



Special Meeting - Minutes Monday, November 15, 2021

COUNCIL PRESENT:

Mayor Matthew B. Mulhollem
Mayor Pro Tem Clyde Castleberry
Council Member Mark Jackson
Council Member James (Jim) Purvis, III
Council Member Mark Wilson

STAFF PRESENT:

Mike Gordon, Town Administrator
Marcus Burrell, Town Attorney
Kim P. Batten, Finance Officer/Town Clerk
Julie Maybee, Town Planner

COUNCIL ABSENT:

Council Member Teresa Bruton

GUEST PRESENT:

Colin McGrath, Attorney, Poyner Spruill, LLP
Kimberly Rineer, P.E. Engineering Manager,
Johnston County Public Utilities
Chad Meadows, AICP, Code Wright Planners

Page

1. WELCOME/CALL TO ORDER:

a) Invocation

Mayor Mulhollem called the meeting to order at 6:30 p.m. in the Jeffrey D. Barnes Council Chambers located at 14094 Buffalo Road, Archer Lodge, NC and declared a quorum present. Council Member Jackson offered the invocation.

b) Pledge of Allegiance

Mayor Mulhollem led in the Pledge of Allegiance to the US Flag.

2. QUASI-JUDICIAL PUBLIC HEARING

24 - 47

a) Discussion and Consideration of a Special Use Permit Application Submitted by Johnston County to Construct a 500,000-Gallon Elevated Water Storage Tank on the Archer Lodge Middle School Property located at 762 Wendell Road, Wendell, NC

Conduct of Quasi-Judicial Public Hearing:

1. **Town Attorney - Swear in Witnesses, including staff, who intend to Present Evidence**
2. **Mayor - Call Case as stated on the agenda**
3. **If applicant is to be represented by anyone other than a licensed attorney, the applicant shall request the consent of the Town Council**
4. **Members of Town Council to disclose the following:**
 - **Any site visits.**
 - **Ex parte communications.**
 - **Specialized knowledge they have relevant to the case.**
 - **Fixed opinion that is not susceptible to change based on what they learn.**
 - **Conflict of Interest.**
 - **Financial interest; and**
 - **Any other information relevant to determining whether a conflict of interest**

- ****Town Council to vote on recusal of member if any conflict exists.**
- **Note: The applicant or other affected persons may present any objections regarding a member's participation.**
- 5. **Mayor - Open the public hearing**
- 6. **Staff report**
- 7. **All parties represented by attorneys, the applicant, followed by any opposing party, may present a brief opening statement.**
- 8. **Applicant - present arguments and evidence in support of the application.**
- 9. **Persons opposed to granting the application shall present arguments and evidence against.**
- 10. **Opportunity for cross-examination.**
- 11. **After all evidence has been presented, the Mayor may ask the parties if there is additional relevant information that has not been presented that would make a continuance in order.**
- 12. **The Mayor will entertain objections and rule on the admissibility of the evidence or exhibit.**
- 13. **Mayor - Close the public hearing unless the hearing has been continued to the next regularly scheduled quasi-judicial hearing or to a publicly stated date, time and location.**
- 14. **Mayor - Calls for a vote on each of the findings of fact/conclusions for the special use permit.**
 - **Must receive a ~~super majority~~ single majority vote of the Town Council for the Application to be approved.**
 - **The Town Council may attach conditions of approval in accordance with existing state law and Town Code.**
- 15. **Mayor - Calls for a vote on the special use permit.**
 - **Must receive a super majority vote of the Town Council for the Application to be approved.**
 - **The Town Council may attach conditions of approval in accordance with existing state law and Town Code.**
- 16. **Mayor - Calls for a vote on the site plan.**

1. Town Attorney - Swore in Witnesses, including staff, who intend to Present Evidence

- Attorney Burrell sworn in Julie Maybee, Town Planner; and Kim Batten, Finance Officer/Town Clerk.
- Attorney Burrell offered to swear in anyone that wished to be heard in regard to the application. No other persons were sworn in.
- Council Member Wilson asked if the Council Members should be sworn in.
 - Attorney Burrell responded that Council Members would not need to be sworn in due to having no testimony but would be asking questions.

2. Mayor - Called Case as stated on the Agenda.

- Mayor Mulhollem called the case as follows:
 - Special Use Permit Application Submitted by Johnston County to Construct a 500,000-Gallon Elevated Water Storage Tank on the Archer Lodge Middle School Property located at 762 Wendell Road, Wendell, NC.

3. If applicant was represented by anyone other than a licensed attorney, the applicant shall request the consent of the Town Council

- Mayor Mulhollem asked if the Applicant had any representation other than a licensed attorney. There was none.

- Attorney Burrell informed that licensed Attorney Colin McGrath, Poyner Spruill, LLP would be representing the case for Johnston County.

4. Attorney Burrell asked the Town Council Members to disclose the following for the specific purpose of this application:

- **Any site visits.**
- **Ex parte communications.**
- **Specialized knowledge they have relevant to the case.**
- **Fixed opinion that is not susceptible to change based on what they learn.**
- **Conflict of Interest.**
- **Financial interest; and**
- **Any other information relevant to determining whether a conflict of interest**
- ****Town Council to vote on recusal of member if any conflict exists.**
- **Note: The applicant or other affected persons may present any objections regarding a member's participation.**
- **The following items were disclosed:**
 - Council Member Wilson shared the only thing he has is a copy of the JoCo Report.
 - Council Member Jackson shared he had none.
 - Mayor Pro Tem Castleberry shared he had none.
 - Council Member Purvis shared that he attended the Wednesday, November 10, 2021 Planning Board Meeting and heard the presentation.
- Attorney Burrell informed, having only 4 Council Members present that Mayor Mulhollem would have to vote if there was a tie. Attorney Burrell asked Mayor Mulhollem if he had any disclosures.
 - Mayor Mulhollem shared he had none other than reading on the JoCo Report and it being on the meeting agenda.
- Attorney Burrell asked if any of the Council Members have any issues with Council Member Wilson, Council Member Purvis, and Mayor Mulhollem's disclosures to the Council regarding voting on the application.
 - Attorney Burrell informed there were no objections and fine to proceed.

5. Mayor Mulhollem Opened the Quasi-Judicial Public Hearing at 6:37 p.m.

6. Ms. Maybee presented the Staff Report as follows:
(Transcribed)

MS. MAYBEE: Staff respectfully request that the staff report be incorporated into the record along with the PowerPoint presentation.

Ms. Maybee's Staff Report and PowerPoint presentation appear at the end of the minutes.

MS. MAYBEE: Kim, would you pull up the PowerPoint?

Ms. Maybee presented the Special Use Permit Application submitted by Johnston County and appears at the end of the minutes.

Discussion:

MS. MAYBEE: On September 20th, 2021, a special use permit application was submitted by Johnston County to construct a 500,000-gallon elevated water storage tank at the Archer Lodge Middle School property that's approximately 40.66 acres, at 762 Wendell Road.

MS. MAYBEE: The property is owned by Johnston County Board of Education, a governmental entity, and it's referenced on Johnston County Parcel Tag ID No. 16J03017A. Accompanying the special use permit application is the proposed site plan that depicts the location of the elevated storage tank, and it's on a 1.16-acre easement area.

MS. MAYBEE: I just want to add that publication requirements in accordance with the North Carolina state law and our Unified Development Ordinance, notice was given to the adjacent property owners; advertisement was placed in the local newspaper advertised in accordance with the provisions; it was posted on our web site; and also copies of the application was provided to the Applicants.

MS. MAYBEE: Just go over briefly, Mayor, on how to conduct the quasi-judicial hearing.

MS. MAYBEE: I'll briefly outline it. We're now in a presentation of the staff report followed up by evidence presented by the Applicant's attorney. The Applicant has the opportunity to present arguments in evidence in support of the application. Anyone that's opposed has the opportunity to present arguments and evidence against, opportunity for cross-examination. After all the evidence is presented, the Mayor may ask parties if there's any relevant information to present. The Mayor will entertain objections and rule of admissibility of evidence and exhibits that are presented, and then the Mayor to close the public hearing, and then the town council to render a decision based on each findings of fact. I've included those findings of fact in the staff report. You will need to vote on each one of them; and then after that, consideration of the special use permit as a whole; and then, also, a motion on the site plan.

MS. MAYBEE: Included with the application is the proposed site plan. If you're looking at the site adjacent to the Harden Creek subdivision, you see the proposed tank site. And here's an illustration of the tank, and looking at the elevation, you're looking at approximately a 148-foot tank.

MS. MAYBEE: Based on information presented in the application, the tank will be inspected and, also, every seven to ten years with minor maintenance; and it's also my understanding that each year the tank will be inspected for compliance with state and local requirements.

MS. MAYBEE: It's a 500,000-gallon elevated storage tank. The property is zoned Office-Institutional.

MS. MAYBEE: Included in the application was the Applicant's findings of fact.

MS. MAYBEE: I just want to talk about, when we look at the Archer Lodge 2030 Comprehensive Land Use Plan, one thing I'd like to highlight in the vision statement was "Meeting the needs of current and future residences and businesses." This proposed tank provides redundancy for water supply. Also, in the mission statement again talks about planning for future growth in the town and, again, how important it is to protect those resources. In the land use plan, we're a rural community, a sub-rural community, but we still have development pressures. When you look at recent studies where Johnston County and Wake County are the highest and fastest growing counties in the state, the need for being able to plan for the future and future development.

MS. MAYBEE: As I mentioned before, when you consider the special use permit applications, need to determine and vote individually, we need a super majority vote, that the proposed use will not materially endanger the public health and safety if located where proposed; it complies with the standards and the conditions and specifications of the UDO; and that it will not substantially injure the value of abutting land; and that the public use is a public necessity; and it will be in harmony with the area

where it's to be located in; that it complies with the town's adopted policy guidance and will not exceed the town's ability to provide adequate public facilities.

MS. MAYBEE: I've included some draft motions, when you get to that point, but also in the staff report I have included a copy of the zoning map showing the school property is zoned office-institutional, and the surrounding property on three sides it's agricultural-residential. There's a residential development going to the north that's single-family residential.

MS. MAYBEE: On November 10th, the Planning Board considered the special use permit application and recommended approval by unanimous vote of the proposed site plan. And I've included a copy in the staff report of that. Basically, the Planning Board made the findings the same as the Applicant; and that was after quite a bit of discussion. And Staff concurs with the Planning Board recommendation. In your agenda material, Exhibit 1 is a copy of the Planning Board's recommendation.

MS. MAYBEE: I've also included copies of the application and of the site plan that was provided. Also included in that is a copy of the Easement Agreement recorded between Johnston County and the Archer Lodge Water District. If you have any questions, I'd be glad to answer them.

MAYOR MULHOLLEM: Any members of the council have any questions? Thank you so much.

7. All parties represented by attorneys, the applicant, followed by any opposing party, may present a brief opening statement.
(Transcribed)

MAYOR MULHOLLEM: Item 7. All parties represented by attorneys, the Applicant, followed by any opposing party, may present a brief opening statement.

Attorney McGrath shared a presentation which appears at the end of the minutes.

ATTORNEY MCGRATH: Good evening, Mr. Mayor, members of the council. My name is Colin McGrath. I'm a land use and zoning attorney with Poyner Spruill. At 301 Fayetteville Street, Suite 1900, in Raleigh. I'm here tonight on behalf of Johnston County, as well as the Archer Lodge Water District, in connection with the request to construct a 500,000-gallon elevated storage tank which I'll just call "the water tower", at Archer Lodge Middle School. Also, with me this evening is Kim Rineer. Kim is a professional engineer with the county's public utilities department. She'll get into the testimony on the nuts and bolts of the request, what, when, where, why and how. What I'll just do is give you kind of a brief overview and then let Ms. Rineer do most of the talking.

ATTORNEY MCGRATH: So, as we've already discussed a bit, and I'm sure the council is very familiar, the Archer Lodge Middle School is highlighted here in purple. It's just under a 41-acre tract owned by the Johnston County Board of Education off Wendell Road, right at the intersection of Wendell and Wall. You'll see the property is bounded to the north and east by some existing fairly dense single-family residential to the south, southwest and west. This aerial from Johnston County GIS, which I understand to be about a 2017 picture, with a little bit of change, but you'll see predominantly large tracts, agricultural tracts. All of that lines up with the existing zoning that Ms. Maybee just discussed. You'll see that O&I-zoned parcel dead in the center of the screen here is the Archer Lodge Middle School. Again, single family residential 1, SFR-1, to the north and east, and that light pink is all A-R zoned property. You see that for about 75 percent of the surrounding tracts. Zooming in a little bit, again, this is just the same GIS aerial, on the middle school you'll see all the properties that directly abut the site.

ATTORNEY MCGRATH: Ms. Rineer will discuss this in a little bit more detail, but briefly, the reason for the request is, you can actually kind of see it in this aerial itself where you see that southwest a number of tracts that are not yet constructed, but they have been subdivided for future development. It's that future development, it's the future development in other parts of the town, as well as in this portion of the county that is driving this request. With that future development, the current development and planning for future development comes increased demand for water service in Archer Lodge and around Archer Lodge. As Ms. Rineer will discuss in a few minutes, one of the key components to providing that service are water towers. They're throughout the county. There's one at the fire station here and there's one on the logo right behind Mayor on the wall. These are critical pieces of infrastructure that allow for that orderly measured development.

ATTORNEY MCGRATH: Again, Ms. Rineer will, kind of, get into this, but while we're looking at this aerial, once a need for an additional water tower is identified there are a number of considerations that go into where it's located. Land, 1) has to be available, and 2) it has to be suitable. It has to be close to existing water lines. It has to have the right geography, topography, the right soils to support such a tall and heavy structure. Again, I'm previewing a bit Ms. Rineer's testimony, but with those considerations in mind, there were probably months of discussions between the county, the town, the board of education, other stakeholders, that led to the identification of this site as suitable. And, specifically, you'll see the star on this map is where the water tower is proposed. You see it's on the southern portion of the site which is, if you're looking at the school, it's off to the right towards the rear of the school away from athletic fields, away from classrooms, really right there by the bus parking lot.

Looking quickly at the site plan, again, we'll discuss a little more with Ms. Rineer, this further shows the footprint. In the top right corner of this slide of the site plan shows the footprint of the water tower. It shows the area of the easement Ms. Maybee referenced. That easement really just ties the county's interest in the dirt under the water tower to the water tower so that down the road if the school were to change hands or something were to happen, you know, that doesn't mean the water tower would then have to go.

