members, staff noted that every subdivision from this point forward would be required to have CBUs, and explained potential options to locate them in a central gathering spot, or scatter them throughout the development.

Staff noted that Public Works had delivered information to residents in subdivisions under construction to help them understand the requirements, and committed to continuing to work with the builders and the postal service to find acceptable solutions.

In response to questions, staff explained that some of the issues raised by citizens are related to their dissatisfaction with recently-adopted design details, including requirement for reserved parking where CBUs are located in the public right-of-way.

Item H - Technical and Minor Amendments

There were questions and clarification regarding the proposal to eliminate the requirement for gathering space in conservations subdivisions.

Planning and Zoning Board Work Session (June 30, 2014)

Board members provided the following feedback:

Item A – Food Trucks

- Recommended allowing some seating for food trucks, taking accessibility into account.
- Suggested consideration of permitting food trucks on residential construction sites.
- Suggested consideration of promoting a mobile app for the location of food trucks.

Item C – Slab-on-Grade

- Agreed with the removal of the two step requirement for slab-on-grade houses.
- Recommended not permitting parking on the front and sides of slab-on-grade houses.
- Some members supported parking on the rear of homes only.

Item F – Miscellaneous Development Standards

- Concurred with the requirement for a traffic management plan for institutional uses based upon experience with existing institutional uses that may not have one.

Item D-2 – Temporary Signs for Institutional Uses

- Recommended that staff provide examples of signage that would be allowed under intermittent institutional uses.

Planning and Zoning Board Meeting (July 21, 2014)

Item A - Food Trucks

There were questions and clarification regarding applicability of a food truck accessory use permit to a food truck rodeo. Staff responded that a food truck rodeo would require a temporary use permit and the 3-truck limit would not apply,

Recommendation: Approval, by a vote of 9-0, including the following Options:

- **Option 1b** (would allow up to three food trucks per lot);
- **Option 2a** (would allow seating); and
- **Option 3** (would allow food trucks on construction sites.)

Item C – Slab-on-Grade Construction

Mr. Miller noted this item was discussed at length at the board's work session. He stated a preference for Option 3a as a compromise, noting that rear elevations are not as visible. Mr. Fisher stated that he is not in favor of any parking, but would support the compromise. Mr. Shaw indicated he would prefer Option 1 but will support the compromise. Ms. Harris-Best agreed. Chairman Swanstrom prefers Option 1 but does not feel strongly enough to not support the compromise. Mr. Werner stated he prefers that parking be prohibited on all four sides, but will support the compromise. Mr. Rogers stated he will not support any parking and feels that the proposed compromise does not help the builder.

Recommendation: Approval, by a vote of 7-2, (Rogers and Evangelista opposed) including Option 3a (would allow parking on the rear elevation only, with evergreen shrubs required)

NOTE: *The Staff recommendation includes Option 1, which would prohibit parking on all four sides. However, if council considers allowing parking on the rear side only, as represented in Options 3a and 3b, staff recommends Option 3b (which does not require evergreen shrubs), due to limited visibility, the likelihood that a portion of the rear will be blocked from view by a porch or deck, and enforcement challenges.*

Item D – Temporary Uses and Events

No discussion.

Recommendation: Approval, by a vote of 9-0

Item E – Central Delivery Mailboxes

There were questions and discussion regarding retrofitting of existing subdivisions to accommodate cluster box units. Staff noted that Town staff was working with the USPS and the development community to find solutions, but that the final decision on mail delivery is made by the USPS.

Recommendation: Approval, by a vote of 9-0

Item F – Miscellaneous Development Standards

One member stated that he advocated for applicability of Item F-2 (Replacement of Detached Dwellings) to commercial and other non-conforming uses in addition to detached dwellings.

Recommendation: Approval, by a vote of 9-0

Item H – Technical and Minor Amendments

No discussion

Recommendation: Approval, by a vote of 9-0

DETAILS REGARDING PROPOSED LDO AMENDMENTS

ITEM A – FOOD TRUCKS

BACKGROUND

The acceptance and use of “food trucks” has grown significantly in the past few years in jurisdictions all across the country. Mobile food units, popularly called “food trucks,” are now commonplace in many communities all across the United States. These mobile vehicles are featured on television shows, written about in articles and other publications, and are the focus of special events (“food truck rodeos”). Some cities take pride in the number and variety of trucks that operate in their jurisdictions.

As with many activities in municipalities, the level of government intervention and nature of regulations that apply to such operation varies widely. Presently, the Land Development Ordinance (LDO) is silent on this term and use of food trucks is deemed prohibited. In accordance with council direction regarding key provisions received at prior council meetings, a staff team, with members from various departments, has researched this topic and prepared this draft set of food truck regulations for consideration.

Key Features of the Proposed Ordinance

As presently drafted, the main aspects of these food truck regulations are as follows:

1. Regulated as an accessory use
2. Includes vehicles which sell farm products, as well as packaged or processed foods
3. Only allowed on developed lots zoned for nonresidential use, or commonly-owned property within a development
4. Not allowed on public property like streets or parks unless in connection with a Town event
5. An annual accessory use permit will be required for each site where a food truck will be located (not for each food truck) (*a permit fee of \$50 is now required for other temporary uses*)
6. Permit to be obtained by the property owner, with application providing sufficient information to evaluate it against the adopted regulations
7. If part of a private special event, the event permit (which is already required) would cover such activities and no separate temporary use permit would be needed
8. Must be located at least 100 feet from the main entrance of any restaurant.
9. Must be 150 feet from a lot containing a dwelling unit
10. May operate between 6:00 a.m. and midnight
11. Must be removed from a site on a daily basis to be serviced at a commissary (in accordance with health requirements)
12. Signage limited to one sandwich board
13. No amplified music

- 14. Location to be maintained in a safe and sanitary condition
- 15. Seating allowed
- 16. Allowed on construction sites

PROPOSED TEXT - Land Development Ordinance

TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT TC & CT) P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2																		
Use Category	Use Type and [Use Class]	RESIDENTIAL							NON-RESIDENTIAL					MIXED USE OVERLAY DISTRICT			Use-Specific Stds	
		R80	R40	R20	R12	R8	TR	RMF	RR	OI	GC	ORD	I	NC	CC	RC		
ACCESSORY USES																		
Accessory Uses	Food Truck	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	5.3.4 (P)

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit																	
Use Category	Use Type	HMxD	MXD	HDR Mid-Rise	MXDR	HDR Garden	MDR	LDR	LDR-12	CB&R	COM	CLI	OFC/INS	INS	OFC/IND	Use Specific Stds	
		ACCESSORY USES															
Accessory Uses	Food Truck	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	AZ	5.3.4(P)

5.3.3 ACCESSORY USES AND STRUCTURES: Accessory Uses Prohibited

(A) Prohibited in All Zoning Districts

(2) Use of Motor Vehicle or Trailer for Sales, Service, Storage, or Other Business

The use of any motor vehicle, or trailer or shipping container, as a structure in which, out of which, or from which any goods are sold or stored, any services performed, or other businesses conducted. However, this subsection shall not prohibit the following:

- (a) The retail sale of agricultural products, as allowed by Section 5.4.6(D) of this Ordinance; or
- (b) Use of a motor vehicle, trailer, or shipping container in connection with an approved recycling operation;
- (c) Use of a trailer or shipping container in conjunction with construction authorized by a valid building permit; or

- (d) Use of a trailer or shipping container for the temporary loading and unloading of goods not intended for retail sale, provided that no individual trailer or container is in place longer than forty-eight (48) hours; or
- (e) The operation of a food truck as allowed by Section 5.3.4(P) of this Ordinance.

5.3.4 ACCESSORY USES AND STRUCTURES: *Accessory Uses and Structures Allowed*

(P) Food Trucks

The purpose of these regulations is to promote the general health, safety and welfare of the citizens of the town by establishing reasonable regulations and review procedures to allow for the retail sale of food and food products via mobile food vending vehicles, commonly called "food trucks." The intent of these provisions is to establish rules related to the location and operation of food trucks on private and public property within the town, while considering their potential effects on public streets, public properties, nearby residential properties, and other food service establishments. These provisions are not intended to apply to peddlers and solicitors who are otherwise regulated under Chapter 20, Licenses and Business Regulations, of the Cary Town Code.

(1) Developed Sites in Non-Residential Zoning Districts, Mixed Use Overlay Districts and Non-Residential Portions of Planned Development Districts, and HMXD, MXD, COM, OFC/INS and OFC/IND Sub-districts of the Town Center District

(a) Permits Required

1. An accessory use permit per Section 3.5 shall be obtained by the property owner for any lot proposed to accommodate one or more food truck businesses. A copy of the accessory use permit shall be kept in the food truck.
2. The accessory use permit application shall include a list of potential food truck businesses expected to operate on the lot, and a copy of the following for each business:
 - a) NC Sales and Use Certificate for collecting and paying the proper sales taxes and prepared meals taxes; and
 - b) Wake County Environmental Services Vending Permit and a means for the disposal of grease within an approved grease disposal facility.

Said certificate and permit shall be clearly displayed on the food truck.

- 3) The accessory use permit shall be valid for up to one calendar year and may be amended during the period of validity to remove or add specific food truck business(es) authorized to operate on the lot.
- 4) The Accessory Use Permit shall designate the specific locations on a given site where a food truck may operate.

(b) Locational Standards

Food trucks shall be located on developed lots in accordance with the following standards:

1. Food trucks must be located in an area that is not actively used by an existing, approved principal use on a developed lot.
2. Food trucks may not encroach upon open space, landscaping, fire lanes, vehicular access ways or pedestrian walkways, and shall not obstruct or disturb existing buffers or required setbacks from buffers or streetscapes,

Option 1a – Maximum of One Food Truck Per Lot

3. Food trucks shall be located a minimum of one hundred (100) feet from the main entrance of any eating establishment or similar food service business, any outdoor dining area, and any other food truck location, as measured in a straight line.

Option 1b – Maximum of Three Food Trucks Per Lot

3. Food trucks shall be located a minimum of one hundred (100) feet from the main entrance of any eating establishment or similar food service business, any outdoor dining area, and any other food truck location, as measured in a straight line. This 100 foot separation requirement shall not apply to a food truck located on the same lot as an eating establishment or similar food service business, outdoor dining area, or other food truck, so long as all other requirements of this Ordinance are met. No more than three (3) food trucks may be located on single lot.
4. Food trucks may not be located within 150 feet of a lot with a dwelling unit as measured in a straight line from the location of the food truck to the nearest property boundary.
5. In the event that one or more permanent restaurant or other food service establishments or residences locate within the minimum separation requirement after an accessory use permit for a food truck location has been issued, the food truck may continue to operate under the terms of its Accessory Use Permit until said permit expires.
6. Food trucks shall be located a minimum of five (5) feet from any fire hydrant, sidewalk, utility box, handicap ramp and building entrance.
7. Food trucks may not occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the hours of operation of the principal use do not coincide with those of the food truck.