ATTORNEY MCGRATH: You also see, and I do have a full-size set of hard copy plans in case it's easier to read, but, also, near the footprint of the water tower in that very top right you'll see an existing sewer, a footprint, an existing sewer lift station. There's also a transformer right there that would provide any needed power for lighting and anything at the water tower. What you see coming down from the footprint of the water tower out to Wendell Road are easements for both the permit utility easement for the water to be coming to and from the tower. There is a current water line that runs along Wendell Road and then there's a temporary construction easement. But all of that is on the site plan and, again, if the copies we have both printed in front of you and if they aren't great to read, I do have a full-size set. You saw this one on Ms. Maybee's presentation. This is just the second half of the site plan. Just including it for the sake of getting everything in there. Nothing on here is planned to be disturbed; nothing around the ball fields, the retention ponds or the back of the school; so all we're talking about as far as proposed infrastructure being added to the site is in that top right corner. That was a bit of long-winded introduction, but before I ask Ms. Rineer a few questions and let her describe some of the details that I'm not quite smart enough to fully grasp, I do want to touch quickly on these standards. Ms. Maybee walked through these a little bit or presented them. I believe they're in front of you for the council. Just wanted to have those up there, have them in front of you. We'll come back after Ms. Rineer testifies and I will briefly describe why we feel each one of these are satisfied based on her testimony. If there aren't any

questions on the background and context, I'll go ahead and ask Ms. Rineer to testify a little bit.

8. Applicant presented arguments and evidence in support of the application.

WHEREUPON, KIMBERLY C. RINEER, P.E., having been previously sworn, testified as follows:

ATTORNEY MCGRATH: Kim, will you briefly introduce yourself to the Mayor and members of the council, who you are, a little bit about your background and what it is you do?

MS. RINEER: Good evening. My name's Kim Rineer. I am the engineering manager for Johnston County Public Utilities. I got a bachelor's in science and civil environmental engineering from Cornell University, and then took all my exams to become a P.E. in 2000. I'm a licensed professional engineer in North Carolina. When I first moved down here, I started working for McKim & Creed Engineers who was working for the county at that time; so, I've been working with the county since 1995 as a consultant, but I've only been in this role as the engineering manager as a full-time employee since 2018. As a consultant, though, it was interesting to walk in here with Rick Hester when we came to the planning board meeting and see Mr. Barnes' name right there, because the three of us sat at the fire department and sold water district taps together a long time ago, so I'm familiar with this area and your water system here.

ATTORNEY MCGRATH: And, Kim, can you give us just a little bit of background on the Johnston County Public Utilities water service, how many customers; basically, and how water gets to the tap?

MS. RINEER: The county has a 14 mgd water plant in Wilsons Mills 1 and a county-wide distribution system. We serve just over 42,000 retail customers through the water districts. We also provide the sole water source for the town of Clayton, Four Oaks, Kenly, and Princeton. We have a contract with Aqua to supply the Flowers Plantation area, and then we have a contract with Carolina Water Service for several other subdivisions. We also provide supplemental supply to Benson, Micro, Pine Level, Selma, Smithfield, and Fuquay Varina. And the majority of our 42,000 plus customers are single-family residents. There are some schools and institutional businesses that we serve there, but it's mostly rural water district customers.

ATTORNEY MCGRATH: And in connection with these services, how many water towers are operated throughout the county?

MS. RINEER: So, there are 11 potable water towers and one reclaimed one, if you've ever been out to the landfill, so, we end up with 6.7 million gallons of storage between the water towers and the storage that we have at our water treatment facility.

ATTORNEY MCGRATH: Why is a water tower an important -- or how is a water tower an important piece of the process Johnston County uses to provide water service?

MS. RINEER: So, if you are -- if you didn't grow up on potable water, you had a well and bladder tank to keep the pressure going when the well pump wasn't running. These towers work a lot like that bladder tank. So, we pump from the plant, we put it up into the air and it keeps the pressure equal and steady throughout the system as it's drawn down, so everybody gets adequate water supply even when the pumps aren't running. So, the pumps are set to keep the water level in the tank correct, not to get to the last person on the line. So, it provides storage for that. It provides storage when there's unexpected increase in demand. So, it could be Super Bowl Sunday, or it could be a massive fire

in the area, and it provides that kind of pressure and that kind of volume for those circumstances that aren't part of your average daily flow.

ATTORNEY MCGRATH: Now, I spoke a few minutes ago about increase demand; over the last few years what type of changes in demand has the county's water department seen?

MS. RINEER: So, there's a few different changes. Johnston County's seen the highest growth rate in the state and that's been a challenge and we didn't predict all of that. We're also seeing residential development where people are installing sprinkler systems, so our peak demand has changed as well. And some of that's within our control and some of it's not. And we were the sole supplier for the town of Clayton; we can't tell them not to put irrigation systems in; so, our peak demand has changed some. So, in 2020 our average daily demand was 13.6 mgd with a peak demand of 16.63 mgd. So, you know, we're required to keep a half-a-day of your average daily demand in storage. So we have 6.7 million gallons of storage, and our average daily was 13.57, 13.6, we're right there at that cusp. Now, some of these towns that we're supplying have their own storage, so that's deceptively close. We still have breathing room because the town of Clayton has its own tank, and Four Oaks has a small tank, and a few of them have their own storage, so that's not part of that equation right there.

ATTORNEY MCGRATH: And getting a little bit more specific about why this tower is necessary from a utility standpoint now, has that level of growth, have you seen that here in Archer Lodge?

MS. RINEER: Oh. So, yeah. I have the numbers here. In the last five years -- I don't have data for inside the town limits. We track it by the district, so I'm going to be speaking directly about the Archer Lodge water district and its 600 customers in the past five years which is 29 percent growth in water customers. The county as a whole added around 9,000 customers in the last five years, which was a 24 percent growth, so this area is exceeding the average for the county as a whole, which was already really impressive.

ATTORNEY MCGRATH: With growth in the Archer Lodge water district slightly outpacing county-wide growth, let me just ask you, would it be possible to continue to guaranty reliable water service in the Archer Lodge water district without the addition of this tower?

MS. RINEER: So, the way we look at it is by hydraulic zone. And that might seem like a foreign concept, but this is the 492 Hydraulic Zone, and it covers the highest part of the county, which is along this western border, and the pressure in there is regulated to that elevation, so that's 419 feet above mien sea level. Within that area it's everything from McGee Crossroads all the way up to here, so we have to provide adequate storage in that hydraulic zone. And we model that with Paysin (phonetic) and Soare (phonetic) did a county-wide model for us in 2018, and they predicted we'd need another half-a-million-gallon storage in that zone by 2025. And that study was based on 2016-'17 growth numbers which we've exceeded. Why would we pick Archer Lodge? This area of the county is also unique in that it's the only part of the 492 zone that is served by the East Water system. You're off free chlorine disinfected water. It can't mix with the other part of the 492 zone right now; so that made it very challenging to do any maintenance on your existing tank, because it's the only thing providing pressure regulation in this area. Not only that: This area's exceeding the county's growth rate and was predicted to continue to do so with 540 coming. It just seemed like a natural fit.

ATTORNEY MCGRATH: Let me ask you this somewhat directly. Based on your experience with public utilities here in Johnston County, your professional background, would you say that the addition of this water tower is a necessity?

MS. RINEER: It is. We are right up against our keeping the amount of available storage that we need to permit new users in the county and we see that there's no way that we're going to go from 29 percent growth in the last five years to zero, that we'll probably look very similar in the next five years in water customers, and in orders to keep that -- and those aren't all within the town, because that is in the district. We're seeing a lot of -- north of here a lot of 20-lot subdivisions and things like that going in and a few of them we've had trouble getting fire flow to, adequate flow for fire protection, and they have put in hydrants with bags on them inactive until we can provide the pressure, and this part of that solution.

ATTORNEY MCGRATH: Shifting gears a little bit, Kim, let's talk about this site. Once you identified or once Archer Lodge water district and the county public utilities identified the need, how did we land on the middle school site?

MS. RINEER: It was a long-drawn-out process. So, this project was originally a 500,000-gallon tank in this area, and we were in a meeting with the town of Clayton. They said, 'Oh, we're going to build a tank on the northern edge of our service area', and we said, 'Well, hydraulically we can't put that there, it won't work.' And then we were going to partner on a tank and then that fell through. And we came up with a great final solution where we build the tank in the north, and they build a tank in the south, and it meets our overall goal for the having a million gallons of storage in the 15-year period. So, that set us back for, like, a year till we figured all that out. And then we started looking for sites for our half-a-million-gallon tank. We're restricted to being on the 16-inch line that comes down Buffalo Road and then turns towards Clayton or this 12-inch spur that heads north. If we're not along one of the main services lines, this tank won't provide the necessary benefit. So, when we sited the first tank, the ideal spot was at the fire department, so we started there in the surrounding land, started working out. We could not find a suitable site with a willing participant right in that small radius; it's highly sought after real estate right now; and so we worked with Julie, Ms. Maybee, that had helped us identify sites where people were potentially willing. Some of them were not along the main lines and some of them were too low, and some of them had hydric soils and our tank would have sunk slowly in them. So, we explored all those and we had to expand our search out of the 16-inch line to this northern section on the 12-inch line, and when we did and we looked for highest points along there, the school was a natural fit, so we contacted them. They were receptive to it. We visited the site, did preliminary soil investigations and those passed the bar, so we started working with the school to site this on this high spot in the back corner of the parking lot and it's more for wastewater conservation.

ATTORNEY MCGRATH: Now, is it common when you're siting a water tower to end up on a site that the tower would share public institutional use?

MS. RINEER: Fairly common. I know growing up, had a water tower on the high school site in my town. They often put the high school on a hill and it's a natural fit, so... Also, you know, fire departments are largely supportive of water towers and so several of ours are sited there. McGee Crossroads Elementary School has a tank on it, if you've ever driven down that way. It's a good partnership.

ATTORNEY MCGRATH: Let me jump ahead just a little bit; we mentioned both in the initial siting; I think you mentioned that the fire station here was the ideal location for that tank. Just briefly, when we're talking about the tank for the middle school property, this may be shed -- shared the sketch, but are we talking about this kind of tank, something similar in size, design?

MS. RINEER: So, that's a 300,000-gallon multi-leg tank. This will be a 500,000-gallon multi-leg tank. Because of the elevation of the ground, it will be about 8 feet taller than that tank there, which I -- and it's hard to notice from the ground. And that tank is -- let me make sure I get it right. I think it's -- I have the diameter in my notes. But it's, like, 43 feet in diameter and the new tank is probably going to be right around 50 feet in diameter, so it's going to look very, very similar, but a little bigger animal.

ATTORNEY MCGRATH: And while we're looking at this one, let me -- can I just ask you, have you heard -- in your time at public utilities have you ever heard from anyone around that tank complaining about issues with the tank?

MS. RINEER: We -- this is the only tank in the entire county where there is a third-party vendor on it, and I don't -- the only complaint I've heard of is they're not coordinating well with the fire department with their visits. We're not a big fan of that contract, but it's in place and -- but that's the only complaint. I've heard is the visits when they park in the [Inaudible] and across -- and in the area that the fire department would rather be using for themselves, and justifiably.

ATTORNEY MCGRATH: And to be clear, those are complaints about a third party, not the county or the water district?

MS. RINEER: Correct.

ATTORNEY MCGRATH: Going back to this site plan --

MS. RINEER: Um-hmm.

ATTORNEY MCGRATH: -- let's talk a little bit about some of the details of the proposed construction. We already contrasted a bit on the size; and the document Ms. Maybee showed earlier that's included in the staff report shows a little more about that. But where this is located on the site, do you roughly how far -- I'm sorry. Remind me: How tall is this tank going to be?

MS. RINEER: So, to the high-water level it's 148 feet, but then the dome comes over top, so it depends how they design it structurally. It'll be 5 or 7 feet more than that, so we could say 155 feet plus or minus 2 is what I'm -- I'm guessing. The tank manufacturers do the final design of the structural steel.

ATTORNEY MCGRATH: And do you know how far from where the footprint is shown on the site plan, how far that footprint is from any building actually used for the school?

MS. RINEER: Um...

ATTORNEY MCGRATH: Roughly.

MS. RINEER: We have -- we were looking into that. We're a good way away. I think to the football field, you know, it's around 300 feet. The smallest temporary building out there, the sheds up there is, I believe, 278 to 280. It's 160 feet from the edge of the bus parking lot and, you know, there's nothing on the farmland that's within 7- or 800 feet. And even where we have it sited there isn't a subdivision lot back there yet. If it somehow fell over, it would not be within any buildable portion on any of those properties. I will say that structural failures of water tanks are extremely rare. If you've ever seen pictures after a hurricane, the only thing left standing is the water tank. They are heavy and strong and highly over-designed. We're going to put piles in the ground very deep; it's going to stay where it's at.

ATTORNEY MCGRATH: Now, once it's constructed, moving quickly through a few operational questions, this may sound silly, but does anybody work at a water tower?

MS. RINEER: No. We will not have full-time staff or even part-time staff at this facility.

ATTORNEY MCGRATH: No visitors to the water tower then?

MS. RINEER: We have a contract with Suez. They do our tank maintenance. Once a year they will visit the site and they will inspect it. If there's any routine maintenance, it's on a 7-to-15-year schedule, depending on which paint products are on our tanks, for when we overcoat them or clean up the paint. We do reserve the right to have 911, our communications for our water system on the tank, and so somebody from one of us, if there was an issue with an antenna, might climb it, but we're talking a half-a-dozen visits a year on a big year.

ATTORNEY MCGRATH: So, no traffic generated by a water tower?

MS. RINEER: No. In fact, that pump station requires daily visits, so one truck goes back there daily right now, and they haven't had an issue with disrupting any school services for that.

ATTORNEY MCGRATH: So, looking at the site plan, at that top right corner of the bus parking lot --

MS. RINEER: Um-hmm.

ATTORNEY MCGRATH: -- there's a rectangle on the site plan. Is that a drive or a parking path to --

MS. RINEER: It'll be an access drive and there will be a space inside the fence for our truck to turn around and park if there is a need, but most likely they will -- if they just need to do a quick check on something, like, for the pump station, they just park at the very back on off hours. They know not to go during carpool, even though they can get back there, because that's the bus loop during carpool. But still, you know, they just park in the back corner. But if we were doing maintenance, it would be within the fence line, and we'd keep all our trucks back in there.

ATTORNEY MCGRATH: And the fence line. That's a question I forgot to ask. So, the base of the tower will be fenced?

MS. RINEER: Yes.

ATTORNEY MCGRATH: Will it be locked?

MS. RINEER: It'll be fenced and locked.

ATTORNEY MCGRATH: And what if, say, an enterprising middle schooler got through the fence somehow and wanted to climb the tower; are there measures in place to prevent that?

MS. RINEER: Yes. The current plan is for the ladder to be within the pedestal, so you'd have to unlock the man way and climb in and then go up, so you'd have to be very enterprising.

ATTORNEY MCGRATH: In terms of operations, is there any noise, odor, anything like that associated with the water tower?

MS. RINEER: Only time that could happen is these major maintenance tanks painting systems have gotten better and they can last up to 15 years, but we'll inspect it in order to check, so doing that if there's structures like this nearby, we typically shroud the tank in a giant looks

like a shower curtain on a grand scale to keep paint chips from falling on any cars parking out in a parking lot are as many yards; or maybe 25 years from now they would need to sand blast it to get the old paint off to put new layers on it to make that for years from now, and that would be the same kind of operation.

ATTORNEY MCGRATH: In terms of daily operation, though, nothing like that?

MS. RINEER: Nothing.

ATTORNEY MCGRATH: Any equipment; vehicles, trailers, materials; anything stored on site, other than water?

MS. RINEER: No. Outside of construction and then those major maintenance activities there shouldn't be anything stored at the tanks.

ATTORNEY MCGRATH: And I guess the last couple of questions. I don't think there's any -- there's no hiding a water tower, there's no screening a water tower, but what type of measures or what type of analysis goes into making sure that the tower fits in with the community, blends in and, uh --

MS. RINEER: Things like siting it at the middle school. People have seen that arrangement before, tanks at schools, tanks, tanks at public buildings. It's back by the wastewater pump station and topped a little bit off the road, but it will be highly visible for -- it's sitting on one of the highest spots in town and it'll be tall. And we're going to try and keep it painted nicely and -- and we've discussed with the Planning Board that there is a option for the Town to choose the lettering, a logo that goes on this tank, so we can hopefully -- right now it's going to be our standard tank lite and going to say, like, 'Archer Lodge Water District Johnston County', but you guys can change that lettering, if it doesn't cost us a ton of money. So, if it doesn't increase the cost of the project, we can do that, and if it does, we can discuss how you could contribute to get something nicer done. The plan is not to make this into a peach or a mural or anything at this time.

ATTORNEY MCGRATH: Kim, is there anything else I may have missed that you want to share with the council?

MS. RINEER: I don't -- I can't think of anything that I -- I'm hoping this is a win-win project for us all. We're excited about this project. We need this project. I think it's a good fit [Inaudible].

ATTORNEY MCGRATH: Mayor, members of council, if there are any questions of Kim? All I have left is to wrap up briefly.

COUNCIL MEMBER JACKSON: Okay. I have just one I just want to make. But the school system's fine with it?

MS. RINEER: Yes.

COUNCIL MEMBER JACKSON: That's the only question I've got.

MS. RINEER: Yes, sir. They worked with us. Even on the siting we talked even about not taking up much parking for the middle school football games, because they could park on that lawn.

COUNCIL MEMBER WILSON: I have a couple of questions.

MS. RINEER: Um-hmm.

COUNCIL MEMBER WILSON: It's 500,000-gallons of water.

MS. RINEER: Um-hmm.

COUNCIL MEMBER WILSON: If there a catastrophic failure of one of the legs towards the school, where's the water going to go?

MS. RINEER: Hmm... So, it would flood the parking lot and eventually drain to those ponds in the back. The football field would be soggy. The storm drain system could not handle 500,000 gallons at once. If there is ever a leak, it's typically very small at first and then we can find it before anything happens. They are inspected during construction and then annually and we haven't had a water tower leak. I've haven't heard that could happen.

COUNCIL MEMBER WILSON: Being that it sits on a school property --

MS. RINEER: Um-hmm.

COUNCIL MEMBER WILSON: -- are there any contingency plans with the school board or the school with reference to safety? I have not heard one word safety mentioned tonight at all.

MS. RINEER: So, we did talk to the school about having it fenced and the man way inaccessible so that the middle schoolers would not go up there. As far as the tank is sited so that it would not impact any school structures even in a catastrophic failure. The ground elevation is such that it would drain away from the main school facility, so the school has not talked to us about having a special emergency plan for anything like that.

COUNCIL MEMBER WILSON: I'm asking you to take it into consideration, there is a school there and there are children there.

MS. RINEER: Yes.

COUNCIL MEMBER WILSON: Nothing.

MS. RINEER: Other than access to it that they didn't have any concerns. Especially where it's sited the only thing it can take out is our pump station, actually.

COUNCIL MEMBER WILSON: You made a statement that this was the best place or best use of the property was this water tank. Well, that's school property. I think the best use of the property is for the school and I'm not at all happy about a 500,000-gallon water tank hanging over the heads of kids. And the initial surge of water, I'm assuming, would be very quick and there would be destruction if there was a catastrophic failure.

MS. RINEER: This is welded together sheets of steel, and a weld could fail. I do not know of a case where a tank released its entire volume at once without falling over, but the likelihood of that is extremely rare. And the school system has had experience with having a water tank on site at McGee Elementary School and they felt very comfortable with it.

COUNCIL MEMBER WILSON: I happen to have watched last evening "When Large Projects Go Wrong."

MS. RINEER: Um-hmm.

COUNCIL MEMBER WILSON: A case in point is a couple of condominium project in New Orleans that collapsed on itself. And we all know the Titanic was not supposed to sink.

MS. RINEER: Correct.

COUNCIL MEMBER WILSON: So, there is a possibility, however rare, and that's why most towns, state governments, etcetera, have contingency plans. The fact that it, as I said before, it's on school property, that concerns me. It concerns me. I have grandchildren that go to school there and I'm not at all happy about the situation.

MS. RINEER: Um-hmm.

COUNCIL MEMBER WILSON: And I have one last item. I read on the weekend the JoCo report where the county commissioners had approved the project, let the contract, and they need you to believe in this article that it's a done deal. Not once does it mention the requirement for a special use permit, so any person reading this article would think they're building it already.

MS. RINEER: And I understand that. The timing of this project was tight after we spent that year with the town of Clayton trying to figure out if they wanted to participate and then we -- to numerous challenges siting the tank. This project is funded by a State Reserve Project loan. It was a special pot of money that was made available in 2017, and the county pursued it for this project. They were hoping that we would be under contract by 2020, about the time of 2020, and we kept delaying, so that's the first problem is that we needed to stay on schedule for our funding, but the second was our lack of knowledge of your special use permit requirements. And that's on us. We were caught unaware by this requirement and so we have worked with that resolution. It was awarded subject to NC DWI approval for the loan. They require that we do it that way, so it wasn't a done deal in any way and I'm sorry that it was reported that way, 'cause it was a contingent resolution. But, also, the contractor and the county worked it out. They can't start construction till we get that smoothed issue and receive that would be part of this. So, this is very much contingent on whether the town approves the project.

COUNCIL MEMBER WILSON: Mr. Mayor, I want to pursue the possible add-ons to this if we are going to address those later on this evening. Is it on the agenda?

MAYOR MULHOLLEM: Pardon? What was the last part of that statement, Council Member Wilson?

COUNCIL MEMBER WILSON: If there are any plans of addressing -- let me turn this completely on. In the add-on to the original that we require, say, for instance, if Johnston County failed to complete all of its requirements, that the -- for instance, the property would revert to the school or there would be a requirement attached that says you must develop a contingency plan with the school, the local school there, in case of a safety issue. Was that planned to be addressed this evening? If not, I will --

MAYOR MULHOLLEM: Well, that question can be asked right now during this part, I assume.

MS. RINEER: I cannot tell you if the school system has its own contingency plans. I do know that we've safely operated water tanks in the county for a really long time and that failure is extremely rare. But I understand planning for it that if it were to happen, but I would assume that's something the school would do for their site-specific issue.

COUNCIL MEMBER WILSON: Well, I know one schoolteacher over there that wasn't even aware of it today. And my concern is, unless there is something covered in the special use -- attached to the special use permit that requires a development of a -- some plan of action that the school would take if something happened at that water tower that

involved children. I'm not inclined to vote for this if there are not attachments to this.

ATTORNEY BURRELL: And to address that, Mr. Wilson, as part of a special use permit, the council, by a majority vote, can impose reasonable considerations.

COUNCIL MEMBER WILSON: But I think safety is a reasonable consideration.

ATTORNEY BURRELL: So, if the council decides, that is something that can be done. Reasonable conditions upon approval.

COUNCIL MEMBER WILSON: Okay.

MAYOR MULHOLLEM: All right. Are there any further questions?

COUNCIL MEMBER JACKSON: On that particular part, would it require -- would it require that they have those things in place prior to construction or that they develop a plan? You know, not saying it has to exist right at this moment, but that they develop a plan; what if?

ATTORNEY BURRELL: And it's just the same way that, hey, in order to build this building, you must meet these conditions, setbacks, buffering's, anything like that; in order to begin construction or get the final approval, the school board would have to have a contingency plan for catastrophic failure. That could be a condition imposed upon approval of the special use permit.

COUNCIL MEMBER JACKSON: Okay.

ATTORNEY BURRELL: So, it's not something that, hey, we have to have the contingency plan before we have a vote on the approval of the application; it's approval of the application is conditioned upon a contingency plan of the catastrophic failure.

MAYOR MULHOLLEM: And I do think it would be fair to say that if both the school board and the county have approved this, that would lead me to believe that it's been considered.

ATTORNEY MCGRATH: Mr. Mayor, if I can --

MAYOR MULHOLLEM: Yes.

ATTORNEY MCGRATH: -- I'd like to ask Ms. Rineer a couple of clarifying questions on that point exactly. Kim, would this project even have reached this stage if the school board wasn't completely satisfied with the site and the location?

MS. RINEER: The school board was required to vote to grant the easement and for this specific purpose and so they are familiar with the project, and we've worked closely with the principal on site and, also, their facilities maintenance staff with siting this.

ATTORNEY MCGRATH: And when you locate, because I know you mentioned there was one in the McGee Crossroads, one of these is located at a school or the fire station here in Archer Lodge, for example

MS. RINEER: Um-hmm.

ATTORNEY MCGRATH: -- you know, once the tower's constructed, that's not the end of the county and the water district's involvement with the site, is it?

MS. RINEER: No, no. We're partners at this site. We have an easement to use their access road to the site. We've been talking to our maintenance staff, make sure everybody knows where who's mowing what and at what end and -- and not so, you know; if they ever have any issues with any operation, we're constantly working. And we've been good partners with the school on many utility projects. We provide water and sewer to almost every school in the county.

ATTORNEY MCGRATH: And we talked earlier about some of the features of this specific footprint on this plan.

MS. RINEER: Um-hmm.

ATTORNEY MCGRATH: We said the tower was, let's call it, 160-165 feet. I think that's on the high side --

MS. RINEER: Yeah. It's 155 would be about the highest we could go.

ATTORNEY MCGRATH: Okay. And I think you testified earlier that the closest structure that is not the county's zero lift station, that darker colored outbuilding is about 270 feet away?

MS. RINEER: Around 278 feet, yeah. And even the edge of the parking lot, the bus parking lot is 160 or so feet?

MS. RINEER: Uh, yeah. It is around 160 feet away.

ATTORNEY MCGRATH: So, if --

MS. RINEER: It would be -- it would be a challenge. And the site all drains to the back. If you looked on the other one, there's drainage ponds there. The school is higher than any of the area. That is a drainage ditch along that road where the water would go. It would overflow probably at the rate it's coming into that bus parking lot; it'll want to just sheet flow back to those ponds. It could not flood the school, in my engineering opinion.

COUNCIL MEMBER JACKSON: Even if you had the catastrophic --

MS. RINEER: Even if all that came down, the grading is all sheet flow to the back of the property where those ponds are, and it would hit that drainage ditch that runs along the road there. It would be more than the volume of the drainage ditch and go over into that parking lot around and back towards the football fields. But there would be a warning sign to a catastrophic and it would be a small leak, there would be something. On the entire seam of, no. And our staff will be visiting that pump station every day and school staff will be looking up at that tank every day there, and I just -- it's the least likely thing to happen. I think the fire protection gave by the school, a fire would be much more likely, even just a car fire in the parking lot, but they will never run out of a car for a fire. It would take the whole thing going up at once.

ATTORNEY MCGRATH: And just, I guess, the final question at this point. So, is it your professional opinion that both the topple risk of the tower and the flow that would be created if all 500,000 gallons were to get dropped at once, that the layout and the site design here takes both of those into consideration?

MS. RINEER: It does. It does. And even one gallon of water is a little over 7 pounds. When you put all that in the air you cannot [Inaudible]. It's always the last thing you see in every hurricane [Inaudible].

COUNCIL MEMBER WILSON: I just have one more comment. As I say, I am not a fan of putting it on school property. A school that uses temporary classrooms cannot afford to give its property away. They need

every inch of property they have, because there's not much property over at Archer Lodge Middle School for expansion. So, they've operated over capacity for that school about three years after it was built and now, we're using portable classrooms there and I just don't believe it's a smart thing to do to give away property.

MS. RINEER: It did go before their board, and they voted to pursue.

MAYOR MULHOLLEM: Can you tell us what that vote was by the school board? Was that vote unanimous?

MS. RINEER: I am not familiar with that re-- recall.

MAYOR MULHOLLEM: All right. Are there any other questions? Anything?