(c) General Operational Standards

1. Food trucks may only operate between the hours of 6:00 a.m. to midnight.
2. Food trucks must be removed from all permitted locations during the hours when they are not permitted to be in operation, and may not be stored, parked, or left overnight on any public street or sidewalk.
3. One sandwich board sign shall be allowed.
4. Amplified music is not permitted.

Option 2a – Prohibit Outdoor Seating

5. Outdoor seating areas for dining associated with a food truck, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, are not permitted.

Option 2b – Allow Outdoor Seating

1. Outdoor seating areas for dining associated with a food truck, including but not limited to tables, chairs, booths, bar stools, benches, and standup counters, may be provided.

(d) Health and Sanitation Standards

1. All food preparation, storage, and sales or distribution by a food truck operator shall be in compliance with all applicable County, State and Federal Health Department sanitary regulations. In accordance with such laws, the food truck shall return daily to a commissary for proper servicing.
2. The operator shall keep all areas within five (5) feet of the food truck and any associated customer or dining area clean of grease, trash, paper, cups or cans associated with the food truck.
3. Each food truck operator is responsible for the proper disposal of solid waste associated with the operation of the food truck and any outdoor dining areas. Public trash receptacles are not to be used for this purpose.
4. Operators shall remove all waste and trash prior to leaving their approved location or as needed to maintain the health and safety of the public.
5. No waste or grease may be disposed in storm drains, the sanitary sewer system or onto the sidewalks, streets, or other public spaces.
6. If at any time evidence of the improper disposal of liquid waste or grease is discovered, the food truck operator shall be required to cease operation immediately. The owner of the food truck business shall be liable for the violation.

(2) Other Zoning Districts

In all zoning districts other than those listed in Section 5.3.4(P)(1) above, food trucks may be allowed only on commonly-owned property within a residential development serving residents and guests at a neighborhood activity or function. Requirements of Section 5.3.4(P)(1) shall apply.

(3) Public Property

Food trucks may not be operated on public property such as parks or plazas, parking lots, public street rights-of-way, or public sidewalks except as specifically authorized by the Town and as part of an official public event sponsored or co-sponsored by the Town of Cary,

(4) Component of Temporary Event

In accordance with Sec. 5.4, Temporary Uses and Structures, food trucks may be placed on private property in conjunction with a public or private event. If food trucks are included as part of the event, the temporary use permit for the event itself, if required in Table 5.4-1, shall also identify the inclusion of food trucks and shall serve as the accessory use permit for the site for the duration of the event. Such food trucks shall only be operated during the hours of the event, which time does not include the time before and after the event where the operator is preparing to set up or remove the food truck.

Option 3 – Allow Food Trucks on Construction Sites in All Zoning Districts

(5) Construction Sites

In all zoning districts, food trucks may be allowed on construction sites in accordance with the following:

- (a)** The site is undergoing construction in accordance with an approved and valid site plan or subdivision plan and building permit.
- (b)** Such trucks may vend to person(s) lawfully authorized to be on the construction site, and not to the general public.

- (c) Food trucks shall be parked in an appropriate location based on the location of active construction activity, as authorized by the general contractor consistent with safe construction site management practices.
- (d) A copy of the following shall be clearly displayed on each food truck:
 - (i) NC Sales and Use Certificate for collecting and paying the proper sales taxes and prepared meals taxes; and
 - (ii) Wake County Environmental Services Vending Permit and a means for the disposal of grease within an approved grease disposal facility.
- (e) General operational standards specified in Section 5.3.4(P)(1)(c) shall apply.
- (f) Health and sanitation standards specified in Section 5.3.4(P)(1)(d) shall apply.

3.5 ACCESSORY USE PERMITS

3.5.1 Purpose

An accessory use permit is required to ensure that ~~a proposed home occupation, utility dwelling unit, and/or an accessory dwelling unit~~ complies certain accessory uses, which could have a negative effect on residential neighborhoods due to congestion, noise, or other impacts. comply with all applicable zoning standards in this Ordinance.

3.5.2 Applicability

An accessory use permit shall be required prior to ~~approval of any home occupation, utility dwelling unit, or accessory dwelling unit or (see Section 5.3). In situations where an accessory dwelling unit structure was approved for a parcel as part of a rezoning, site and/or subdivision plan, then accessory use permit shall not be required prior to habitation of the accessory dwelling unit.~~ commencement of the activity for which the permit is required.

3.5.3 Procedures

- (A) An application for an accessory use permit shall be filed with the Planning Department. Within fifteen (15) days after the application is determined complete, the Planning Director shall review the application and determine whether to approve, approve with modifications, or deny the application based on compliance with the standards set forth in Section 5.3 of this Ordinance.
- (B) If the Planning Director denies the application, the applicant shall have thirty (30) days to submit a corrected application without paying a separate application fee. If a corrected application is not resubmitted within thirty (30) days, the application shall be considered withdrawn and a new application fee shall be required for future re-submittals.

5.3 ACCESSORY USES AND STRUCTURES:

5.3.2 General Standards and Limitations

(A) Compliance with Ordinance Requirements

All accessory uses and accessory structures shall conform to the applicable requirements of this Ordinance, including the use regulations of Chapter 5 and the dimensional standards of Chapter 6. The provisions of this section establish additional requirements and restrictions for particular accessory uses and structures.

(B) Approval of Accessory Uses and Structures

Unless otherwise specified in this Section, any accessory use or accessory structure shall be treated as a permitted use in the zoning district in which it is located. An accessory use or structure may be approved in conjunction with approval of the principal use or structure.

(C) Accessory Use Permit

Some accessory uses in this Section require the issuance of an Accessory Use Permit consistent with the requirements set forth in Section 3.5 of this Ordinance.

(D) Location of Accessory Buildings, Structures, or Vehicles

- (1) If an accessory structure is located closer than five (5) feet to the principal structure, the accessory structure shall be deemed attached to the principal structure.
- (2) Unless otherwise specified, an accessory structure or vehicle shall not be located within a required front setback, the corner side setback, or within five (5) feet of the rear or side lot lines. Any accessory structure shall be located at least five (5) feet from the edge of a required buffer. Accessory uses and structures may not encroach into any easements, but may directly abut easements.
- (3) Storage or parking of all boats, recreational vehicles, ~~and~~ utility or travel trailers, food trucks or other vehicles allowed by this Section, shall be located as follows:
 - (a) within a side yard (not including corner side yards) such that they are not closer to the front of a lot or the street than the principal structure;
 - (b) within a rear yard (not including rear yards adjacent to a public street); or
 - (c) within a corner side yard, or rear yard that is between the principal structure and an adjacent public street, where screened from the view of the street by an opaque fence with a minimum height of six (6) feet, plus additional opaque fencing (up to a height of eight (8) feet) and/or evergreen trees sufficient to obscure the full height of the boat, recreational vehicle, or trailer. Storage of such boats, vehicles or trailers shall not occur within a front yard (defined as the yard between the façade with the front door and the street) or within a side or rear building setback.

12.3.4 RULES OF CONSTRUCTION, USE CLASSIFICATIONS AND DEFINITIONS: Other Key Terms Defined

Commissary

A permitted food establishment where a food truck returns daily for such things as discharging liquid or solid wastes, refilling water tanks and ice bins, and loading of food ingredients or prepared food.

Food Truck

A specialized unit mounted on, or pulled by, a self-propelled vehicle where food or beverage, including prepackaged food, is prepared, cooked, served, or dispensed, for individual portion service. Such vehicle is self-contained with its own drinking water tank and waste water tank; is designed to be readily movable; is located on an allowed site for more than thirty (30) minutes; and is moved daily to return to its commissary. May also be referred to as a “mobile food vending unit.” This definition shall include a mobile farmers market for the sale of locally grown fresh produce which is in its original form and not altered or processed. This definition shall not include mobile canteen, coffee, or ice cream trucks that move from place to place and remain stationary in the same location for no more than thirty (30) minutes at a time, or food vending push carts that are allowed at the front of retail establishments in accordance with Section 5.4.6(C).

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ITEM C – SLAB ON GRADE CONSTRUCTION

BACKGROUND

On February 12, 2009, the Town Council adopted design standards for “slab-on-grade” construction. These standards were in response to observed construction of detached dwelling units where a crawlspace did not exist and the siding came all of the way down to the ground.

The purpose of the slab-on-grade standards was to create the appearance of a masonry foundation and to maintain the architectural and aesthetic appeal of dwellings and residential neighborhoods. These standards included two requirements in an effort to achieve this purpose:

- (1) Incorporate at least two (2) steps at the dwelling unit entrance consisting of no less than a six (6) inch rise for each step, and
- (2) The requirement to cover perimeter walls of the dwelling unit with a masonry product up to a height of at least three (3) courses of brick above finished grade.

Since these standards were adopted in 2009, the North Carolina State Building Code has changed a couple of times with regards to how foundations for slab-on-grade homes are constructed. First, foam insulation was added as a requirement on the outside of a slab foundation wall for energy efficiency purposes (making it harder to use full brick or stone on the outside of a concrete slab). More recently, in 2012, a minimum of a 2-inch-tall reveal of the slab foundation wall was required for termite inspection purposes. In response to these state requirements, builders have begun to primarily use a thin layer of brushed-on or sprayed-on concrete (about 1/4" to 3/16" thick) along the side of slab, frequently called "parging," to cover the foam and termite reveal area in an effort to disguise the concrete slab.

Town staff has several concerns regarding the existing ordinance requirements for slab-on-grade construction and practices being observed in the field:

- The LDO currently states that "perimeter walls of the dwelling unit shall be covered with brick, stone or other masonry material." Although parging is a concrete application that qualifies as an "other masonry material," Town staff questions whether or not this current building practice meets the aesthetic intent of the originally adopted requirements.
- The current regulations require the perimeter of a slab-on-grade home to be covered with brick or stone for a width (we interpret this to actually mean height) equivalent to three or more courses of brick above finished grade. The height of three or more courses of brick varies however, and it is not clear what the equivalent height is for stone or other masonry materials such as parging. Having a specific minimum height above average final grade where the siding may begin would be simpler to understand and easier to enforce.
- We believe that the two-step requirement was originally adopted to help elevate the slab and achieve the appearance of a foundation/crawl space around the home. Based on our observations in the field however, many homes are being constructed with attractive brick or stone foundations on the front façade of the home without the need for steps. The requirement for two steps can also be challenging with slab-on-grade construction, and can be difficult to achieve on smaller lots. Based on our conversations with builders, it would appear that this requirement adds cost and decreases accessibility without necessarily guaranteeing any greater aesthetically desirable outcome for the home or the neighborhood. For that matter, the 2-step requirement can be problematic for buyers who want to have the flexibility to age in place.