ATTORNEY MCGRATH: Just briefly, Mr. Mayor, members of the council, I really do appreciate your patience with us this evening. I did want to circle back and touch briefly on these standards that are in your UDO. The first standard that's up here, we just spoke, you know, at some length about "the use will not materially endanger the public health and safety if located where proposed." In addition to some of the other discussions we just had about catastrophic failure risk and the highly, highly unlikely event that those would occur, as Ms. Rineer testified incredibly unlikely; but on a regular basis, a more day-to-day basis, even then Ms. Rineer testified its water tower will be inspected, it's maintained. The nature of the use itself poses no inherent risk. The water just sits there. It's not a -- I've dealt with some special use cases for wind turbines down East. This is not that. It just sits there, it's quiet, it's odorless, and it's non-toxic. We talked a little bit about the height of the structure compared to what's around it and I think a worthwhile comparison, though not a hundred percent here, is the UDO itself has buffer rules for wireless communications towers that are equal to their height. That's built in to the site. We've got a, you know, just under a 160-foot tower. If that were to, good Lord forbid, topple over, it's not -- the physical tower is not reaching the bus parking lot. All of that, again, was taken into consideration between the county water district and the school board when both bodies elected to pursue this. The second standard here is that it complies with all standards, conditions, specifications of the UDO. These are a few of those. I'm not going to run completely through those, but among these are that the use itself be located interior, away from public streets. We're in the -- this section of the property is far from a public street, but it has the needed access. It's not something that's flagging you down on the side of the highway. There are no dangerous equipment apparatus. There's nothing stored here. There will be a fence. There will be design elements to keep folks from climbing on the tower. That's about the only danger this tower poses and those are built into the design of the towers, as Ms. Rineer testified. Just looking quickly. Again, nothing stored. Let me go back here. So, you know, we would submit that the use satisfies that second standard. The third is, it will not substantially injure the value of abutting land or that the use is a public necessity. Ms. Rineer's unequivocal testimony was that, given the realities of development Johnston County wide, this is a public necessity. I will also note, somewhat anecdotally, that out of intellectual curiosity, I pulled some tax cards from around the fire department water tower comparing both before the tower's installed and after. I think you all know what I quickly found; a lot of development's happened in that area since the tower's been there. If there were a substantially injurious impact on property and property values by a water tower, I think we would have seen it there. But, again, this is a public necessity. The use will be in harmony with the area in which it is located. In North Carolina, when a zoning ordinance includes a particular use as a special or conditional use in a zoning district, that itself is prima facie evidence that that use is in harmony with that district. And that's what we have here. The major utility is a special use in the O&I district. But even beyond that, Ms. Rineer testified, again, about the

quiet nature of this, about the location on the site that not only the impact that the location on the site has on the rest of the site itself and also the school, but this corner where the water tower's going to be located is away from the existing relatively dense single-family homes. It's on the agricultural side of property and, again, it doesn't impact any of the -- any of the ball fields or any of the school activities; so we also submit that it's in harmony. Ms. Maybee actually touched a little bit on the town's comprehensive plan and whether this is in general conformity with your adopted policy guidance. And I wrote it down, but I think it's over there. But I liked how she presented that. You know, how Archer Lodge grows is on a different night a policy decision that this council needs to make, but however it grows, and I think we all know it's growing, and having reliable water service to meet whatever that looks like is certainly in conformity with the policy guidance, specifically the policy guidance for economic development and work force development. And then, finally, the use will not exceed the town's ability to provide adequate public facilities. You know, this use is a water tower. It's all about increasing the ability to provide public facilities. Ms. Rineer spoke a lot about fire service being a point of concern for the county on a water supply standpoint, but it should be a point of concern for everyone. And having, you know, the ability to fully support those resources and the flexibility that having additional water resources will bring, we think it certainly satisfies this individual standard. So, with that, you know, I guess the takeaway here is that Archer Lodge is clearly growing. You know that better than I do. The addition of a water tower on a middle school is a clean fit. It's a reasonable fit. It's one the school board has signed off on and it's one the school board has experience with in other locations, and having this will allow the county and the water district to continue to provide reliable water service to folks in and around Archer Lodge. With that, I would ask that the presentation be included in the record. And we're happy to answer any additional questions. And, seriously, thank you for your time.

MAYOR MULHOLLEM: Thank you. Are there any additional questions? All right.

9. Persons opposed to granting the application shall present arguments and evidence against.

MAYOR MULHOLLEM: Item 9. Persons opposed to granting the application shall present arguments and evidence against. I think it's been established that there is no party in opposition with us tonight.

10. Opportunity for cross-examination.

MAYOR MULHOLLEM: Item 10. Opportunity for cross-examination. Counsel, I'm assuming with no party in opposition here that there would be no need for cross-examination; is that correct?

ATTORNEY BURRELL: That's correct, Mr. Mayor.

11. After all evidence has been presented, the Mayor asked the parties if there was additional relevant information that has not been presented that would make a continuance in order.

MAYOR MULHOLLEM: Item 11. After all evidence has been presented the Mayor may ask the parties if there is any additional relevant information that has not been presented that would make a continuance in order. Is there such any additional relevant information?

ATTORNEY MCGRATH: No, Mr. Mayor.

MAYOR MULHOLLEM: Thank you.

12. The Mayor entertained objections and rule on the admissibility of the evidence or exhibit.

MAYOR MULHOLLEM: Item 12. At this time, I'll entertain any objections and rule on the admissibility of the evidence or exhibit. Okay. Hearing none, I assume we could move on?

ATTORNEY BURRELL: Yes, sir.

13. Mayor - To close the Public Hearing unless the hearing has been continued to the next regularly scheduled quasi-judicial hearing or to a publicly stated date, time, and location.

MAYOR MULHOLLEM: Item 13. At this time, I'll close the quasi-judicial public hearing, unless the hearing had been continued to the next regular scheduled quasi-judicial hearing or to a publicly stated date, time or location. That has not been done, so at this time this quasi-judicial public hearing is closed.

Mayor Mulhollem Closed the Quasi-Judicial Public Hearing at 7:47 p.m.

(WHEREUPON, THE QUASI-JUDICIAL HEARING WAS CLOSED)

14. Mayor called for a vote of each of the findings of fact/conclusions for a special use permit.

ATTORNEY BURRELL: Before we begin item 14, Mr. Mayor one change as to what is written here in the agenda regarding 160-D. Our new UDO changed some things with a quasi-judicial hearing regarding voting. As long as it is not a variance, a simple majority is all that is required for the findings-of-fact and for the special use permit approval. So instead of the super majority vote that was required; now we only need a simple majority vote of the Council.

MAYOR MULHOLLEM: Okay. Thank you for that point.

Mayor Mulhollem called for a series of votes on each of the Findings-of-Fact for:

A. All applicable specific conditions pertaining to the proposed use have been or will be satisfied.

- *The proposed tank will facilitate greater water system reliability, better pressure and storage for fire protection, and additional storage for growth in the region. The County will also use the tank to improve SCANDA and/or 911 communication reliability. No third-party service providers will be allowed to mount equipment on the tank without additional approval from the Town.*

Council Member Jackson moved to approve the findings of fact for "A." The motion was seconded by Council Member Purvis and approved by a 3 to 1 vote. Council Member Wilson opposed.

B. Access roads or entrance and exit drives are to or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.

- *The existing access road to the middle school will support the infrequent need to visit the tank site. The easement agreement allows for access.*

Council Member Jackson moved to approve the findings of fact for "B." The motion was seconded by Council Member Purvis and approved by a 3 to 1 vote. Council Member Wilson opposed.

C. Off street parking, loading, refuse, and other service areas are located so as to be safe convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties in the general neighborhood.

- *Parking is available on the tank site for maintenance vehicles.*

Council Member Jackson moved to approve the findings of fact for "C." The motion was seconded by Council Member Purvis and approved by a 3 to 1 vote. Council Member Wilson opposed.

D. Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.

- *Yes. All will see improved service.*

After deliberation, Council Member Jackson moved to approve the findings of fact for "D." The motion was seconded by Council Member Purvis and approved by a 3 to 1 vote. Council Member Wilson opposed.

E. The location and arrangement of the use on the site, screening, buffering, landscaping, pedestrian ways, and bicycle facilities harmonize with adjoining properties and the general area and minimize adverse impact.

- *The District worked with the school to site facility in an area that would not be disturb the current use of the site. Elevated tanks are often used to advertise the local community and instill civic pride. Our current policy allows for the Town to choose to place a name or logo on the tank for the cost difference from our standard letter.*

Council Member Jackson moved to approve the findings of fact for "E." The motion was seconded by Council Member Purvis and approved by a 3 to 1 vote. Council Member Wilson opposed.

F. The type, size, and intensity, of the proposed use, including such considerations as the hours of operations, and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

- *Elevated storage tanks are highly visible. The use of the site will not produce noise, odors, traffic, or nuisances, beyond original construction and infrequent (every 7-10) major maintenance. The public will not use this site.*

Council Member Jackson moved to approve the findings of fact for "F." The motion was seconded by Council Member Purvis and approved by a 3 to 1 vote. Council Member Wilson opposed.

15. Mayor Mulhollem called for a motion for the Johnston County Special Use Permit.

Mayor added that the Special Use Permit application submitted by Johnston County to construct a 500,000-gallon elevated water storage tank on the Archer Lodge Middle School property located at 762 Wendell Road, Wendell, NC.

Council Member Jackson moved to approve the special use permit for the purpose of the water tank. The motion was seconded by Council Member Purvis and approved by a 3 to 1 vote. Council Member Wilson opposed.

Discussion:

- Council Member Jackson commented that he appreciated that Council Member Wilson was opposed due to the chance of a

catastrophic event. He noted he approved it due to the Planning Board recommendation and School Board approving it. He noted that the Fire Department Water Tower is much closer than the proposed tank and in the future the Town will need another tank for the fire safety in the Town.

- Council Member Wilson shared that he isn't opposed to the water tower itself, but he is opposed to the location site at the Archer Lodge Middle School.

17. Mayor Mulhollem called for a motion for the Site Plan.

Council Member Jackson moved to approve the site plan as presented. The motion was seconded by Council Member Purvis and approved by a 3 to 1 vote. Council Member Wilson opposed.

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Approved Findings of Fact "A" as presented.

CARRIED 3 to 1 (Wilson Opposed)

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Approved Findings of Fact "B" as presented.

CARRIED 3 to 1 (Wilson Opposed)

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Approved Findings of Fact "C" as presented.

CARRIED 3 to 1 (Wilson Opposed)

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Approved Findings of Fact "D" as presented.

CARRIED 3 to 1 (Wilson Opposed)

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Approved Findings of Fact "E" as presented.

CARRIED 3 to 1 (Wilson Opposed)

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Approved Findings of Fact "F" as presented.

CARRIED 3 to 1 (Wilson Opposed)

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Approved Special Use Permit for Johnston County for an elevated water storage tank at the Archer Lodge Middle School at 762 Wendell Road, Wendell, NC.

CARRIED 3 to 1 (Wilson Opposed)

Moved by: Council Member Jackson
Seconded by: Council Member Purvis

Approved Site Plan for Johnston County for an elevated water storage tank at the Archer Lodge Middle School at 762 Wendell Road, Wendell, NC.

CARRIED 3 to 1 (Wilson opposed)

[11.15.21 Agenda Item 2. Staff Report](#)

[11.15.21 Agenda Item 2 SUP Staff's PP](#)

[09.20.21 Submitted SUP Application](#)

[11.15.21 Poyner Spruill Attorney's PP](#)

[12.01.21 Recorded Jo Co SUP Findings of Facts and Site Plan](#)

3. PUBLIC HEARING

48 - 99

- a) **Discussion and Consideration of Amending the Town of Archer Lodge Code of Ordinances, Archer Lodge, NC, Chapter 30 - UDO**

- **ARTICLE 2. - AUTHORITIES, DIVISIONS 1, 5, and 6**
- **ARTICLE 3. - PROCEDURES, DIVISION 1**
- **ARTICLE 4. - ZONING DISTRICTS, DIVISION 5**
- **ARTICLE 5. - USE REGULATIONS, DIVISION 3**

1. **Open Public Hearing**
2. **Staff Report and Planning Board Recommendations**
3. **Public Comments**
4. **Close Public Hearing**
5. **Governing Body**
 - **Discussion and Consideration of the Consistency Statement**
 - **Discussion and Consideration of Adopting Ordinance# AL2021-11-1 Amending the Code of Ordinances, Town of Archer Lodge, NC, Chapter 30 - Unified Development Ordinance: Article 2; - Authorities, Divisions 1, 5, and 6; Article 3; - Procedures, Division 1; Article 4. - Zoning Districts, Division 5; and Article 5. - Use Regulations, Division 3.**

1. Mayor Mulhollem **opened the Public Hearing.**

2. Ms. Maybee informed that Mr. Meadows would be discussing the proposed text amendments to the Town Council. She noted that advertisement was posted in accordance with the ordinance provisions.

Mr. Meadows discussed the following:

- First round of amendments for the UDO that was adopted June 7, 2021.
- Common for local governments to consider changes to the Unified Development Ordinance soon after having been adopted.
- Basic changes discussed.
 - Definition of review and authorities.
 - Clarification to powers and duties of the Technical Review Committee
 - Powers and Duties of the Town Planner position.
 - Adjustments to the clarifications in the Cluster Development provisions in the water supply/watershed overlay district (WSWOD).
 - Change in the manufactured home skirting requirements.
 - Clarification on electronic gaming use standards.
- Built a variety of tracking mechanisms in the UDO to allow keeping up with the document changes such as:
 - Ordinance Amendments Tracking Table
 - Updated footer with revision dates
 - Intend to incorporate series of editors notes into the body of the text about a particular section that changed based on the UDO text amendment.
- Suggested four basic changes to the UDO in regard to the cluster development provision in the WSWOD is as follows:
 - Remove minimum lot areas.
 - Remove minimum lot width.
 - Set-backs will still apply.

The proposed amendments appeared on the agenda.

Ms. Maybee presented the Staff Report and Planning Board Recommendations which appear at the end of the minutes.

Ms. Maybee noted that Staff requested that a copy of the Staff Report and Planning Board Recommendation and PowerPoint Presentation be included in the record.

3. Mayor Mulhollem opened the floor for **Public Comments.**

There were none.

4. Mayor Mulhollem **closed the Public Hearing at 8:26 p.m.**

5. Governing Body:

- **Discussion and Consideration of the Consistency Statement:**
 - Mayor Mulhollem read the Consistency Statement.

Mayor Mulhollem called for a motion to approve the Consistency Statement and the Approved Consistency Statement appears at the end of the minutes.

- **Discussion and Consideration of Adopting Ordinance# AL2021-11-1 Amending the Code of Ordinances, Town of Archer Lodge, NC, Chapter 30 - Unified Development Ordinance: Article 2; - Authorities, Divisions 1, 5, and 6; Article 3; - Procedures, Division 1; Article 4. - Zoning Districts, Division 5; and Article 5. - Use Regulations, Division 3.**

Mayor Mulhollem called for a motion to adopt Ordinance# AL2021-11-1 and the Adopted Ordinance# AL2021-11-1 appears at the end of the minutes.

Moved by: Council Member Wilson

Seconded by: Council Member Purvis

Approved Consistency Statement as presented.

CARRIED UNANIMOUSLY

Moved by: Council Member Wilson

Seconded by: Mayor Pro Tem Castleberry

Adopted Ordinance# AL2021-11-1 Amending the Code of Ordinances, Town of Archer Lodge, NC, Chapter 30 - Unified Development Ordinance: Article 2; - Authorities, Divisions 1, 5, and 6; Article 3; - Procedures, Division 1; Article 4. - Zoning Districts, Division 5; and Article 5. - Use Regulations, Division 3.

CARRIED UNANIMOUSLY

[11.15.21 Agenda Item 3. Staff Report](#)

[11.15.21 Agenda Item 3 UDO TA Staff's PP](#)

[11.15.21 UDA TA Approved Consistency Statement](#)

[11.15.21 Adopted Ordinance# AL2021-11-1 Ordinance Amending Ch 30, Art 2, Div 1,5,6 Art 3, Div 1, Art 4, Div 5 and Art 5, Div 3](#)

4. ADJOURNMENT:

- a) Having no further discussion, Mayor called for a motion to adjourn.**

Moved by: Council Member Jackson

Seconded by: Council Member Purvis

Adjourned special meeting at 8:30 p.m.

CARRIED UNANIMOUSLY



Matthew B. Mulhollem, Mayor



Kim P. Batten, Town Clerk





TOWN OF ARCHER LODGE
14094 Buffalo Road
Archer Lodge, NC 27527
Main: 919-359-9727
Fax: 919-359-3333

Mayor:
Matthew B. Mulhollem

Council Members:
Clyde B. Castleberry
Mayor Pro Tem
Teresa M. Bruton
J. Mark Jackson
James (Jim) Purvis, III
Mark B. Wilson

To: Town Council
From: Julie Maybee, Town Planner
Date: November 11, 2021
Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney
Re: Agenda Item 2. – Staff Report - Special Use Permit Application (SUP-9-1-21) submitted by Johnston County to Construct a 500,000-Gallon Elevated Water Storage Tank on the Archer Lodge Middle School Property located at 762 Wendell Road, Wendell, NC

Background:

On September 20, 2021, a Special Use Permit Application was submitted by Johnston County to construct a 500,000-gallon elevated water storage tank on the Archer Lodge Middle School 40.66-acre property, 762 Wendell Road, Wendell, NC. The property is owned by Johnston County Board of Education, a Governmental Entity, and is referenced as Johnston County parcel tag id number 16J03017A.

Accompanying the special use permit application is the proposed site plan depicting the location of the elevated storage tank on a 1.16-acre easement area on said property.

A link to the special use permit application and site plan is included (see Agenda Item 7. b.)

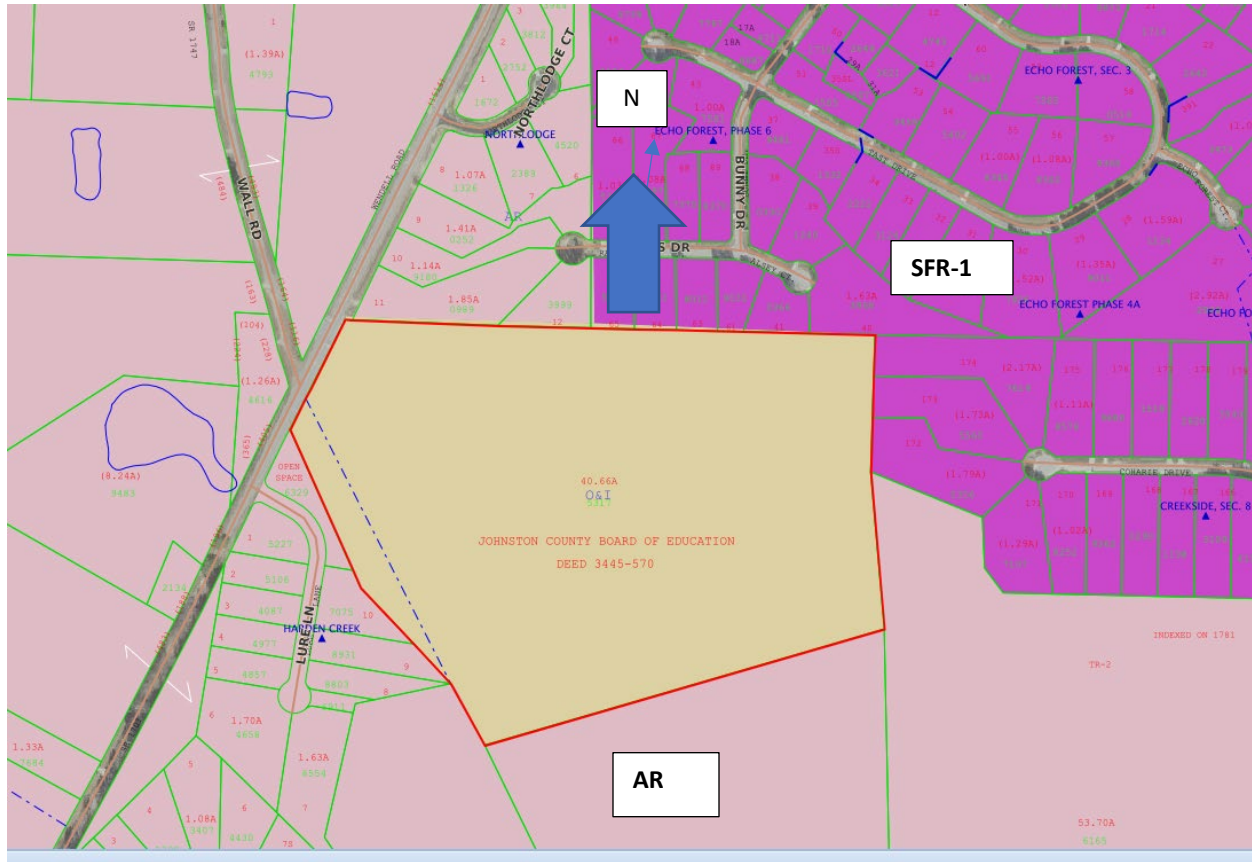
Publication Requirements:

Advertisement/public notice of the meeting and the proposed special use permit/site plan was completed in accordance with applicable NC General Statutes and Unified Development Ordinance provisions.

Zoning:

The property is zoned Office and Institutional (OI) District. It is bounded on the North and East by lands zoned Single Family Residential District (SFR-1) and Agricultural-Residential (AR) District. Bounded on the South and West by lands zoned AR.

The property is not located in Water Supply Watershed Protection Overlay District (WSWOD), nor does it contain any 100-year flood plains.



Subject Property and Adjacent Land Uses:

Staff will present photographs of the of the site and adjacent land uses at the meeting.

Technical Review Committee Comments:

As of this writing no comments have been received from the Technical Review Committee on the special use permit application/site plan.

Future Land Use Plan (Excerpts from the 2030 Archer Lodge Comprehensive Land Use Plan):

Community Vision & Mission Statement:

- "Vision Statement: Today and into the future the Town of Archer Lodge, will be a peaceful, family oriented, active community that looks to retain our small-town, agricultural character meeting the needs of current and future residents and business."

- “Mission Statement: The Town of Archer Lodge is a community that honors and embraces its rich cultural heritage and past, pursues healthy living in the present and looks for opportunity of mold future growth into the town’s core values. Archer Lodge is home to many natural resources and open-agricultural land. With an eye toward planning future growth the Town will protect these resources.”

Future Land Use:

- The *Town of Archer Lodge 2030 Comprehensive Land Use Plan* (2015) identifies key areas for land use and growth management, it makes recommendations relating to community image, small economic development and skill training, business and farming relationships, public services and infrastructure, parks, and recreation, as well as environmental protection and historic preservation.
- According to the plan, Archer Lodge is located within the Research Triangle Economic Development region designated by the State.
- Archer Lodge is described as a sub-rural community that combines the town’s agricultural and suburban lifestyles.
- Given the influx of families moving to the Town, the plan acknowledges the likelihood of change in the community.
- Archer Lodge anticipates continued agricultural uses, residential developments, and business development to be the future land uses in the Town.

Staff Recommendations:

A PowerPoint presentation given at the meeting. Staff recommends approval since it complies with applicable ordinance provisions. Staff concurs with the Planning Board recommendations.

Planning Board Recommendations:

On November 10, 2021, the Planning Board considered the proposed special use permit application and site plan. After deliberation, the Planning Board unanimously recommends approval (see Exhibit #1).

Requested Council Action:

Staff respectfully requests that the Town Council:

- a) Conduct a quasi-judicial public hearing.
- b) After closing the public hearing, deliberate on the special use permit application and site plan.
- c) Vote on each finding of fact.
- d) Vote on the site plan.

EXHIBIT #1**ARCHER LODGE PLANNING BOARD RECOMMENDATIONS
JOHNSTON COUNTY SPECIAL USE PERMIT AND SITE PLAN**

On November 10, 2021, the Archer Lodge Planning Board conducted a public meeting and deliberated on a special use permit application submitted by Johnston County to construct a 500,000-gallon elevated water storage tank on the Archer Lodge Middle School 40.66-acre property, 762 Wendell Road, Wendell, NC. Accompanying the special use permit application was the proposed site plan depicting the location of the elevated storage tank on a 1.16-acre easement area on said property. The property is owned by Johnston County Board of Education, a Governmental Entity, and is referenced as Johnston County parcel tag id number 16J03017A. The property is zoned Office-Institutional District (OI).

After deliberation, Planning Board voted unanimously to approve the *findings of fact* for “A.” as stated below:

- A. All applicable specific conditions pertaining to the proposed use have been or will be satisfied.

The proposed tank will facilitate greater water system reliability, better pressure and storage for fire protection, and additional storage for growth in the region. The County will also use the tank to improve SCANDA and/or 911 communication reliability. No third-party service providers will be allowed to mount equipment on the tank without additional approval from the Town.

After deliberation Planning Board voted unanimously to approve the *findings of fact* for “B.” as stated below:

- B. Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.

The existing access road to the middle school will support the infrequent need to visit the tank site. The easement agreement allows for access.

After deliberation, the Planning Board voted unanimously to approve the *findings of fact* for “C” as stated below:

- C. Off-street parking, loading, refuse, and other service areas are located so as to be safe convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties in the general neighborhood.

Parking is available on the tank site for maintenance vehicles.

After deliberation, the Planning Board voted unanimously to approve the *findings of fact* for “D.” as stated below:

- D. Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.

Yes. All will see improved service.

After deliberation, voted unanimously to approve the *findings of fact* for “E.” as stated below.

- E. The location and arrangement of the use on the site, screening, buffering, landscaping, pedestrian ways, and bicycle facilities harmonize with adjoining properties and the general area and minimize adverse impact.

The District worked with the school to site facility in an area that would not disturb the current use of the site. Elevated tanks are often used to advertise the local community and instill civic pride. Our current policy allows for the Town to choose to place a name or logo on the tank for the cost difference from our standard letter

After deliberation, the Planning Board voted unanimously to approve the *findings of fact* for “F.” as stated below.

- F. The type, size, and intensity, of the proposed use, including such considerations as the hours of operations and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

Elevated storage tanks are highly visible. The tank will be seen by adjoining properties. The use of the site will not produce noise, odors, traffic, or other nuisances, beyond original construction and infrequent (every 7-10) major maintenance. The public will not use this site.

Based on the above, a motion was made by Planning Board Member Herbert Locklear and seconded by Planning Board Vice Chair Teresa Romano to recommend approval of the special use permit to the Archer Lodge Town Council. The motion carried unanimously.

After deliberation, a motion was made by Planning Board Vice Chair Teresa Romano and seconded by Planning Board Member Terry Barnes to approve the submitted site plan. The motion carried unanimously.



1

Special Use Permit Application

2

Agenda Item
#1

□ On September 20, 2021, a Special Use Permit Application was submitted by Johnston County to construct a 500,000-gallon elevated water storage tank on the Archer Lodge Middle School 40.66-acre property, 762 Wendell Road, Wendell, NC. The property is owned by Johnston County Board of Education, a Governmental Entity, and is referenced as Johnston County parcel tag id number 16J03017A. Accompanying the special use permit application is the proposed site plan depicting the location of the elevated storage tank on a 1.16-acre easement area on said property.

2

Town Council Requested Action

3

Agenda Item
#1

- Staff respectfully requests that the Town Council conduct quasi-judicial public hearing in accordance with adopted "Town of Archer Lodge Rules of Procedure" adopted on 11-2-21.
- Governing Body:
 - Mayor – Calls for vote. 1st and 2nd needed and the vote on **each** of the findings of fact/conclusions for the special use permit. *
 - Mayor – Calls for a vote on the Special Use Permit. 1st and 2nd needed and vote. *
 - Mayor – Calls for a vote on the Site Plan. 1st and 2nd needed and vote.

*Town Council may attach conditions of approval in accordance with the Ordinance and State Law. Super majority vote required on Findings of Fact and Approval of the Special Use Permit.

3

Quasi-Judicial Public Hearing Conduct of Public Hearing

- Swear in Witnesses, including staff, who intend to Present Evidence
- **Mayor to call the case as stated on the agenda.**
- If applicant is to be represented by anyone other than a licensed attorney, the applicant shall request the consent of the Town Council
- Members of Town Council to disclose the following:
 - Any site visits.
 - Ex parte communications.
 - Specialized knowledge they have relevant to the case.
 - Fixed opinion that is not susceptible to change based on what they learn.
 - Conflict of Interest.
 - Financial interest; and
 - Any other information relevant to determining whether a conflict of interest
 - ** Town Council to vote on recusal of member if any conflict exists.
 - Note: The applicant or other affected persons may present any objections regarding a member's participation.
- **Mayor open the public hearing.**
- Staff to present the staff report
- All parties represented by attorneys, the applicant, followed by any opposing party, may present a brief opening statement

4

Quasi-Judicial Public Hearing Conduct of Public Hearing

- Applicant has opportunity to present the arguments and evidence in support of the application.
 - Persons opposed to granting the application shall present arguments and evidence against.
 - Opportunity for cross-examination.
 - After all evidence has been presented, the **Mayor** may ask the parties if there is additional relevant information that has not been presented that would make a continuance in order.
 - The **Mayor** will entertain objections and rule on the admissibility of the evidence or exhibit.
 - **Mayor** to Close the public hearing unless the hearing has been continued to the next regularly scheduled quasi-judicial hearing or to a publicly stated date, time and location.
 - The Archer Lodge Town Council to render a decision on the special use permit request. **Mayor to call for a vote on each finding of fact/conclusions, and special use permit.**
 - **Must receive a super majority vote of the Town Council for the Application to be approved.**
 - **The Town Council may attach conditions of approval in accordance with existing state law and Town Code.**
-
- **Mayor to call for a vote on the site plan.**

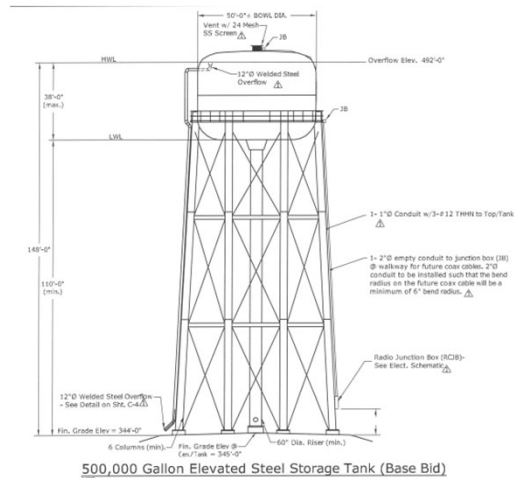
5



6

500,000 Gallon Elevated Steel Storage Tank ILLUSTRATION

7



7

Findings of Fact Submitted by Applicant via Special Use Permit Application

8

A. All applicable specific conditions pertaining to the proposed use have been or will be satisfied;

The proposed tank will facilitate greater water system reliability, better pressure and storage for fire protection, and additional storage for growth in the region. The County will also use the tank to improve SCADA and/or 911 communication reliability. No third party service providers will be allowed to mount equipment on the tank without additional approval by the Town.

B. Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency;

The existing access road to the middle school will support the infrequent need to visit the tank site. The easement agreement allows for access.

C. Off-street parking, loading, refuse, and other service areas are located so as to be safe convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties in the general neighborhood;

Parking is available on the tank site for maintenance vehicles.

D. Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use;

Yes. All will use improved service.

E. The location and arrangement of the use on the site, screening, buffering, landscaping, pedestrian ways, and bicycle facilities harmonize with adjoining properties and the general area and minimize adverse impacts;

The District worked with the school to site the facility in an area that would not disturb the current use of the site. Elevated tanks are often used to advertise the local community and install civic pride. Our current policy allows for Town to choose to place a name or logo on the tank for the cost difference from our standard lettering.

F. The type, size, and intensity, of the proposed use, including such considerations as the hours of operations and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

Elevated storage tanks are highly visible. This tank will be seen by adjoining properties.

The use of this site will not produce noise, odors, traffic or other nuisance, beyond original construction and infrequent (every 7-10 year) major maintenance. The public will not use this site.

8

Future Land Use Plan (Excerpts from the 2030 Archer Lodge Comprehensive Land Use Plan):

9

- "Vision Statement: Today and into the future the Town of Archer Lodge, will be a peaceful, family oriented, active community that looks to retain our small-town, agricultural character meeting the needs of current and future residents and business."
- "Mission Statement: The Town of Archer Lodge is a community that honors and embraces its rich cultural heritage and past, pursues healthy living in the present and looks for opportunity of mold future growth into the town's core values. Archer Lodge is home to many natural resources and open-agricultural land. With an eye toward planning future growth the Town will protect these resources.

9

Future Land Use

10

- The Town of Archer Lodge 2030 Comprehensive Land Use Plan (2015) identifies key areas for land use and growth management, it makes recommendations relating to community image, small economic development and skill training, business and farming relationships, public services and infrastructure, parks, and recreation, as well as environmental protection and historic preservation.
- According to the plan, Archer Lodge is located within the Research Triangle Economic Development region designated by the State.
- Archer Lodge is described as a sub-rural community that combines the town's agricultural and suburban lifestyles.
- Given the influx of families moving to the Town, the plan acknowledges the likelihood of change in the community.
- Archer Lodge anticipates continued agricultural uses, residential developments, and business development to be the future land uses in the Town.

10

Special Use Permit Consideration of Findings of Fact

11

Findings of Fact

Findings of Fact:

In order to issue a special use permit, the Town Council shall consider each of the following conditions, and based on the evidence presented at the hearing, make findings in regard to each and must find that the issuance of the special use permit promotes the public health, safety, and welfare and is in the best interest of the Town:

1. Will not materially endanger the public health, safety if located where proposed;
2. Complies with all standards, conditions, and specifications of the UDO, including Article 5 Use Regulations, and Article 6 Development Standards;
3. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
4. Will be in harmony with the area in which it is to be located;
5. Is in general conformity with the Town's adopted policy guidance; and
6. Will not exceed the Town's ability to provide adequate public facilities (fire and rescue, utilities, etc.).

11

Draft Motion

12

Upon making findings of fact findings, Council Member _____ moves to approve Special Use Permit for Johnston County for an elevated water storage tank at the Archer Lodge Middle School at 762 Wendell Road, Wendell, NC and site plan. The motion was seconding by Council Member _____ with a ____ to ____ vote.

12

DRAFT TOWN COUNCIL FINDINGS OF FACT

ARCHER LODGE TOWN COUNCIL JOHNSTON COUNTY SPECIAL USE PERMIT AND SITE PLAN

On November 15, 2021, the Archer Lodge Town Council conducted a quasi-judicial public hearing and deliberated on a special use permit application submitted by Johnston County to construct a 500,000-gallon elevated water storage tank on the Archer Lodge Middle School 40.66-acre property, 762 Wendell Road, Wendell, NC. Accompanying the special use permit application was the proposed site plan depicting the location of the elevated storage tank on a 1.16-acre easement area on said property. The property is owned by Johnston County Board of Education, a Governmental Entity, and is referenced as Johnston County parcel tag id number 16J03017A. The property is zoned Office-Institutional District (OI).

After deliberation, Councilmember _____ moved to approve the *findings of fact* for “A.” below. The motion was seconded by Councilmember _____ and approved by a __ to __ vote.

- A. All applicable specific conditions pertaining to the proposed use have been or will be satisfied.

The proposed tank will facilitate greater water system reliability, better pressure and storage for fire protection, and additional storage for growth in the region. The County will also use the tank to improve SCANDA and/or 911 communication reliability. No third-party service providers will be allowed to mount equipment on the tank without additional approval from the Town.

After deliberation, Councilmember _____ moved to approve the *findings of fact* for “B.” below. The motion was seconded by Councilmember _____ and approved by a __ to __ vote.

- B. Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.

The existing access road to the middle school will support the infrequent need to visit the tank site. The easement agreement allows for access.

After deliberation, Councilmember _____ moved to approve the *findings of fact* for “C.” below. The motion was seconded by Councilmember _____ and approved by a __ to __ vote.

- C. Off-street parking, loading, refuse, and other service areas are located so as to be safe convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties in the general neighborhood.

Parking is available on the tank site for maintenance vehicles.

After deliberation, Councilmember _____ moved to approve the *findings of fact* for “D.” below. The motion was seconded by Councilmember _____ and approved by a __ to __ vote.

- D. Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.

Yes. All will see improved service.

After deliberation, Councilmember _____ moved to approve the *findings of fact* for “E.” below. The motion was seconded by Councilmember _____ and approved by a ___ to ___ vote.

- E. The location and arrangement of the use on the site, screening, buffering, landscaping, pedestrian ways, and bicycle facilities harmonize with adjoining properties and the general area and minimize adverse impact.

The District worked with the school to site facility in an area that would not disturb the current use of the site. Elevated tanks are often used to advertise the local community and instill civic pride. Our current policy allows for the Town to choose to place a name or logo on the tank for the cost difference from our standard letter

After deliberation, Councilmember _____ moved to approve the *findings of fact* for “F.” below. The motion was seconded by Councilmember _____ and approved by a ___ to ___ vote.

- F. The type, size, and intensity, of the proposed use, including such considerations as the hours of operations and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

Elevated storage tanks are highly visible. The tank will be seen by adjoining properties. The use of the site will not produce noise, odors, traffic, or other nuisances, beyond original construction and infrequent (every 7-10) major maintenance. The public will not use this site.

DRAFT TOWN COUNCIL MOTIONS

ARCHER LODGE TOWN COUNCIL JOHNSTON COUNTY SPECIAL USE PERMIT AND SITE PLAN

Based on the above, a motion was made by Councilmember _____ and seconded by Councilmember _____ to approve the special use permit. The motion was approved by a ___ to ___ vote.

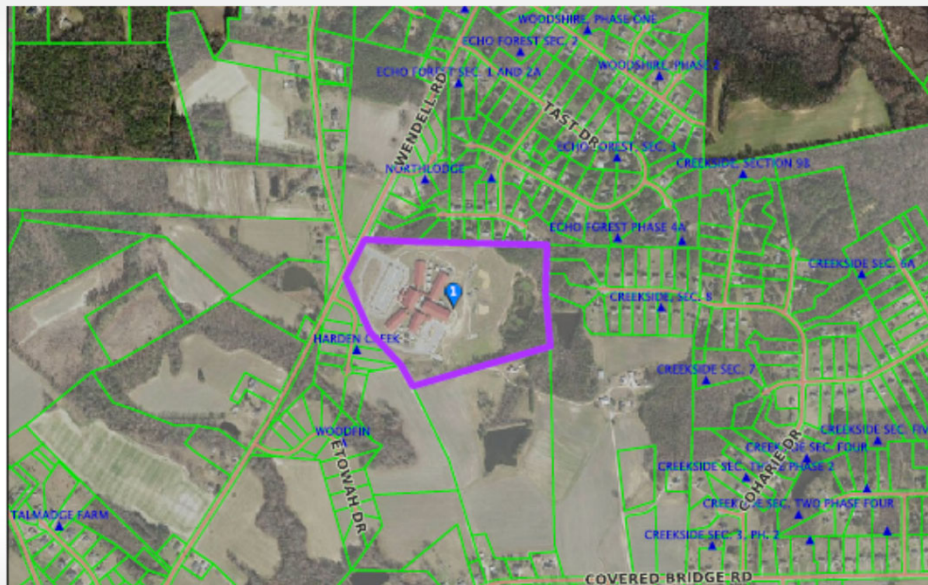
After deliberation, a motion was made by Councilmember _____ and seconded by Councilmember _____ to approve the submitted site plan. The motion was approved by a ___ to ___ vote.

762 Wendell Road Special Use Permit

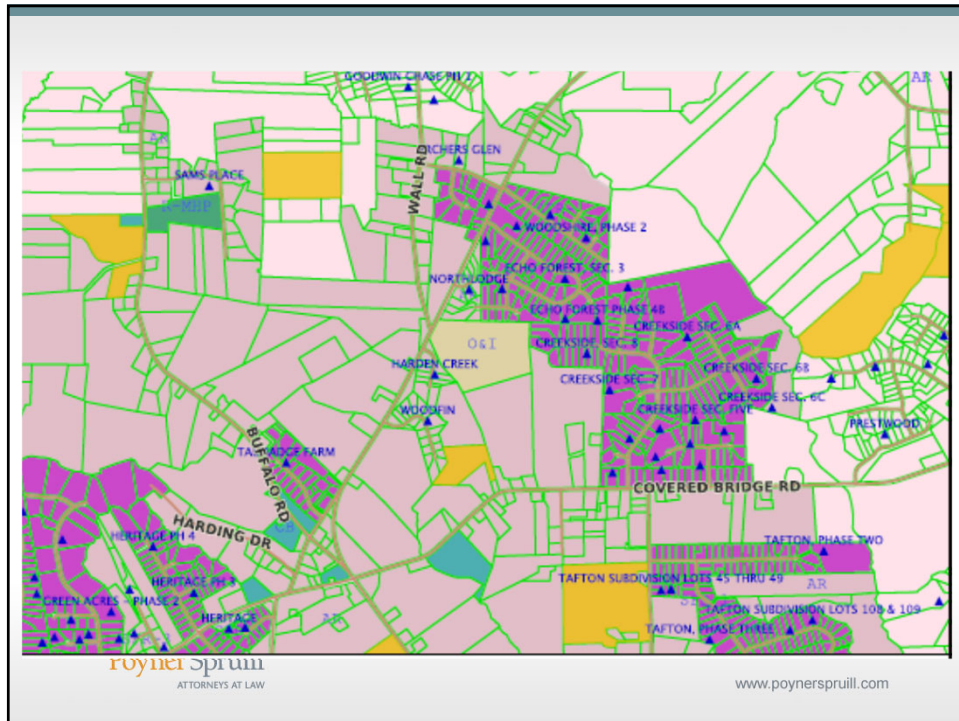
Town Council
November 15, 2021



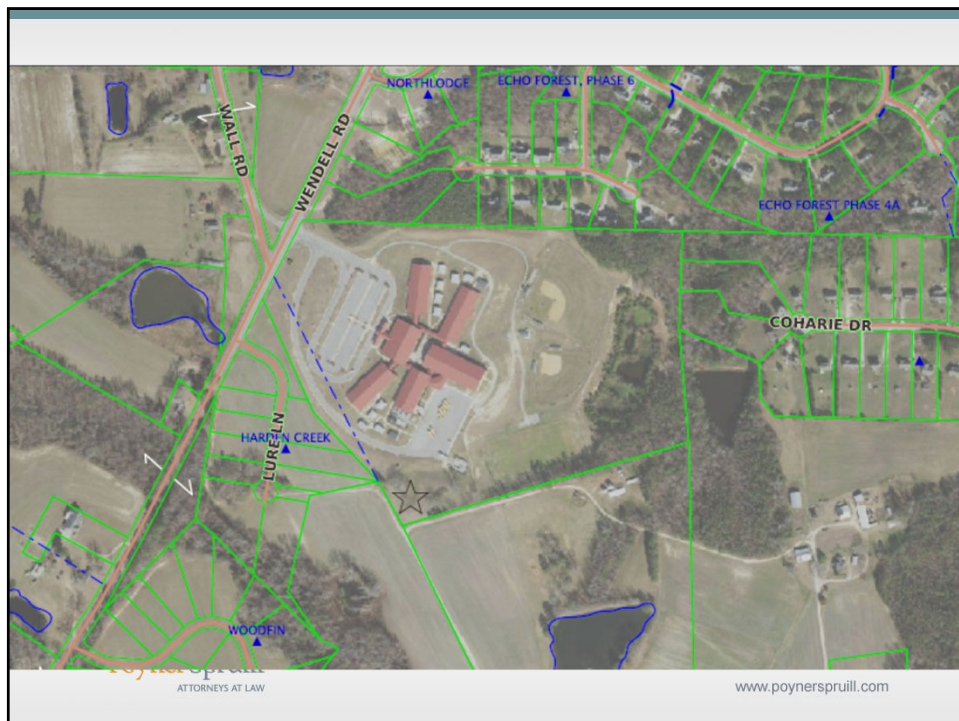
1



2



3



4



5



6



7

Sec. 30-3318(c)(4)(d) – Special Use Permit Standards

In order to issue a special use permit, the Town Council shall consider each of the following conditions, and based on the evidence presented at the hearing, make findings in regard to each and must find that the issuance of the special use permit promotes the public health, safety, and welfare and is in the best interest of the Town:

1. Will not materially endanger the public health, safety if located where proposed;
2. Complies with all standards, conditions, and specifications of the UDO, including Article 5 Use Regulations, and Article 6 Development Standards;
3. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
4. Will be in harmony with the area in which it is to be located;
5. Is in general conformity with the Town's adopted policy guidance; and
6. Will not exceed the Town's ability to provide adequate public facilities (fire and rescue, utilities, etc.).



www.poynerspruill.com

8



9



10

Sec. 30-3318(c)(4)(d) – Special Use Permit Standards

In order to issue a special use permit, the Town Council shall consider each of the following conditions, and based on the evidence presented at the hearing, make findings in regard to each and must find that the issuance of the special use permit promotes the public health, safety, and welfare and is in the best interest of the Town:

1. Will not materially endanger the public health, safety if located where proposed;
2. Complies with all standards, conditions, and specifications of the UDO, including Article 5 Use Regulations, and Article 6 Development Standards;
3. Will not substantially injure the value of the abutting land, or the special use is a public necessity;
4. Will be in harmony with the area in which it is to be located;
5. Is in general conformity with the Town's adopted policy guidance; and
6. Will not exceed the Town's ability to provide adequate public facilities (fire and rescue, utilities, etc.).



www.poynerspruill.com

11

Sec. 30-5303(f) – Utility Use Standards

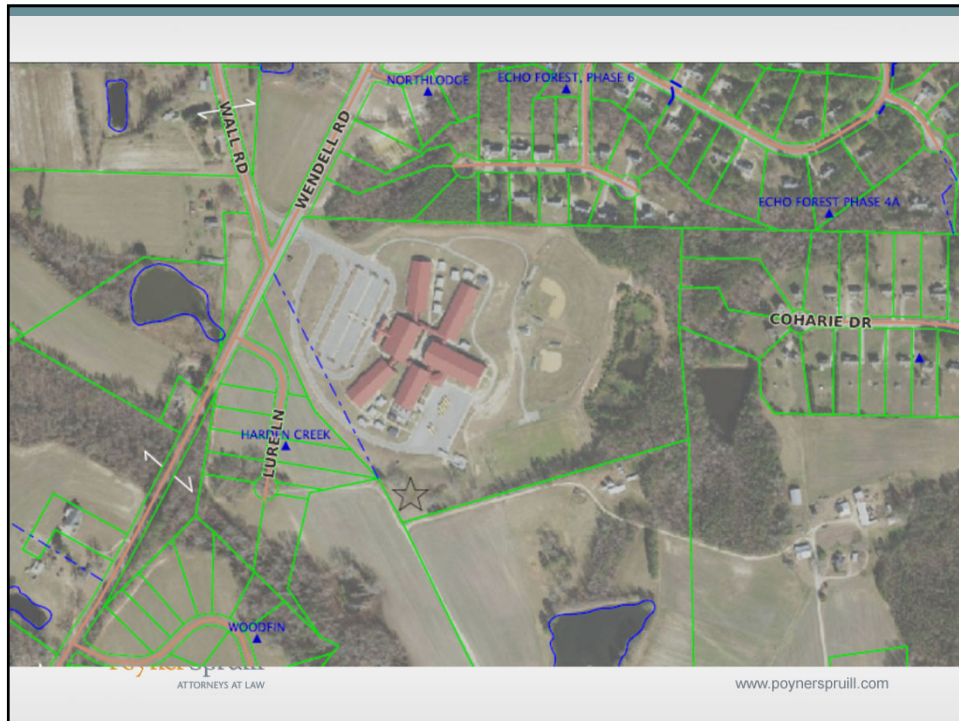
(1) All utilities shall comply with the following standards:

- a. Where possible, utilities should be located on lots interior to a development rather than on lots abutting streets;
- b. All dangerous apparatus shall be enclosed by a fence or wall at least eight feet in height;
- c. Major utilities may only be located on lots that meet the dimensional requirements for the zoning district where located. Minor utilities may be on lots, leaseholds, or easements that do not meet the minimum dimensional standards for lots in the district where located;
- d. The design of buildings, structures, and facilities located in residential neighborhoods shall conform as closely as possible to the character of development in the area to ensure compatibility. Utility placement and screening may also be used as a means of ensuring compatibility;
- e. No vehicles, trailers, or materials shall be stored outdoors on the premises;
- f. Portions of properties not used for facilities, off-street parking, or related services shall be maintained with natural ground cover; and
- g. Service and storage yards shall not be permitted within utility facilities located in residential or OI districts.



www.poynerspruill.com

12



13



14

ARCHER LODGE TOWN COUNCIL JOHNSTON COUNTY SPECIAL USE PERMIT AND SITE PLAN

On November 15, 2021, the Archer Lodge Town Council conducted a quasi-judicial public hearing and deliberated on a special use permit application submitted by Johnston County to construct a 500,000-gallon elevated water storage tank on the Archer Lodge Middle School 40.66-acre property, 762 Wendell Road, Wendell, NC. Accompanying the special use permit application was the proposed site plan depicting the location of the elevated storage tank on a 1.16-acre easement area on said property. The property is owned by Johnston County Board of Education, a Governmental Entity, and is referenced as Johnston County parcel tag id number 16J03017A. The property is zoned Office-Institutional District (OI).

After deliberation, Councilmember Jackson moved to approve the *findings of fact* for “A.” below. The motion was seconded by Councilmember Purvis and approved by a 3 to 1 vote. Councilmember Wilson voted no.

- A. All applicable specific conditions pertaining to the proposed use have been or will be satisfied.

The proposed tank will facilitate greater water system reliability, better pressure and storage for fire protection, and additional storage for growth in the region. The County will also use the tank to improve SCANDA and/or 911 communication reliability. No third-party service providers will be allowed to mount equipment on the tank without additional approval from the Town.

After deliberation, Councilmember Jackson moved to approve the *findings of fact* for “B.” below. The motion was seconded by Councilmember Purvis and approved by a 3 to 1 vote. Councilmember Wilson voted no.

- B. Access roads or entrance and exit drives are or will be sufficient in size and properly located to ensure automotive and pedestrian safety and convenience, traffic flow, and control and access in case of fire or other emergency.

The existing access road to the middle school will support the infrequent need to visit the tank site. The easement agreement allows for access.

After deliberation, Councilmember Jackson moved to approve the *findings of fact* for “C.” below. The motion was seconded by Councilmember Purvis and approved by a 3 to 1 vote. Councilmember Wilson voted no.

- C. Off-street parking, loading, refuse, and other service areas are located so as to be safe convenient, allow for access in case of emergency, and to minimize economic, glare, odor, and other impacts on adjoining properties in the general neighborhood.

Parking is available on the tank site for maintenance vehicles.

After deliberation, Councilmember Jackson moved to approve the *findings of fact* for “D.” below. The motion was seconded by Councilmember Purvis and approved by a 3 to 1 vote. Councilmember Wilson voted no.

- D. Utilities, schools, fire, police, and other necessary public and private facilities and services will be adequate to handle the proposed use.

Yes. All will see improved service.

After deliberation, Councilmember Jackson moved to approve the *findings of fact* for “E.” below. The motion was seconded by Councilmember Purvis and approved by a 3 to 1 vote. Councilmember Wilson voted no.

- E. The location and arrangement of the use on the site, screening, buffering, landscaping, pedestrian ways, and bicycle facilities harmonize with adjoining properties and the general area and minimize adverse impact.

The District worked with the school to site facility in an area that would not disturb the current use of the site. Elevated tanks are often used to advertise the local community and instill civic pride. Our current policy allows for the Town to choose to place a name or logo on the tank for the cost difference from our standard letter

After deliberation, Councilmember Jackson moved to approve the *findings of fact* for “F.” below. The motion was seconded by Councilmember Purvis and approved by a 3 to 1 vote. Councilmember Wilson voted no.

- F. The type, size, and intensity, of the proposed use, including such considerations as the hours of operations and number of people who are likely to utilize or be attracted to the use, will not have significant adverse impacts on adjoining properties or the neighborhood.

Elevated storage tanks are highly visible. The tank will be seen by adjoining properties. The use of the site will not produce noise, odors, traffic, or other nuisances, beyond original construction and infrequent (every 7-10) major maintenance. The public will not use this site.

ARCHER LODGE TOWN COUNCIL JOHNSTON COUNTY SPECIAL USE PERMIT AND SITE PLAN

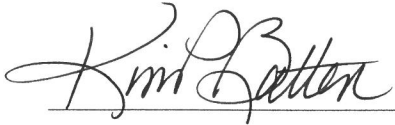
Based on the above, a motion was made by Councilmember Jackson and seconded by Councilmember Purvis to approve the special use permit. The motion was approved by a 3 to 1 vote. Councilmember Wilson voted no.

After deliberation, a motion was made by Councilmember Jackson and seconded by Councilmember Purvis to approve the submitted site plan accompanying the special use permit. The motion was approved by a 3 to 1 vote. Councilmember Wilson voted no.



Matthew B. Mulhollem
Mayor

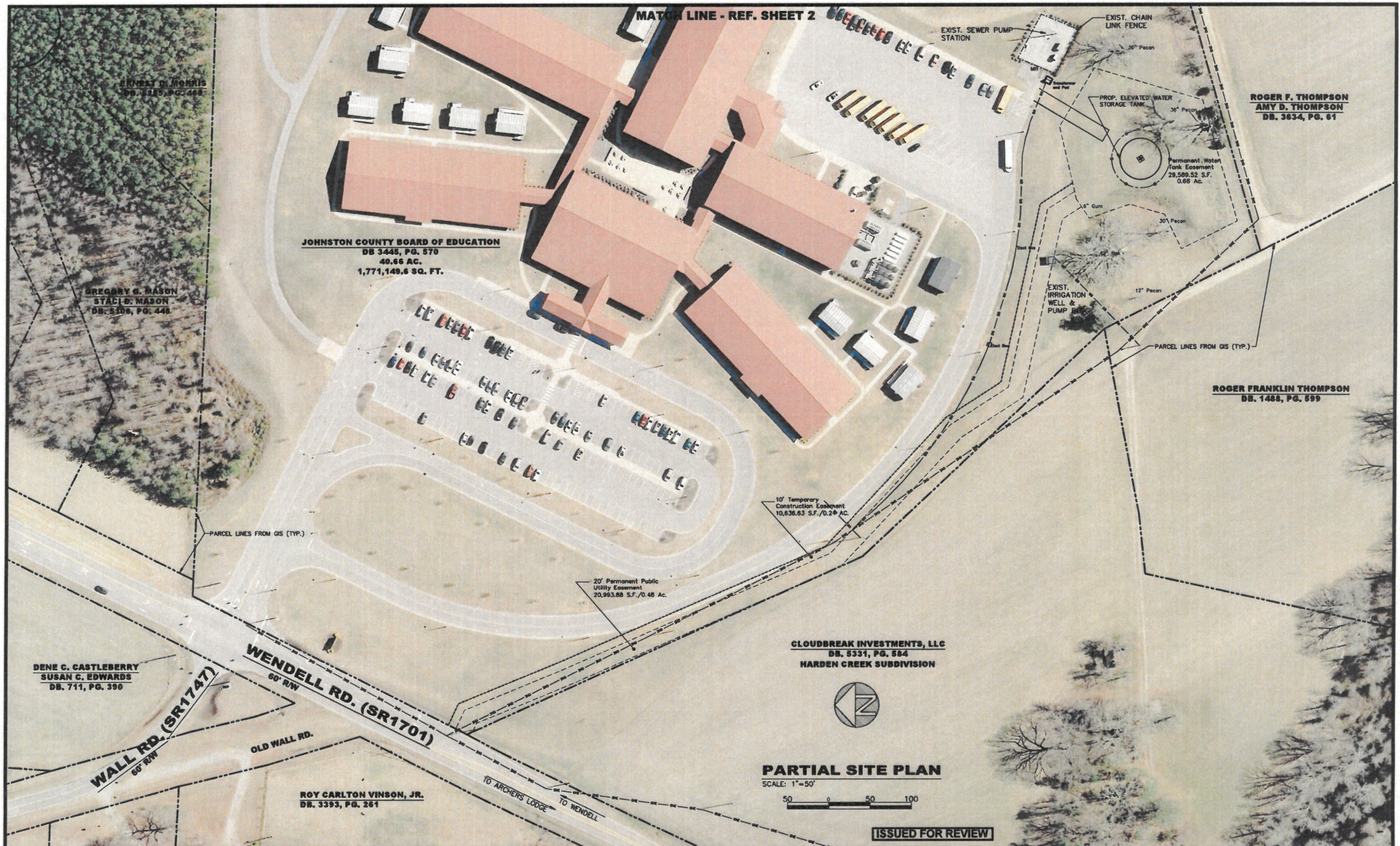
ATTEST:



Kim P. Batten
Town Clerk



Attachment: 11.15.21 Approved Site Plan



REVISION INFORMATION				DRAWING INFORMATION		
Num	Description	Date	Init	Init	Date	
				Drawn By:	JCH	12/2020
				Checked By:	JCH	12/2020
				Approved By:	KCR	01/2021
				SCALE: AS NOTED		

PARTIAL SITE PLAN FOR ARCHER LODGE REVIEW

**ARCHER LODGE MIDDLE SCHOOL
500,000 GALLON ELEVATED STORAGE
TANK
SRL PROJECT NO. H-SRP-D-17-0125
ARCHER LODGE WATER DISTRICT**

JOHNSTON COUNTY
Department of Public Utilities
P.O. Box 2263
Smithfield, NC 27577



SHEET
1
of 2



TOWN OF ARCHER LODGE

14094 Buffalo Road
Archer Lodge, NC 27527
Main: 919-359-9727
Fax: 919-359-3333

Mayor:

Matthew B. Mulhollem

Council Members:

Clyde B. Castleberry
Mayor Pro Tem
Teresa M. Bruton
J. Mark Jackson
James (Jim) Purvis, III
Mark B. Wilson

To: Town Council

From: Julie Maybee, Town Planner

Date: November 11, 2021

Cc: Town Administrator, Finance Officer/Town Clerk, Deputy Clerk, Town Attorney, CodeWright Planners

Re: Agenda Item 3. – Staff Report – Amendments to the Code Of Ordinances, Archer Lodge, North Carolina, Chapter 30 - Unified Development Ordinance (Outlined Below)

Summary: Amendments (attached) are proposed to the Archer Lodge Code of Ordinances, Chapter 30 – Unified Development Ordinance. The provisions are intended to further clarify/streamline ordinance provisions and address changes in state law.

Below is in overview/summary of the amendments. It is respectfully requested that the Town Council deliberate on the attached revisions. Proposed changes are **red text** and ~~deleted text in blue strikethrough~~.

Amendments to the Code of Ordinances, Archer Lodge, North Carolina, Chapter 30 – Unified Development Ordinance:

- Article 2.- Authorities, Divisions 1, 5, 6 and Article 3 – Procedures, Division 1 to clarify the definition, roles, and duties of respective review authorities.
- Article 4.- Zoning Districts, Division 5, to update and clarify the Water Supply Protection Overlay District (WSWOD) standards.
- Article 5.- Use Regulations, Division 3, to:
 - Update manufactured home park standards for masonry skirting in accordance with state law; and
 - Update/clarify electronic gaming operations in accordance with state law.

Publication Requirements:

Advertisement/public notice of the meeting and the proposed amendments was completed in accordance with applicable NC General Statutes and Unified Development Ordinance provisions.

Staff Recommendations:

A PowerPoint presentation will be given at the meeting. Staff recommends approval of the text amendments finding said amendments in accordance with applicable ordinance provisions. Staff also concurs with the Planning Board recommendations.