After weighing the accessibility issue along with field observations that attractive front façade foundation treatments can be achieved without steps, Town staff recommends removing the 2-step requirement. Staff also recommends dropping the "width of three or more courses of masonry material" language in favor of a simple dimensional requirement that the siding of the home shall be a minimum of 12 inches above grade around the perimeter of the home.

Based on comments at the public hearing and the Planning and Zoning Board work session, the proposed text includes several options for consideration regarding the use of parging.

PROPOSED TEXT

8.6.3 Slab-on-Grade Construction

(A) Purpose

The purpose of these standards is to: maintain architectural and aesthetic appeal of dwellings and residential neighborhoods; maintain or enhance the value of buildings and land; and preserve the quality and character of residential neighborhoods.

(B) Applicability

No subsequent building permit shall be issued for a single-family dwelling that does not comply with the design standards specified in Section 8.6.3(C).

- (1) These standards apply to all single-family detached developments not exceeding eight (8) dwelling units per acre.

(C) Standards

- ~~(1) All single-family detached dwellings using slab-on-grade construction shall incorporate into the design a minimum of two (2) steps at the dwelling unit entrance consisting of no less than a six (6) inch rise for each step. In addition, perimeter walls of the dwelling unit shall be covered with brick, stone or other masonry material the width of three (3) or more courses of exposed masonry material above finished grade.~~
- ~~(2) Dwelling units constructed as part of an approved age-restricted community shall be exempt from providing steps at the dwelling entrance; however, perimeter walls of the dwelling unit shall be covered with brick, stone or other masonry material the width of three (3) or more courses of exposed masonry material above finished grade.~~
- ~~(3) The Director of Planning may grant an exception to providing steps at the dwelling entrance, for good cause shown, to accommodate individuals who have difficulty traversing stepped entries, such as disabled and elderly individuals. Such exceptions shall be reviewed and approved as a minor modification to the approved site/subdivision plan.~~

Option 1 - No Parging

- (1) The front, side and rear façades of all residential dwellings using slab-on-grade construction shall be covered with brick, stone, or modular block to a minimum height of 12 inches above finished grade.

Option 2 - Parging Allowed on Side and Rear Only, with Evergreen Shrubs

- (1) The front façade of all residential dwellings using slab-on-grade construction shall be covered with brick, stone, or modular block to a minimum height of 24 12 inches above finished grade.
- (2) The side and rear facades of all residential dwellings using slab-on-grade construction shall either be:
 - (a) covered with brick, stone, or modular block to a minimum height of 12 inches above finished grade; or
 - (b) covered with parging (cement overlay), to a minimum height of 12 inches above finished grade, that is screened from view by evergreen shrubs that are a minimum of 18 inches high (above the ground) at installation and spaced 3 to 5 feet apart.

Option 3a - Parging Allowed on Rear Only, with Evergreen Shrubs

- (1) The front and side façades of all residential dwellings using slab-on-grade construction shall be covered with brick, stone, or modular block to a minimum height of 12 inches above finished grade.
- (2) The rear facade of all residential dwellings using slab-on-grade construction shall either be:
 - (a) covered with brick, stone, or modular block to a minimum height of 12 inches above finished grade; or
 - (b) covered with parging (cement overlay), to a minimum height of 12 inches above finished grade, that is screened from view by evergreen shrubs that are a minimum of 18 inches high (above the ground) at installation and spaced 3 to 5 feet apart.

Option 3b - Parging Allowed on Rear Only, Evergreen Shrubs Not Required

- (1) The front and side façades of all residential dwellings using slab-on-grade construction shall be covered with brick, stone, or modular block to a minimum height of 12 inches above finished grade.
- (2) The rear facade of all residential dwellings using slab-on-grade construction shall either be:
 - (a) covered with brick, stone, or modular block to a minimum height of 12 inches above finished grade; or
 - (b) covered with parging (cement overlay) to a minimum height of 12 inches above finished grade .

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ITEM D – TEMPORARY USES AND EVENTS

D-1 – Intermittent Institutional Use

BACKGROUND

Staff has observed several instances where institutional uses such as religious institutions are intermittently sharing space with other primary uses (such as schools) or other places of assembly. Typically such usage occurs one day per week, usually on the weekends. As part of this temporary activity, the religious institution desires to have signage to identify its presence at the site and to help direct traffic appropriately. Currently, such ongoing temporary usage is not addressed by the LDO. Furthermore, signage is only permissible with the approval of a temporary use permit, and such activity is limited to a total of no more than 14 days per year.

We recommend allowing institutional uses to temporarily occupy other facilities such as schools and places of assembly (e.g. club, lodge or hall), for up to one day each week. Approval of a temporary use permit would be required for such activity to occur, and the permit would be valid for a calendar year. The permit would also provide the opportunity for the intermittent user to place temporary signage at the site on the day of use. The temporary signage would be limited to a sign or banner at each primary entrance. The banner would be limited to 16 square feet, and a maximum height of 42 inches, consistent with the type of signage allowed for other temporary uses and events.

PROPOSED TEXT

5.4.6 TEMPORARY USES AND STRUCTURES: Specific Regulations for Certain Temporary Uses and Structures

- (A) **Expansion or Replacement of Existing Facilities.....**
- (B) **Real Estate Sales Office and Model Sales Home.....**
- (C) **Sale/Display of Goods Other Than Agricultural Products.....**
- (D) **Sale of Agricultural Products Grown Off-Site.....**
- (E) **Sale of Fireworks.....**
- (F) **Temporary Structures In or Near the Flood Hazard Area.....**
- (G) **Intermittent Institutional Use**

Institutional uses may temporarily occupy facilities where the primary use is an institutional use or a place of assembly (e.g. club, lodge or hall) on a repeated and regular basis subject to the following:

- (1) The site is located in an OI, R-80, R-40, R-20, R-12 zoning district or an area within a Planned Development District (PDD), Activity Center Concept Plan, or Mixed Use Sketch Plan with an equivalent zoning designation, or the site is located in a Town Center HMXD, MXD, INS (Institutional) or OFC/INS (Office & Institutional) sub-district.
- (2) The intermittent use may not use the site more than one (1) day per week.
- (3) A Temporary Use Permit shall be approved prior to such intermittent usage.

- (4) Temporary Use Permits for this purpose shall be valid for one (1) calendar year, and shall include the following:
 - a. Identification of all meetings to be held at the site during the calendar year for which the permit is applicable;
 - b. Approval of the property owner(s);
 - c. Identification of maximum attendance (to ensure fire occupancy is not being exceeded);
 - d. Documentation that adequate parking is available to meet LDO requirements for the intermittent use.
- (5) Temporary Use Permits for such intermittent usage shall expire at the end of each calendar year, and must be renewed every year for the intermittent use to continue operating on the site.
- (6) A day-care facility shall not be considered an intermittent institutional use regardless of ownership or operation.

Approved intermittent institutional uses may display signage consisting of a temporary sign or banner up to 16 square feet in area and 42" in height at each primary entrance into the site, and up to one temporary sign or banner on a wall, that shall not exceed thirty-two (32) square feet in area. No other signs, including pennants, animated signs, or windblown signs are allowed.

9B.2 PERMITTED TEMPORARY SIGNS

(G) Signs for Temporary Uses, Structures, Sales or Events

Temporary signs for temporary activities permitted under Section 5.4 shall be allowed, either with or without a sign permit as specified in Section 5.4, in addition to other signs permitted in this Section 9B.2, provided that:

- (1) **Location**
Such signs shall only be located ~~only~~ on private property, and only on such property where the activity is taking place.
- (2) **Number**
 - (a) For intermittent institutional uses, there may be one (1) such sign per primary entrance into the site.
 - (b) For all other temporary uses, structures, sales or events, ~~There shall~~ may be only one (1) such sign per public street frontage for all other temporary uses, structures, sales or events.
- (3) **Size**
 - (a) Such sign, if a ground sign, shall not exceed forty-two (42) inches in height and sixteen (16) square feet in area per side.
 - (b) Such sign, if attached to a wall, shall not exceed thirty-two (32) square feet in area per side.
- (4) **Duration**
 - (a) For intermittent institutional uses, such signs may only be displayed on the day of the activity.
 - (b) For all other temporary uses, structures, sales or events, ~~S~~such signs shall be erected no sooner than five (5) days prior to the activity and shall be removed no later than one (1) day following the activity.

12.4 OTHER KEY TERMS DEFINED

When used in this Ordinance, the following words and terms shall have the meaning set forth in this section, unless other provisions of this Ordinance specifically indicate otherwise.

INSTITUTIONAL USE

For the purpose of determining allowable signage, a school, religious institution, or other use operated by a public agency or non-profit organization and permitted as a use in one (1) or more residential zoning districts in the Town. A day-care facility shall be considered an institution regardless of ownership or operation.

D-2 Temporary Signs for Institutional Uses

BACKGROUND

Staff regularly observes instances where institutional uses such as religious institutions and community groups routinely wish to display temporary signage as part of making members and the general public aware of upcoming activities. Such signage varies amongst such groups; however, it is not uncommon for a single religious institution to want to display such temporary signage for 6-12 events per year, with each temporary sign being displayed for several days or a couple of weeks at a time.

Since the LDO does not currently allow such temporary signage, the only option to obtain such signage is to apply for a Temporary Use Permit and request temporary signage as part of a request to host a "Special Event with 100 People or More in Attendance." Such signs, once permitted as part of such a Temporary Use Permit, however, are limited to two (2) such events per year or a total of seven (7) days per year (the signs can be posted five days prior to the event and then removed one day after the event).

We have received input from many of these groups requesting that the regulations be modified to better address this situation. Recognizing that temporary signs related to such institutional uses can be both good (helpful, informational, increase public awareness of community events) and bad (decreased aesthetics and increased visual clutter), we recommend modifying the Town's sign regulations to allow temporary signs for institutional uses to advertise such temporary events, up to a maximum of 30 days per calendar year (would simply count the number of days the sign is actually displayed), with the approval of a Temporary Sign Permit. Temporary signs could be applied for individually or grouped together under a single permit application, as long as the 30-day limit is not exceeded. Providing the opportunity for such signage to be displayed as a temporary sign rather than as part of a temporary use, will be simpler for both citizens and staff, providing a more structured and cost-efficient opportunity for such uses to convey information to the public.

PROPOSED TEXT

9B.2 PERMITTED TEMPORARY SIGNS

Temporary signs shall be permitted as provided herein:

(K) Institutional Uses

One (1) banner advertising activities or upcoming events may be displayed with the approval of a temporary sign permit, provided that:

- (1) The use displaying the temporary sign is the primary use on the site.
- (2) The site is located in an OI, R-80, R-40, R-20, or R-12 zoning district, or is located in the Town Center.
- (3) Such temporary signs shall be limited to being displayed no more than 30 days during a calendar year.
- (4) Only one temporary sign may be displayed at a time.
- (5) Size
 - (a) Such a sign, if a ground sign, shall not exceed forty-two (42) inches in height and sixteen (16) square feet in area per side.
 - (b) Such a sign, if attached to a wall, shall not exceed thirty-two (32) square feet in area per side.
- (6) A day-care facility shall not be eligible for the above temporary signage.

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ITEM E – CENTRAL DELIVERY MAILBOXES

BACKGROUND

In April 2012, the United States Postal Service (USPS) revised regulations to clarify options for delivery and to provide the USPS greater autonomy in determining how deliveries are added to the Postal Service network. While curbside and sidewalk delivery remain viable and approved modes of delivery, the USPS will determine how and when to approve these modes of delivery consistent with existing Postal Service Operations Manual (POM) regulations regarding in-growth and both establishment and extension of delivery. As a national agency, the USPS reserves the right to establish delivery in the most cost effective means viable to meet their federal mandate of providing a free form of service that best meets the need to establish and maintain a safe, reliable and efficient national Postal Service. The revised POM regulations now allow delivery options in residential areas to include curbside, sidewalk, or central delivery. The central delivery is a new option that appears to be the most efficient and preferred method of postal delivery.

The local postal manager will work with builders and developers to determine what the best mode of delivery is for the area prior to establishing or extending delivery service. This will include the review of site plans and consideration of lot size and locations of housing relative to existing delivery infrastructure and to customer travel. Central delivery service in the form of Cluster Box Units (CBU), in accordance with USPS STD 4C equipment, may be required for use at one or more central delivery points in a residential housing community. The USPS must approve the mailbox sites and type of equipment. Boxes must be safely located so that customers are not required to travel an unreasonable distance to obtain their mail and to provide sufficient access to mailbox locations. Normally, within one block of the residence is appropriate.

On May 8, 2014, Town Council adopted changes to the Town's Standard Specifications and Details Manual to provide guidance and standards for placement of CBU's in detached, semi-attached, and townhome developments. These changes addressed the following:

- Purpose: define need for Central Delivery Mailboxes; define when Central Delivery Mailboxes are required.
- Design Standards: provide guidance for appropriate CBU locations, arrangement, spacing, types, accessibility, material standards, lateral and vertical placement, mail box supports, etc.
- Visibility / Obstructions: provide guidance on clear zone requirements, physical and visual obstructions, line of sight, etc.
- Proximity of Driveway or Street Access Limitations: how close a CBU can be to a street intersection or driveway.
- Responsibilities of Homeowners: maintenance, repair, snow removal, damage, etc.
- CBU Appearance / Landscape Screening
- Approvals: coordination with USPS and Town approvals.

The proposed amendment to the LDO establishes CBUs as an accessory use in all zoning districts, incorporates by reference the changes to the Standard Specifications and Details Manual, and provides parking and landscaping requirements.

PROPOSED TEXT

TABLE 5.1-1: TABLE OF PERMITTED USES - GENERAL USE DISTRICTS (EXCEPT TC & CT)																		
P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit																		
Use Class is listed for determining the type of required perimeter buffers, and is repeated in Section 7.2																		
Use Category	Use Type and [Use Class]	RESIDENTIAL							NON-RESIDENTIAL					MIXED USE OVERLAY DISTRICT			Use-Specific Stds	
		R80	R40	R20	R12	R8	TR	RMF	RR	OI	GC	ORD	I	NC	CC	RC		
ACCESSORY USES																		
Accessory Uses	Cluster Box Unit - Mailbox	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	5.3.4 (Q)

TABLE 5.1-2: TABLE OF TOWN CENTER (TC) DISTRICT USES																
P = Permitted Use; S = Special Use (see Section 3.8); A = Accessory Use; PZ = Permitted Use Requiring Zoning Compliance Permit; AZ = Accessory Use Requiring Zoning Compliance Permit																
Use Category	Use Type	HMXD	MXD	HDR Mid-Rise	MXDR	HDR Garden	MDR	LDR	LDR-12	CB&R	COM	CLI	OFC/INS	INS	OFC/IND	Use Specific Stds
ACCESSORY USES																
Accessory Uses	Cluster Box Unit - Mailbox	A	A	A	A	A	A	A	A	A	A	A	A	A	A	5.3.4(Q)

5.3.4 ACCESSORY USES AND STRUCTURES: Accessory Uses and Structures Allowed

(Q) Cluster Box Unit - Mailbox

- (1) The local post manager will work with builders and developers to determine the best mode for mail delivery for the area, prior to extending or establishing delivery service. If central mail delivery service is the option chosen by the postal manager in the form of Cluster Box Units (CBU), then the arrangement and location of the CBU(s) shall be in accordance with the Town's Standard Specifications and Details Manual.
- (2) Parking for Cluster Box Units shall be provided as required in Table 7.8-2.
- (3) Evergreen shrubs shall be provided in the vicinity of each CBU to promote high quality appearance and good design. The number, location and height of such landscape material shall be appropriate to the specific location, based on available planting area, topography, and safety considerations, as determined by the Planning Director or designee. The maximum height of any such shrubs located in the public right-of-way or within a sight triangle shall not exceed 30 inches.

**7.8 .2 OFF-STREET PARKING AND LOADING: Off-street Parking Space Requirements
(D) Required Off-Street Parking Spaces**

<i>Portion of TABLE 7.8-2: OFF-STREET PARKING SCHEDULE "B"</i>		
Activity	Number of Spaces Required	
<u>Cluster Box Unit - Mailbox</u>	<u>Number of Mailboxes</u>	<u>Parking Spaces Required</u>
	<u>0-20</u>	<u>0</u>
	<u>21-60</u>	<u>2</u>
	<u>61-80</u>	<u>3</u>
	<u>81-100</u>	<u>4</u>
	<u>101 or more</u>	<u>4 plus 1 per each additional 50 mailboxes or portion thereof above 100</u>

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ITEM F – MISCELLANEOUS DEVELOPMENT STANDARDS

F-1 Lot Width and Setbacks

BACKGROUND

The proposed amendment would:

- Decrease the combined front/rear setback requirement for detached dwellings and patio dwellings in the TR district from 40 feet to 35 feet;
- Reduce the minimum lot width in the MDR sub-district of the Town Center from 50 feet (55 feet for corner lots) to 40 feet (45 feet for corner lots);
- Reduce the combined side setback in the MDR sub-district of the Town Center from 16 feet to 6 feet; and
- Clarify wording of existing footnotes related to roadway setbacks

These changes would provide greater flexibility in the size and placement of residential structures in the areas that allow the highest densities for detached dwellings. The proposed changes to the downtown MDR sub-district will provide more options for redevelopment of existing developed lots, and in some cases enable subdivision of lots containing older duplex structures, creating the opportunity for redevelopment as owner-occupied units.

PROPOSED TEXT

6.1.1 TABLES OF DENSITY AND DIMENSIONAL STANDARDS - Residential Districts (not including TC District)

(A) Table of Density and Dimensional Standards

<i>Portion of TABLE 6.1-1: TABLE OF DENSITY AND DIMENSIONAL STANDARDS - RESIDENTIAL DISTRICTS (Not Including TC District)</i>							
Use	Minimum Lot Dimensions		Minimum Building Setbacks (Ft) <i>(NOTE: These setbacks are minimums; streetscape and buffer width standards may require greater setbacks.)</i>			Height (Ft)	Max Gross Density (du/acre)
	Area (Sq Ft)	Width (Ft)	Roadway <i>(NOTE: these setbacks apply to any portion of a lot which abuts a street)</i>	Side	Rear		
TR: Transitional Residential District							
Detached single-family dwellings	From thoroughfare: 50 From collector: 30 From other streets: <u>10/18</u> [1]	0/3 minimum, 6 combined [4]	[2]	...	...
Patio dwellings [5]	From thoroughfare: 50 From collector: 30 From other streets: <u>10/18</u> [1]	...	[2]	...	...
Duplexes [5]	From thoroughfare: 50 From collector: 30 From other streets: <u>10/18</u> [1]	...	[3]	...	...
Subdivided attached, semi-attached, & townhouse [5]	From thoroughfare: 50 From collector: 30 From other streets: <u>10/18</u> [1]	...	[3]	...	...
RMF: Multi-Family Residential District							
Patio dwellings [5]	From thoroughfare: 50 From collector: 30 From other streets: <u>10/18</u> [1]	...	20	...	...
Subdivided attached, semi-attached, duplexes & townhouse [5]	From thoroughfare: 50 From collector: 30 From other streets: <u>10/18</u> [1]	...	[3]	...	...

(B) Additional Regulations

- (1) **TR and RMF Districts: Roadway Setback Requirement for All Other Streets**
 From all other streets, the roadway setback between the front of the dwelling and the roadway shall be no less than eighteen (18) feet when parking is provided between the dwelling and the roadway, or ten (10) feet when parking is not provided between the dwelling and the roadway. When parking is provided between the dwelling and the roadway the eighteen (18) feet will be measured from the inside edge of the sidewalk or back of curb if no sidewalk is required. Where parking is provided between the dwelling and the roadway, the length of the driveway shall be at least 18 feet, as measured from the inside edge of the sidewalk, or back of curb where no sidewalk is required.

- (2) **TR District: Roadway and Rear Setbacks for Detached Dwellings and Patio Homes**
 On thoroughfare, collector, or other streets, the width of the roadway and rear setbacks combined shall equal at least ~~forty (40)~~ thirty-five (35) feet and any individual setback shall be at least three (3) feet.

- (3) **TR and RMF Districts: Roadway Setbacks for Duplexes, Subdivided Attached, Semi-Attached, Townhouse Units and Multi-Family Structures**
The width of the roadway or front and rear setbacks combined shall equal at least twenty (20) feet and any individual rear setback shall be at least three (3) feet.
- (4) **Firewall Requirements for Individual Dwelling Units**
A building setback of less than three (3) feet may be permitted where firewalls are provided in accordance with all applicable building code requirements and where it is permitted by the zoning district.

6.1.3 TABLES OF DENSITY AND DIMENSIONAL STANDARDS: Town Center District

(portion of) **TABLE 6.1-3: TABLE OF DENSITY AND DIMENSIONAL STANDARDS - TOWN CENTER DISTRICT**

Sub-district	Minimum Lot Dimensions		Minimum Building Setbacks (ft)			Building Height (ft) ...		Maximum Residential Density (units/ac)	Minimum Parking Requirements
	Area (sq.ft)	Width (ft)	Front	Side	Rear	Min. Bldg Ht [1 story = 15 ft]	Max. Bldg Ht		
Existing Residential Uses Constructed or Approved Prior to 7/1/03	....	....	10/18 [2] (18 feet Where parking provided in front)	...	...	...	...	...	...
HMXD: detached dwelling; detached multi-family dwelling	....	....	10/18 [2] (18 feet Where parking provided in front)	...	...	...	...	...	...
HDR Mid-Rise: Subdivided Attached, Semi-detached, Townhouse, Patio	....	....	10/18 [2] (18 feet Where parking provided in front)	...	...	...	...	...	...
MDR: Attached, Semi-detached, Townhouse	N/A	20	10/18 [2] (18 feet Where parking provided in front)	---	10	N/A	45	8	2 per dwelling unit
MDR: Patio	N/A	20	10/18 [2] (18 feet Where parking provided in front)	---	10	N/A	45	8	2 per dwelling unit
MDR: All other uses	5,000	50 40 (55 45 for corner lots)	10/18 [2] (18 feet Where parking provided in front)	0/3 minimum 46 6 combined [1]	10	N/A	45	8	2 per dwelling unit
LDR	....	....	10/18 [2] (18 feet Where parking provided in front)	...	...	...	...	...	...

(B) Additional Regulations

(1) Firewall Requirements for Individual Dwelling Units

A building setback of less than three (3) feet may be permitted where firewalls are provided in accordance with all applicable building code standards and where it is permitted by the zoning district.

(2) Driveway Length

Where parking is provided between the dwelling and the roadway, the length of the driveway shall be at least 18 feet, as measured from the inside edge of the sidewalk, or back of curb where no sidewalk is required.

(2) (3) Overhang of Features in Public Right-of-Way....

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F-2 Replacement of Detached Dwellings

BACKGROUND

The town has numerous residential lots that were recorded and platted prior to today's LDO setback requirements. When a new building is constructed or an existing building is replaced on one of these lots, the Town requires the new structure to conform to the most current setback requirements of the LDO.

This provision currently applies to all detached dwellings destroyed by more than 50% of replacement cost. The proposed amendment would apply a different standard to the replacement of detached dwellings that were made nonconforming by the installation of roadways, recordation of right-of-way or easements or other property line adjustments created or enacted by a governmental entity, or by a change in the classification of an adjacent street. It would allow those dwellings, if destroyed, to be replaced utilizing the building setbacks in effect when the site plan or subdivision plan was initially approved.

This approach is consistent with regulations applicable to non-conforming detached dwellings that are damaged or modified to an extent less than 50% of replacement cost. Such changes initiated by a governmental entity can affect reestablishment of the residence consistent with others in the vicinity.

PROPOSED TEXT

10.1.6 NONCONFORMITIES - Damage or Destruction

If a nonconforming use, structure containing a nonconforming use, nonconforming structure, or nonconforming sign is destroyed by any means to an extent greater than fifty (50) percent of its replacement cost at the time of destruction, then such use, structure, or sign shall not be re-established unless it is made to conform to the requirements of this Ordinance, except as provided below.

(A) Exception for Setbacks for Detached Dwellings

If destroyed by any means to an extent greater than fifty (50) percent of its replacement cost at the time of destruction, detached dwellings with setbacks made nonconforming by either of the following shall be required to meet the lesser of current required building setbacks or building setbacks that were required at the time of subdivision or site plan approval:

- (a) the installation of roadways or other easements/property line adjustments created or enacted by a governmental entity,
- (b) a change to the street classification in the Comprehensive Transportation Plan that increases the width of the right-of-way from which the setback is measured.

10.1.8 NONCONFORMITIES - Enlargement, Expansion, Alteration, or Major Repair

(H) Exception for Setbacks for ~~Single-Family~~ Detached Dwellings

- (1) ~~Single-Family Detached~~ dwellings with setbacks made nonconforming by the adoption of this Ordinance are exempt from the requirements of this section if the following findings can be made:
 - (a) The proposed addition or alteration will either meet current setback requirements or will not encroach any further into the required setback than the existing structure; and
 - (b) If the proposed alteration or addition is located on the side of the existing dwelling, there is a minimum distance of fifteen (15) feet between the side of the existing structure and the nearest dwelling on the adjoining property.
- (2) ~~Single family residential parcels~~ Detached dwellings with setbacks made nonconforming by the installation of roadways or other easements/property line adjustments created or enacted by a governmental entity are also exempt from the requirements of this Section, and shall not be required to address the findings in (H)(1) above.

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F-3 Model Homes

BACKGROUND

The proposed amendment would allow parking area required for model homes and temporary sales centers associated with residential developments to be located on an adjacent undeveloped parcel. Typically, the associated parking would be located on the same lot as the principal use. However, in the case of a model home, there may not be adequate area on the lot itself to accommodate all of the required parking. Such activities are temporary in that, upon build-out, the model home is typically sold as a residence and temporary sales centers are removed. The proposed amendment would require removal of the associated parking area within 60 days after conversion of the model home or termination of the temporary sales center.

PROPOSED TEXT

5.4.6 TEMPORARY USES AND STRUCTURES: Specific Regulations for Certain Temporary Uses and Structures

(B) Real Estate Sales Office and Model Sales Home

(1) *General Requirements*

One temporary real estate sales office or model sales home may be allowed as incidental to a new residential or non-residential development provided that:

- (e) Parking spaces shall be provided on the lot in a number sufficient to meet the requirements set forth for offices in Section 7.8 of this Ordinance. Such parking spaces may be located on an adjacent vacant residential lot within the development.

(2) *Duration*

(a) Temporary Real Estate Sales Offices

Temporary real estate sales offices may be approved for a period of up to one (1) year. This period may be renewed for two (2) additional twelve (12)-month periods, but not exceeding a total of three (3) years, for good cause shown, upon approval of a written request for such an extension by the Planning Director, filed thirty (30) days prior to the expiration date of the existing approval. All temporary trailers shall be removed from the site prior to the issuance of the last certificate of occupancy for the site.

(b) Model Sales Homes

Model sales homes may be approved for a period of up to three (3) years. This period may be renewed for additional six (6)-month periods, for good cause shown, upon approval of a written request for such an extension by the planning director. There is no time limit on the use of model units for rental housing.

(c) Associated Parking Area

Associated parking area shall be removed within 60 days of termination of use of the temporary real estate office or conversion of a model sales home to a permanent residential use.

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F-4 Traffic Management Plans

BACKGROUND

Since March 2013, Town staff has been developing a new approach for managing development-related transportation system improvements. As part of the new approach, and as discussed at the April 22, 2014 work session on this topic, staff proposes to require traffic management plans for large assembly uses, which are generally those that exceed 200 persons. The traffic management plan must demonstrate that adequate on-site circulation and safety for drivers, pedestrians, and bicyclists can be provided and that sufficient on-site vehicular

capacity will be provided for anticipated volumes of vehicles and buses such that vehicular queues do not spill back into the public right-of-way or cause any other traffic related safety issues.

PROPOSED TEXT

3.9.2 Common Procedures for Review and Approval of Subdivisions and Site Plans

(B) Application Materials

All subdivision and site plan applications shall include a set of application materials prepared pursuant to this section. Approval of these materials shall be a prerequisite to the review and approval procedures set forth in this section.

(1) General Application Requirements

- (d) A Traffic Management Plan as further described in Section 8.1.1 shall be submitted with an application for any proposed school planned to have an enrollment of 200 or more students and for any proposed religious or other assembly use (i.e., club, lodge, or hall) planned to have a capacity of 200 or more persons. The Plan shall be in a format as specified by the Transportation and Facilities Department Director.
- (e) During review of the application, the Planning Department, the Development Review Committee, the Planning and Zoning Board, the Zoning Board of Adjustment, and/or the Town Council may require such additional information as may be necessary to review the submission, if applicable.

5.2.2 USE-SPECIFIC STANDARDS: Public/Institutional Uses

(C) School

- (1) Any proposed school, whether public or private, required by Section 3.9.2 to submit a Traffic Management Plan shall comply with the terms of the approved Traffic Management Plan.

(E) Religious and Other Assembly Uses

- (1) Any religious or other assembly use (i.e., club, lodge, or hall) located upon residentially-zoned property that is twenty (20) acres in size or smaller shall be required to meet the following standards:
 - ~~(1)-(a)~~ Such uses shall obtain a Special Use Permit consistent with Section 3.8 ...
 - ~~(2)-(b)~~ New or proposed religious or other assembly uses shall be located
 - ~~(3)-(c)~~ Such uses shall meet all the development standards of this Ordinance, ...
 - ~~(4)-(d)~~ Any subsequent principal or accessory use
 - ~~(5)-(e)~~ Uses that have or are intended to have more than one worship ceremony ...
- (2) Any religious or other assembly use (i.e., club, lodge, or hall) required by Section 3.9.2 to submit a Traffic Management Plan shall comply with the terms of the approved Traffic Management Plan.

5.4.7 TEMPORARY USES AND STRUCTURES: Events

(G) Submittal Requirements

All applications for special and not-for-profit events shall include such information and supporting materials as are required by the Planning Director, including, but not necessarily limited to, the following:

- (1) A description of the proposed event,
- (2) The location of the property(ies) upon which the proposed event will take place.
- (3) A security plan, if requested.

- (4) A parking plan.
- (5) A Traffic Management Plan as described in Section 8.1.1.
- (6) Evidence of the non-profit status of an applicant or event beneficiary if not-for-profit event status is being requested,
- (67) A statement as to whether the applicant has requested the Town Manager to apply the provisions of Chapter 6, Article II of the Code of Ordinances during the event...
- (78) A statement as to whether the applicant has requested the Town Manager to apply the provisions of Section 24-18(e) of the Code of Ordinances during the event

8.1.1 SUBDIVISION AND SITE PLAN GENERAL PROVISIONS: General Design Standards

All development plans submitted under Section 3.9 of this Ordinance, and all uses for which site plans are submitted, shall meet the following standards before they may be approved by the Town Council or Planning Director:

- (M)** The proposed development, if required by Section 3.9.2 to submit a Traffic Management Plan, shall comply with the requirements of the Traffic Management Plan. The Traffic Management Plan must demonstrate that adequate on-site circulation and safety for vehicles, pedestrians, and bicycles can be provided. Sufficient on-site vehicular storage must be provided for anticipated volumes of vehicles and buses such that vehicular queues do not enter the public right of way or cause other traffic-related safety issues.

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ITEM H – TECHNICAL AND MINOR AMENDMENTS

BACKGROUND

Procedures

- Protest Petition - Reason for protest not required 3.4.1
- MXD/CPA - Simultaneous processing allowed 3.1.9
- Posted Notice - Clarification 3.1.6
- Notice of Public Hearing - Remove reference to newspaper notice 3.4.3
- Filing of Decisions - Final Decisions to be filed with Planning Department instead of Town Clerk 3.8.2, 3.9.2, 3.20.4, 3.21.4, and 3.25.3
- Increases in Impervious Surface in Watershed Protection Overlay– clarification related to approval procedures 3.10.2 and 3.11.3

Terminology

- Change all “multi-use trail” references to “street-side trail” 7.2.3, 7.2.4, 7.10.4 8.2.3 and 12.4
- Change “Special Exception” to “Reasonable Accommodation” 3.25 and 3.26
- Change Town department names consistent with recent reorganization 2.8.2, 3.11.5, 3.11.7, 3.12.3.13, 4.4.3, 4.4.6, 7.2.9, 7.2.14, 7.4.3, 7.5.1, 7.5.6, 7.8.2 7.8.5, 7.10.3, 7.10.6, 7.11.16, 8.1, 9.10.3 9A.3.1, 11.4.5 and 12.4
- Update references to the NC Division of Water Resources and to NC Department of Environment and Natural Resources. 4.4-5, 4.4.6, 7.2.14, 7.2-6 and 7.3.4

Other

- Allow Temporary Sales of Agricultural Products on all non-residential sites (not just retail) 5.4.6
- Increase separation between light poles and canopy trees from 10 feet to 20 feet 7.2.4
- Eliminate gathering space requirement in conservation subdivisions 7.10.4
- Correct reference to minimum lot size in TR district 4.2.2
- Clarify building setbacks applicable to at-grade sidewalks, steps, ramps, handrails, and supporting elements per administrative determination of the Planning Director 6.3-1
- Clarify timing of construction of greenway and trail connectors 8.1.4
- Relocate temporary sign requirements for a new business to a separate section to promote ease of reference and reduce confusion 9B.2

PROPOSED TEXT

2.8.2 Development Review Committee

The Development Review Committee is composed of multiple Town staff departments The Town staff departments with review and decision-making responsibilities under this Ordinance include, but are not necessarily limited to, the: Planning, Administration, ~~Engineering~~ Transportation and Facilities, Inspections and Permits, Fire, Parks Recreation and Cultural Resources, Public Works, Utilities, and Water Resources ~~Public Works & Utilities~~ Departments.

3.1.6 COMMON REVIEW AND APPROVAL PROCEDURES: Notice Requirements

(D) Posted Notice

When the provisions of this Ordinance or law require that notice be posted, the Planning Director shall cause a notice to be posted on the property ~~for at least seven (7) days~~. Such notice should be posted at least ten (10) but not more than twenty-five (25) days prior to the scheduled date of the hearing.

3.1.9 COMMON REVIEW AND APPROVAL PROCEDURES: Simultaneous Processing of Development Applications

(A) Examples of concurrent filing and processing of applications include, but are not limited to:

- (5) A rezoning to a mixed use district (MXD district) may be submitted along with a rezoning to a mixed use overlay district ~~provided that the rezoning to the mixed use overlay district meets the Land Use Plan and therefore does not require a concurrent amendment to the Comprehensive Plan.~~

3.4.1 COMMON REVIEW AND APPROVAL PROCEDURES: Rezoning

(D) Protest Petitions

(2) Definition of Valid Protest

(d) Form and Content

A protest petition shall be valid,only if it identifies the proposed amendment; the name, address, and signature of each protesting property owner; ~~and the reasons for the protest.~~

3.4.3 REZONINGS: Rezoning to Planned Development Districts

(G) Submission of Conditions

..... After the town has ~~delivered to the newspaper~~ published the notice of public hearing for the application, the applicant shall make no changes to the conditions that are less restrictive than those stated in the application.....

3.8.2 SPECIAL USE PERMIT: Procedures

(E) Review and Decision

- (3) The decision-making body shall determine contested facts on behalf of the Town Council ~~and filed with the Clerk~~, or by the Chair of the Zoning Board of Adjustment, or his designee, on behalf of the Zoning Board of Adjustment ~~and filed with the Clerk to the Board~~. The decision of either decision-making body is effective upon filing with the ~~appropriate Clerk~~ Planning Department.

3.9.2 Common Procedures for Review and Approval of Subdivisions and Site Plans

(H) Town Council and Zoning Board of Adjustment Review and Approval Process

(1) Action by Town Council or Zoning Board of Adjustment

..... The written decision shall be signed by the Mayor, or his designee, on behalf of the Town Council ~~and filed with the Clerk~~, or by the Chair of the Zoning Board of Adjustment, or his designee, on behalf of the Zoning Board of Adjustment ~~and filed with the Clerk to the Board~~. The decision of either decision-making body is effective upon filing ~~the written decision with the Clerk~~ with the Planning Department.

3.10.2 MINOR ALTERATIONS: Eligibility Requirements

(B) If the site is located within a protected watershed (Swift Creek or Jordan Lake), the plan must be exempt from the requirements of Sections 3.13 Grading Permits and 7.3 Stormwater Management and must meet the low density option of Section 4.4.6, there shall be no increase in the area of impervious surface.

(G) Retaining walls:

- (1) Residential walls requiring building permits shall not be located on more than one (1) lot.

(2) Residential walls affecting more than one (1) lot or retaining walls on non-residential sites shall not be eligible for the Minor Alteration process.

(2) Retaining walls (including all structural components) that are located entirely on one (1) residential lot shall be reviewed through the building permit process.

3.11.3 RE-USE/REDEVELOPMENT PLANS: Eligibility Requirements

(4) If the site is in the Watershed Protection Overlay District, ~~no additional impervious surface is added~~ the requirements of Section 7.3 Stormwater Management must be addressed; or if the site is outside of the Watershed Protection Overlay District, no more than twelve thousand (12,000) square feet of additional area is disturbed as part of the proposal

3.11.5 Dedication and Roadway Improvements

(E) If the site is located along an existing two (2) lane roadway, the Engineering Transportation and Facilities Director may require roadway improvements to address the use's impact.

3.11.7 Exceptions for Required Improvements

The Director of Planning and/or the Director of Engineering Transportation and Facilities and/or the Director of Water Resources may waive, in part or in full, certain required improvements

3.12 .1 DEVELOPMENT IN FLOOD HAZARD AREA: Stormwater Services Engineering Manager

The Engineering Water Resources Department shall appoint a Stormwater ~~Services~~ Engineering Manager whose duties shall include, but are not limited to, the following:

3.12.2 Permit and Approval Requirements

(C) Development Requiring No Other Forms of Town Approval; Floodplain Development Permit Required

In those cases where no other form of approval is required for the proposed development, the development shall not proceed until and unless the Engineering Water Resources Department issues a floodplain development permit for the proposed development. The person undertaking such development shall file an application for a floodplain development permit with the Stormwater ~~Services~~ Engineering Manager. The application shall be filed on a form prescribed by the Stormwater ~~Services~~ Engineering Manager. The Stormwater ~~Services~~ Engineering Manager shall review the application and shall issue the permit only if the proposed development conforms to the flood damage prevention standards set forth in Section 7.5 of this Ordinance.

3.13.1 GRADING PERMITS: Purpose and Scope

(A) Applicability

(1) Except as provided in paragraphs (B) and (C) below, it shall be unlawful to conduct any land-disturbing activity without first obtaining a grading permit from the Engineering Water Resources Department.

3.13.2 GRADING PERMITS: Application Requirements

(A) An application for a grading permit shall be filed with the Engineering Water Resources Department.

3.13.3 GRADING PERMITS: Review and Approval

(A) The Engineering Water Resources Department shall review each application

(B) Where the application must be revised in accordance with any modifications or performance reservations required by the Engineering Water Resources Department, the applicant shall submit a revised application to the Engineering Water Resources Department. The Stormwater ~~Services~~ Engineering Manager shall approve or deny the revised application.

(C) Upon approval of the application, the Engineering Water Resources Department shall issue a grading permit

(D) In the event that the Engineering Water Resources Department disapproves the application, the Town shall advise the applicant in writing

3.13.4 Approval Criteria

(A) The Engineering Water Resources Department shall approve only those applications that are shown to have the potential to control accelerated erosion

(B) The Engineering Water Resources Department may deny the application for any of the following reasons,

3.13.5 Effect of Approval; Certificate of Erosion Control Compliance

(B) The land-disturbing activity shall not begin until the Stormwater ~~Services~~ Engineering Manager has inspected these initial measures

3.13.6 Responsibility for Maintenance and Additional Erosion Control Measures

(C), the person conducting the land-disturbing activity or the person responsible for maintenance shall be required to take additional protective action as the Engineering Water Resources Department deems necessary to control the sedimentation.

3.13.7 Changes to Approved Erosion Control Plans

(A) Changes Initiated by Department

Following commencement of a land-disturbing activity pursuant to an approved grading permit, if the Engineering Water Resources Department determines that the approved application is inadequate

(B) Changes Initiated by Applicant

The applicant may apply at any time to amend a grading permit, in written and/or graphic form, under the same conditions and following the same procedure as the original application. Until such time as the Engineering Water Resources Department approves such an amendment, the land-disturbing activity shall not proceed except in accordance with the application as originally approved.

3.20.4 VARIANCES: Action by the Zoning Board of Adjustment

(G) The decision is effective upon filing the written decision with the ~~Clerk to the Board~~ Planning Department.

3.21.4 APPEALS OF ADMINISTRATIVE DECISIONS: Action by the Zoning Board of Adjustment

(F) The decision is effective upon filing the written decision with the ~~Clerk to the Board~~ Planning Department.

3.25.3 REASONABLE ACCOMMODATION: Action by the Board of Adjustment

(A) ... The decision is effective upon filing the written decision with the ~~Clerk to the Board~~ Planning Department.

3.25.6 REASONABLE ACCOMMODATION: Lapse

In situations where a reasonable accommodation was a prerequisite to site plan and/or subdivision approval, failure of an applicant to apply for a building permit and commence construction or action with regard to the ~~special exception~~ reasonable accommodation approval within one (1) year of receiving approval of the reasonable accommodation shall automatically render the decision of the Zoning Board of Adjustment null and void.

3.26.2 ZONING COMPLIANCE PERMIT: Procedures

(C) Actions Subsequent to Decision

In the case of approval, the Planning Director shall issue the zoning compliance permit. In the case of denial of an application, the Planning Director shall notify the applicant of the reasons for such denial and the applicant may appeal the decision of the Planning Director pursuant to Section 3.21 of this Ordinance or request approval of a ~~special exception~~ reasonable accommodation by the Zoning Board of Adjustment pursuant to Section 3.25 of this Ordinance.

4.2.2 GENERAL USE DISTRICTS: Residential and Non-Residential Zoning Districts

(F) TR: Transitional Residential District

..... The minimum lot size for single family detached dwellings is ~~6,000~~ 5,000 square feet, and the maximum density allowed is 6 units per acre.

4.4.3 Conservation Residential Overlay District

(H) Additional Design Requirements

(5) Exceptions to this requirement may be considered This exception must be approved by the Engineering Water Resources Director based on written justification.

Portion of **TABLE 4.4-5: MAXIMUM IMPERVIOUS SURFACE LIMITS: HIGH DENSITY OPTION**

Impoundment and maintenance	Required to contain and treat the runoff from the first one (1) inch of rainfall [Other BMPs besides impoundments may be available; consult the <u>Division of Water Quality's Department of Environment and Natural Resources' State Design Manual for Best Management Practices Related to Stormwater Control.</u>]
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4.4.6 Watershed Protection Overlay

(A) Purpose and Intent

.... Watershed protection measures allowed by this section include:

- (3) Engineered stormwater control structures and the best management practices as listed in the Department of Water Quality's Environment and Natural Resources' State Design Manual.

(G) Engineered Stormwater Control Structures

(2) Structures Required for High-Density Option

.... Engineered stormwater control structures shall be designedaccording to modeling techniques approved by the North Carolina Division of Environmental Management Department of Environment and Natural Resources. ...

(J) Violations; Enforcement

This Section 4.4.6 shall be enforced by the Director of Engineering Water Resources or his designee.

5.4.6 Specific Regulations for Certain Temporary Uses and Structures

(D) Sale of Agricultural Products Grown Off-Site

(2) Approval Criteria

- (a) the temporary sale of agricultural products for commercial purposes may occur from a vacant lot, in addition to a developed site where the principal use is ~~retail sales~~ non-residential.

Portion of **TABLE 6.3-1: PROJECTIONS PERMITTED INTO REQUIRED SETBACKS**

Feature That May Encroach Into Setback	Limitation
<u>At-grade sidewalks; and steps, ramps, handrails, and supporting elements</u>	<u>May project into a required roadway setback where making a connection to another sidewalk or a street. May project into a required side or rear setback, but no closer than five (5) feet to the property line.</u>

7.2.3 Requirements for Perimeter Buffers and Landscaping

(H) Development within Required Buffers

No grading, development, land-disturbing activities, or removal of vegetation shall occur within buffers or associated tree protection areas with exception of the following.....

- (1) Sidewalks, ~~multi-use~~ street-side trails and public transit amenities,

7.2.4 Streetscape Landscaping

(B) Installation of Planted Vegetation Along Roadways

- (2) Existing healthy vegetation may be removed after review and approval by the Planning Director for the following purposes:
 - (c) to locate sidewalks, ~~multi-use~~ street-side trails and public transit amenities;

(E) Tree Placement

..... Trees may be planted in a linear arrangement parallel to the street, depending upon the area (e.g., downtown areas, neotraditional developments, etc.). In order to prevent conflicts and allow for appropriate maintenance, Upperstory canopy trees shall be placed at least ten (10) feet from light poles and electrical transformers and twenty (20) feet from light poles in order to allow these utilities to be safely serviced.

7.2.9 Miscellaneous Landscaping Requirements

(E) Design Standards for Berms

- (4)** The Directors of Public Works and Utilities, Transportation and Facilities, and Planning shall approve all berms proposed to be placed along street right(s)-of-way. Such berms shall be designed and constructed to provide adequate sight distances at intersections and along all other roads

Portion of **TABLE 7.2-6 TOWN OF CARY GENERAL AND SPECIALIZED UTBs**

[1]	..... evaluation by the Town (Cape Fear Basin/Jordan Watershed) or Division of Water <u>Quality Resources</u> (Neuse River Basin).
[2]	..... unless the Town (Cape Fear Basin/Jordan Watershed) or Division of Water <u>Quality Resources</u> (Neuse River Basin) completes a no practical alternatives evaluation.
[4]	..... shall require a no practical alternatives evaluation by the Town (Cape Fear Basin/Jordan Watershed) or Division of Water <u>Quality Resources</u> (Neuse River Basin).

7.2.14 Urban Transition Buffer Regulations

(B) Establishing General Urban Transition Buffers

- (2)** General UTBs are applied to specific properties as follows:

- (a)** Where the specific origination point of a stream regulated under subsection (B)(1)(a) is in question upon request of the NC Division of Water Quality Resources ("Division") or another party, the Town shall make an on-site determination. Any disputes over said on-site determinations shall be referred to the Director of Water Quality Resources
- (b)** Any disputes over said on-site determination shall be referred to the Director of the Division of Water Quality Resources

(I) Determinations of No Practical Alternatives/Request for Authorization Certificate

- (5)** Any appeals shall be referred to the Director of the Division of Water Quality Resources,
...

(K) Variances

(2) Requirements for Variances.

.... For major variances, the Town shall prepare preliminary findings and submit them to the Division of Water Quality Resources....

(4) Major Variances

... If Town has determined that a major variance request meets the requirements ... then it shall prepare a preliminary finding and submit it to the NC Environmental Management Commission c/o the Division of Water Quality Resources,

(L) Mitigation

(6) Donation of Property

- (c)** Donation of real property interests to satisfy the mitigation determination shall be accepted only if

1. consistent with the goals of, the Basinwide Wetlands and Riparian Restoration Plan for the Cape Fear River Basin developed by NC Division of Water Quality Resources

(N) Violations; Fines; Enforcement

- (1)** This Section 7.2.14 shall be enforced by the Director of Engineering Water Resources or his designee.

- (3)** In determining the amount of the fine, the Engineering Water Resources Director shall consider

(O) Delegation of Authority

Any act authorized by this Section 7.2.14 to be carried out by or at the direction of the Town may be carried out by the Town Manager, Engineering Water Resources or designee

7.3.4 Allowable Best Management Practices

.... Buffers required by the Division of Water Quality Resources may not be used for compliance with nitrogen reduction requirements.... All BMPs shall meet the standards of the most current version of the North Carolina Division of Water Quality Department of Environment and Natural Resources Stormwater Best Management Practices Manual

7.4.3 General Erosion and Sedimentation Control Standards

(G) Limits on Single-Family Lot Grading

..... Exceptions to grade upon a lot prior to the issuance of a building permit may be granted as a modification to the original plan approved by the Engineering Water Resources, if there is sufficient justification

(H) Limit on Grading Area for Medium Density Residential Developments

..... Exceptions to this requirement may be granted as a modification to the original plan approved by the Director of Engineering Water Resources if compliance is not practicable

7.5.1 FLOOD DAMAGE PREVENTION: Purpose; Enforcement

(D) This Section 7.5 shall be enforced by the Director of Engineering Water Resources or his designee.

7.5.6 FLOOD DAMAGE PREVENTION Cross Drainage Area Standards and Restrictions

..... which is to be submitted with the seal and signature of a Professional Engineer to the Director of Engineering Water Resources

7.8.2 Off-Street Parking Space Requirements

(G) Design and Location of Parking Areas/Stacking Spaces

(1) The Director of Engineering Transportation and Facilities may allow parking on public streets within the Town Center, Mixed Use and Mixed Use Overlay Districts provided

7.8.5 Use and Identification of Parking Areas

(B) All entrances, exits, and drainage plans shall be reviewed and approved by the ~~Town Engineer~~ Director of Transportation and Facilities in accordance with the Town's Standard Specifications and Details Manual and shall be constructed before occupancy of the use.

7.10.3 CONNECTIVITY: Standards for Streets/On-Site Vehicular Circulation

(B) Street Arrangement

(3) all streets, bicycle paths, sidewalks or pedestrian pathways, and access ways in the development's proposed street system shall continue through to the boundary lines of the area under the same ownership as the subdivision, as determined by the Planning Director or the ~~Town Engineer~~ Director of Transportation and Facilities, to provide for the orderly subdivision of such adjacent land

(10) Parking on public streets may be provided if approved by the Engineering Transportation and Facilities and Planning Directors,

7.10.4 CONNECTIVITY; Standards for Pedestrian Facilities

All sidewalks, greenways and ~~multi-use~~ street-side trails shall be designed to comply with the standards provided in

(A) Sidewalks

(4) Sidewalks and/or greenways shall connect building entrances to one another and from building entrances to public sidewalk connections and existing or planned transit stops, ~~multi-use~~ street-side trails and/or greenways.

(5) Cul-de-sacs and dead-end streets shall be connected via a sidewalk or ~~multi-use~~ street-side trail.

(B) Greenways

The Town of Cary's greenway trail system consists of a series of interconnected pedestrian trails located off-road and tied together by on-road ~~multi-use~~ street-side trails and sidewalk connectors. The plan for the townwide trail system is outlined, and trail types are defined, in the Parks, Recreation and Cultural Resources Facilities Master Plan.

(C) Multi-use Street-side Trails

~~Multi-use~~ Street-side trails are pedestrian trails located adjacent to roadways (on-road) and provide supporting linkage to the off-road greenway system.

(1) Where the Parks, Recreation and Cultural Resources Facilities Master Plan calls for a ~~multi-use~~ street-side trail, a ~~multi-use~~ street-side trail shall be constructed in lieu of sidewalk required in the same location. No park land dedication or payment-in-lieu credit will be granted for ~~multi-use~~ street-side trail construction or easements.

(2) All ~~multi-use~~ street-side trails shall be designed and constructed according to Town of Cary standards

(3) ~~Multi-use~~ Street-side trail locations and the location of the required Town of Cary Greenway Easements relative to current road widths and rights-of-way,

(D) Community Gathering Spaces and Plazas

Provide at least one (1) public gathering space such as a pedestrian plaza or park-like space for new development and redevelopment sites that are two acres or greater in size, with exception of sites located within the Conservation Residential Overlay District. These spaces shall be centrally located and/or located so to encourage its use by pedestrians and patrons of the development. Minimum sizes for the community gathering space are as follows:.....

7.10.6 CONNECTIVITY: Standards for Public Transit Access and Amenities

(B) Amenity and Location Requirements

- (1) The concrete pad shall be at least eight (8) feet wide by twenty (20) feet long and six (6) inches in depth, and meet a three thousand (3,000) PSI threshold (see Town's Engineering Transportation and Facilities Department Standard Detailed Drawing for Transit Shelter Specifications).
- (4) A bus stop shelter, bench, or other amenities meeting Town specifications (see Town's Engineering Transportation and Facilities Department Standard Detailed Drawing for Transit Shelter Specifications) shall be installed by the developer.

7.11.16 TRANSPORTATION DEVELOPMENT FEES: Developer Agreements

- (A) The estimated cost of the road improvement in excess of a collector road, based on the approved bidding process and using the lowest bid approved by the Director of Engineering Transportation and Facilities.

8.1.4 SUBDIVISION AND SITE PLAN GENERAL PROVISIONS: Improvements

(A) Streets

- (2) The Engineering Transportation and Facilities Director may waive construction of the required road improvements identified in the current Comprehensive Transportation Plan where the roadway was previously widened with curb and gutter to dimensional width standards consistent with the 2000 Thoroughfare Plan.
- (11) Transportation development fees shall be paid in accordance with the provisions of Section 7.11 of this Ordinance. Developers may attempt to enter into a developer agreement When the Town participates in the cost of thoroughfare improvements through a developer agreement, the Engineering Transportation and Facilities Department shall review the bidding procedure to ensure conformity with all requirements for public contracts. The contractor shall furnish the Engineering Transportation and Facilities Department with copies of periodic estimates of completion of work, proof of payment for such estimates, and such other records as may be requested by the Engineering Transportation and Facilities Department to determine the cost of construction.

(H) Easements

No part of any structure, permanent equipment, private utility line (including water, irrigation, and sewer lines) or impoundment may be placed, and no grading may occur within any Town of Cary easement prior to obtaining full site plan approval, a building permit, or an encroachment agreement from the Engineering Transportation and Facilities and/or Water Resources Department(s).

(I) Greenways, Street-Side Trails and Private Trail Connectors

Greenways, Street-Side Trails and Private Trail Connectors shall be installed prior to issuance of Certificate of Occupancy for the approved phase within the new development as identified on the associated site/subdivision plan in accordance with Section 7.10, Connectivity, and the requirements set forth in the Town's Standard Specifications and Details Manual.

8.1.5 SUBDIVISION AND SITE PLAN GENERAL PROVISIONS: Payment in Lieu of Required Improvements

- (A) Any owner or developer may make a payment of fees in lieu of such improvements, or part thereof in accordance with the following:
 - (1) **Approval by Engineering Transportation and Facilities Director**
The Engineering Transportation and Facilities Director may approve payment in lieu of required road improvements where road improvement costs do not exceed one hundred thousand dollars (\$100,000),
 - (2) **Approval By Town Council**

The Town Council may approve such payment as part of approving the site plan in a quasi-judicial hearing, This section shall not apply, however, to street improvements, ~~which~~ **that** are governed by the fee provisions in Section 8.1.4(A).

- (B) The amount of any such payment shall be, as estimated by a registered professional engineer selected by the applicant and approved by the ~~Town Engineer~~ Transportation and Facilities Director.
- (C) Full payment shall be made before the ~~Engineering Inspections and Permits~~ Department may issue any Certificate of Occupancy for any use covered by the site plan.

8.1.7 Timing and Inspection of Improvements

(B) Level Required for Final Plat Approval

The final plat shall not be approved until and unless either of the following has occurred:

- (2) The developer or subdivider has installed sufficient improvements and has provided the Town with cash, or an irrevocable letter of credit with the Town, in an amount equal to as determined by the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s), With regard to the construction of thoroughfare improvements required by this Section, the construction of which could be delayed because the amount of the cash or irrevocable letter of credit shall equal as determined by the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s).

(C) Level Required for Certificates of Occupancy

The Inspections and Permits Department shall issue no Certificates of Occupancy for development within the subdivision until the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s) certifies that the developer or subdivider has installed all improvements in accordance with the requirements of this Section, provided that:

- (3) The developer or subdivider has provided the Town with cash, or an irrevocable letter of credit with the Town, in an amount equal to as determined by the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s), With regard to the construction of thoroughfare improvements required by this section,, the amount of the cash, or irrevocable letter of credit shall equal as determined by the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s).

(D) Inspection

- (1) Prior to approval of the final plat or the issuance of any Certificates of Occupancy, the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s) shall inspect all improvements for conformance with the requirements of this Ordinance and the approved plats. The ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s) shall have sixty (60) days after the applicant has requested an inspection to inspect and certify
- (2) The installation of improvements shall in no case bind the Town to accept any such improvements for public maintenance or operation thereof, until the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s) in accordance with this Section, has inspected and accepted the improvements as meeting all applicable requirements.

(F) Completion of Work and Release of Guarantee

..... Upon completion of the required improvements, the applicant may apply to the Director(s) of ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s) for a certificate of completion If the improvements conform to the requirements of this Ordinance,, then the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s) shall issue such certificate

8.1.8 Final Acceptance of Improvements for Town Maintenance

(A) Limit on Number of Building Permits and Certificates of Occupancy Prior to Total Acceptance

..... The ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s) may waive either of these building permit and/or Certificate of Occupancy limits if

- (B) The developer or subdivider shall notify the ~~Engineering Transportation and Facilities and/or Water Resources~~ Department(s) at the time that the improvements to be routinely maintained by

the Town are ready for the one (1)-year warranty inspection. If the Engineering Transportation and Facilities and/or Water Resources Department(s) determines that the installed improvements meet all applicable Town standards, including those in the Town's Standard Specifications and Details Manual and the developer or subdivider submits a financial guarantee based on a price schedule provided by the Engineering Transportation and Facilities and/or Water Resources Department(s), then a one (1)-year warranty period begins, during which the Town shall provide routine maintenance of the improvements. At the end of the one (1)-year warranty period, the applicant shall request the Engineering Transportation and Facilities and/or Water Resources Department(s) to conduct a final inspection of the improvements for acceptance by the Town. The Engineering Transportation and Facilities and/or Water Resources Department(s) shall have sixty (60) days after the date of such request in which to either accept the improvements or provide the applicant with a list of required repairs to the improvements. Upon acceptance of the improvements, including any needed repairs to the improvements that the Engineering Transportation and Facilities and/or Water Resources Department(s) shall deem necessary during any of its inspections, the Town shall accept full maintenance responsibility for the improvements and shall release the financial guarantee. If the developer or subdivider fails to make such required repairs within six (6) months, then the Town may draw on the financial guarantee in order to perform the required repairs itself.

8.2.3 SUBDIVISIONS: Dedication of Greenway Land

(D) Dedication of Greenway Land

- (1) ... land dedicated for greenway purposes may be counted towards park land dedication requirements, except for easements dedicated for multi-use street-side trails
- (3) Widths of greenway easements for multi-use street-side trails [see Section 7.10.4 (C)] shall be determined by the Parks, Recreation and Cultural Resources Director.

9.10.3 Subdivision/Neighborhood Identification Signs

(A) Alternative 1: Roadside

- (4) Such sign is not located in the Public Right-of-Way (ROW), unless approved by the Director of Engineering Transportation and Facilities;

9A.3.1 Permanent Sign Types Allowed in All Zoning Districts

(G) Principal Ground Sign

- (7) Principal ground sign(s) at the entrance to a residential or non-residential subdivision shall be located:
 - (b) in the median strip of a public or private street right-of-way provided that:
 - (iii) if in a public right-of-way, the sign location is approved by the Director of Engineering Transportation and Facilities based upon traffic safety considerations and the location of utilities.

9B.2 PERMITTED TEMPORARY SIGNS

(C) ~~Temporary~~ Alternative to Permanent Wall Sign

One (1) banner advertising ~~the opening of new businesses~~ or a business undergoing a façade change or exterior renovation shall be allowed, with approval of a temporary sign permit, as an alternative to a permitted permanent wall sign allowed pursuant to Chapter 9A, provided that:

- ~~(1)~~ — Such signs for ~~new businesses~~ shall be limited to a duration of thirty (30) days within the first ~~sixty (60) days~~ after issuance of the first business license for that business in that location or ~~from the issuance of a Certificate of Occupancy for that location.~~
- ~~(2)~~(1) Such signs for businesses undergoing a façade change or exterior renovation shall be limited to a maximum of ninety (90) days. The Planning Director shall have the authority to extend the duration of the temporary sign permit for ~~new business~~ or businesses undergoing exterior renovation for up to a maximum of sixty (60) additional days.
- ~~(3)~~(2) Such signs shall be attached to and parallel with a wall of the building on which wall signs are permitted and shall not exceed thirty-two (32) square feet in surface area.

(J) New Business

One (1) banner advertising the opening of new businesses shall be allowed, with approval of a temporary sign permit, provided that:

- (1) Such signs for new businesses shall be limited to a duration of thirty (30) days within the first sixty (60) days after issuance of the first business license for that business in that location or from the issuance of a Certificate of Occupancy for that location.
- (2) Such signs shall be attached to and parallel with a wall of the building on which wall signs are permitted and shall not exceed thirty-two (32) square feet in surface area.

11.2.3 Inspections

The Directors of Planning, ~~Engineering~~, ~~Transportation and Facilities~~, ~~Water Resources~~ and/or Inspections and Permits or his or her designees shall have the authority, upon presentation of proper credentials, to enter and inspect any land, building, structure, or premises to ensure compliance with this Ordinance at any time.

11.4.5 Restoration of Disturbed Areas

The ~~Engineering~~ Water Resources Director may require a person who engaged in a land-disturbing activity regulated under Section 7.4 and failed to retain sediment generated by the activity as required by G.S. 113A-57(3) to restore the waters and lands affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this chapter or the General Statutes.

12.4 OTHER KEY TERMS DEFINED

Multi-use Street-side Trails

~~Multi-use~~ Street-side trails are pedestrian trails located adjacent to roadways and provide supporting linkage to the off-road greenway system.

TOWN ENGINEER

~~The director of the Town of Cary Engineering Department.~~

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