Planning Board Recommendations:

On November 10, 2021, the Planning Board considered the proposed text amendments. After deliberation voted unanimously to approve the consistency statement below and motion:

Planning Board Consistency Statement:

The Planning Board finds that the proposed amendments to Chapter 30, Article 2. - Authorities, Divisions 1, 5, 6 and Article 3 - Procedures, Division 1, to clarify the roles of review authorities; Article 4. - Zoning Districts, Division 5, to update the Water Supply Protection Overlay District standards; and Article 5. – Use Regulations, Division 3, to update manufactured home park standards for masonry skirting (in parks) and electronic gaming operations provisions (i.e., removes privilege license requirement) in accordance with state law are reasonable and in the public interest. The proposed revisions clarify/streamline ordinance provisions, facilitates environmental protection, plans for future development, and addresses changes in state law. Furthermore, the proposed amendments are consistent with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka “Comprehensive Plan”, vision and mission statements and other adopted Town plans having bearing on the matter.

Motion:

Upon making consistency findings, the Planning Board recommends approval to the Town Council on the amendments to the Unified Development Ordinance, Chapter 30, Article 2. - Authorities, Divisions 1, 5, 6 and Article 3 - Procedures, Division 1, to clarify the roles of review authorities; Article 4. - Zoning Districts, Division 5, to update/clarify the Water Supply Protection Overlay District standards with clarification to (i) (2)(d) 3; and Article 5. – Use Regulations, Division 3, to update manufactured home park standards for masonry skirting (in parks) and electronic gaming operations.

Requested Town Council Action:

Staff respectfully requests that the Town Council:

- Conduct a public hearing on the proposed text amendments.
- After deliberation determine, vote on consistency statement (Draft Town Council Consistency Statement included)
- Vote to approve, deny, or modify the proposed amendments (Town Council draft motion included).

Town Council Draft Consistency Statement

The Town Council finds that the proposed amendments to Chapter 30, Article 2. - Authorities, Divisions 1, 5, 6 and Article 3 - Procedures, Division 1, to clarify the definition, roles, and duties of review authorities; Article 4. - Zoning Districts, Division 5, to update and clarify the Water Supply Protection Overlay District standards; and Article 5. – Use Regulations, Division 3, to update manufactured home park standards for masonry skirting (in parks) and update/clarify electronic gaming operations provisions (i.e., removes privilege license requirement) in accordance with state law are reasonable and in the public interest. The proposed revisions clarify/streamline ordinance provisions, facilitates environmental protection, plans for future development, and addresses changes in state law. Furthermore, the proposed amendments are consistent with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka “Comprehensive Plan”, vision and mission statements and other adopted Town plans having bearing on the matte

Town Council Draft Motion:

Councilmember _____ moves to approve Ordinance AL#2021-11-1 as presented. The motion was seconded by Councilmember _____ and approved by a ____ to ____ vote.



Archer Lodge
North Carolina
MAY 20, 1854 NOVEMBER 3, 2009
10th ANNIVERSARY

UNIFIED DEVELOPMENT ORDINANCE

Text Amendment UDO-TA-1-21

Code Wright

Town Council Presentation 11-10-21

13

Town Council Requested Action

14

Agenda Item #2

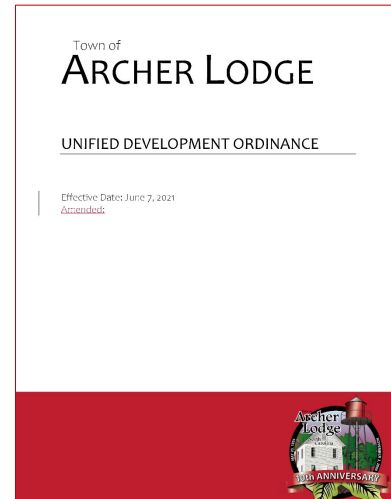
- Staff respectfully requests that the Town Council:
 - ▣ Open Public Hearing;
 - ▣ Presentation of Staff Report and Planning Board Recommendations'
 - ▣ Public Comments
 - ▣ Close Public Hearing
- Governing Body:
 - ▣ Discussion and Consideration of Consistency Statement (Draft Consistency Statement included for Council's consideration.)
 - ▣ Discussion & Consideration of Adopting Ordinance #AL2021-11-1 Amending Chapter 30, Article 2. - Authorities, Divisions 1, 5, 6; Article 3. - Procedures, Division 1; Article 4. - Zoning Districts, Division 5; Article 5. - Use Regulations, Division 3.

14

Overview

15

- 1st UDO Amendment
- Current UDO pages with proposed amendments provided
- Proposed amendments provided in tracked changes format



15

Proposed Amendments

16

6 Proposed Changes:

1. Definition of 'Review Authority' (p. 20)
2. Clarification of Technical Review Committee powers & duties (p. 24, 27)
3. Clarification of Town Planner powers & duties (pp. 25-27)
4. Clarification of cluster development options in the WSWOD (pp. 93-94)
5. Changes in manufactured home skirting requirements (p. 109)
6. Clarifications of electronic gaming use standards (pp. 121-122)

16

Tracking

17

Amendment
Tracking Table
(Page 3)

Page Footers

Editor's notes

ORDINANCE AMENDMENTS

TABLE OF UDO AMENDMENTS		
Ordinance Number	Effective Date	Description
UDO-TA-1-21	xx-xx-21	- Clarification of Review Authority roles. - Updates to the Water-Supply Watershed Overlay Districts standards. - Update to manufactured home park standards for masonry skirting in accordance with State law - Revisions to Electronic Gaming Operation use standards

TOWN OF ARCHER LODGE
Unified Development Ordinance

3

LAST AMENDED
June 2, 2021

17

Review Authority Definition

18

ARTICLE 2 - AUTHORITIES

Sec. 30-2101 - Oath of office required.

ARTICLE 2. - AUTHORITIES

DIVISION 1. - GENERAL REQUIREMENTS FOR ALL REVIEW AUTHORITIES.

A review authority is any board, council, committee or staff member identified in this Ordinance that review applications for development approval under this Ordinance. An application may be reviewed by more than one review authority.

Sec. 30-2101 - Oath of office required.

- (a) All members appointed to boards shall, before entering their duties, qualify by taking an oath of office administered by the Mayor or the Mayor Pro Tem.
- (b) Oaths shall be signed and filed with the Town Clerk.
- (c) The oath to be administered is prescribed in Article VI, § 7 of the N.C. Constitution, as follows:
- "I, _____, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as _____ so help me God."

Sec. 30-2102 - Open meetings.

Except as provided by N.C. Statute, each official meeting of the public bodies described in this Article shall be open to the public, and any person is entitled to attend such a meeting. Remote meetings conducted in accordance with §196A-19.24 of the North Carolina General Statutes shall comply with this subsection even if all members of the public body are participating remotely.

Sec. 30-2103 - Attendance.

Faithful attendance at scheduled meetings is required. The Town Council may remove any appointed member for absenteeism. Missing three or more meetings in a twelve-month period is prima facie evidence of absenteeism. The Secretary to each board shall make a report on attendance to the Town Council in writing at least once in every calendar year.

Sec. 30-2104 - Minutes and rules of procedure.

- (a) Each board shall draw up rules of procedure under which it will operate. The Town Council will adopt rules of procedure and any amendments that are consistent with the provisions of this UDO. In the absence of action by the Town Council, each board created under this Article is authorized to adopt its own rules of procedure that are consistent with the provisions of this Ordinance. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and posted on the Town's official web site.
- (b) Each board shall keep minutes of its proceedings. The Secretary shall keep minutes of its proceedings, showing the vote of each member upon each question, and the absence or failure of any member to vote, and a copy of the minutes shall be maintained on file for public record in the office of the Town Clerk.

Sec. 30-2105 - Conflict of interest.

- (a) A Town Council or Planning Board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Council or Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

TOWN OF ARCHER LODGE
Unified Development Ordinance

20

LAST AMENDED
June 2, 2021

18

19

TRC Powers & Duties

ARTICLE 3 - AUTHORITIES

Sec. 30-2406 - Voting.

- (c) A quorum for the Board of Adjustment is four members. A quorum is necessary for the Board of Adjustment to take official action.
- (d) A member who has withdrawn from the meeting without being excused, as provided in § 30-2406 Voting, shall be counted as present for purposes of determining whether a quorum is present.

Sec. 30-2406 - Voting.

- (a) Once a quorum is established, the concurring vote of a majority of those present (excluding members who are disqualified) shall be necessary to make any decision, except decisions on variances.
- (b) Once a member is physically present at a Board of Adjustment meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection (c) of this section or has been allowed to withdraw from the meeting in accordance with subsection (d) of this section.
- (c) A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
- (1) If the member has a conflict of interest as defined by § 30-2105 Conflict of Interest, above; or
 - (2) If the matter at issue involves the member's own official conduct.
- (d) A motion to excuse a member from voting on a specific item, or from the remainder of the meeting may be made by any Board of Adjustment member.

DIVISION 5 - TECHNICAL REVIEW COMMITTEE.

Sec. 30-2501 - Establishment.

The Town Administrator shall appoint a committee of staff members having particular expertise in the development of real property as the Technical Review Committee (TRC). The Committee shall be chaired by the Town Planner. The TRC members shall consist of the Planning Board Chair, and the Fire Chief or their designees. Other members shall serve on the TRC on an ad hoc basis, depending on the nature, size, and complexity of the development project to be reviewed include, but are not limited to: Parks and Recreation, Legal, NCDDT, and the following Johnston County agencies: Public Utilities (including storm water, erosion control, infrastructure), Environmental Health, Health Department, Inspections, and Emergency Management Services.

Sec. 30-2502 - Powers and Duties.

- (a) The TRC shall provide a recommendation to the Planning Board on the following:
- (1) Major subdivisions;
 - (2) Site plans; and
 - (3) Plans filed with applications for a special use permit.
- (b) The TRC shall review and comment, ~~also to consideration by other review authorities, on the following:~~
- (1) The Comprehensive Plan or an amendment to the Comprehensive Plan;
 - (2) Planned development master plans; and
 - (3) Reasonable accommodations.
- (a) ~~all plans to be reviewed and/or approved by any other body listed in this Ordinance, including the Town Council, Planning Board, and Board of Adjustment, and on all request for permits referred to the TRC by the Town Planner, both for conformity with the Town Code and with Town Council resolutions.~~
- (c) ~~The TRC shall participate in pre-application conferences as requested by the Town Planner.~~
- (d) ~~The TRC shall suggest rules of procedure and schedules to ensure that plans submitted shall be reviewed and comments returned to developers in a timely manner. The Town Council shall approve the rules of procedure.~~

TOWN OF ARCHER LODGE
Unified Development Ordinance

24

LAST AMENDED
June 7, 2021

19

20

Town Planner Powers & Duties

ARTICLE 3 - AUTHORITIES

Sec. 30-2503 - Conflicts of Interest

Sec. 30-2503 - Conflicts of Interest

The members of the TRC shall follow and abide by § 30-2603 Conflict of Interest.

DIVISION 6 - TOWN PLANNER.

Sec. 30-2601 - Powers and Duties.

The Town Planner shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

- (a) Review and decision.
- To review and decide applications for the following:
- (1) Administrative adjustments (see Section 30-3301, Administrative adjustments);
 - (2) Determinations regarding the text of this Ordinance (see § 30-3306, Determinations and Interpretations);
 - (3) Exempt subdivisions;
 - (4) Expedited subdivisions;
 - (5) Final plans;
 - (6) Floodplain development permits;
 - (7) Minor subdivisions;
 - (8) Temporary use permits; and
 - (9) Zoning compliance permits.
- (b) Review and recommendation.
- To review and provide a recommendation to the Town Council on applications for vested rights certificates.
- (c) Review and comment.
- To review and provide comments to other review authorities on applications for the following:
- (1) Building permits;
 - (2) Certificates of occupancy;
 - (3) Development agreements;
 - (4) Major subdivisions;
 - (5) Rezoning/map amendments;
 - (6) Text amendments; and
 - (7) Variance requests.
- (d) General planning and permitting.
- (1) To review all applications for land development for completeness and compliance with the terms of this Ordinance.
 - (2) ~~To ensure that applications submitted are reviewed and comments returned to applicants in a timely manner.~~
 - (3) To issue and maintain a record of all development related permits, subdivisions of land and approvals on file and to make copies available to interested parties.
 - (4) ~~To provide the Town Council, Planning Board, Board of Adjustment, Town Staff, and applicants with reports and recommendations, as required by this Ordinance, other laws or regulations, or at the request of said bodies another review authority.~~

TOWN OF ARCHER LODGE
Unified Development Ordinance

25

LAST AMENDED
June 7, 2021

20

21

Town Planner Powers & Duties

- ARTICLE 2. - AUTHORITIES
Sec. 30-2602 - Conflict of Interest.
- (4) To interpret the language of this UDO (see § 30-3306 Determinations and Interpretations);
- (5) To enforce compliance with the terms of this Ordinance, unless otherwise specified.
- (6) To revoke any permits provided therein.
- (b) *Special use, variance, and map and text amendments.*
- (1) To review all applications for special use permits, variances, and amendments for completeness and compliance with the terms of this Ordinance.
- (2) To enforce compliance with the terms of this Ordinance, unless otherwise specified.
- (c) *Subdivision administration.*
- (1) To review all applications for the subdivision of land for compliance with the terms of this Ordinance.
- (2) To approve final plats, exempt subdivisions, expedited subdivisions, and minor subdivision plats, and to revoke any permits as provided by this UDO.
- (3) To provide the Town Council and Planning Board with reports and recommendations, as required by this Ordinance, other laws or regulations, or at the request of said bodies.
- (4) To issue and maintain a record of all subdivisions and approvals on file and to make copies available to interested parties.
- (5) To enforce compliance with the terms of this Ordinance, unless otherwise specified.
- (6) To revoke any permits provided therein.
- (d) *Environmental protection.*
- (1) To administer the Town's Water Supply Watershed Protection Overlay District standards.
- (2) To serve as the Floodplain Administrator in accordance with the Archer Lodge Code of Ordinances Chapter 14 Flood Damage Prevention.
- (3) To revoke any permits provided therein.
- Sec. 30-2602 - Conflict of Interest.
- (a) No Town staff member shall make a final decision on an administrative decision required by this UDO if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the UDO.
- (b) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

TOWN OF ARCHER LODGE
Unified Development Ordinance

26

LAST AMENDED
Article 2, _____, 2021

21

Water Supply Watershed Overlay District

22

Removes
minimum lot
area in favor
of density /
maximum lot
coverage

Minimum lot
width
removed in
favor of
setbacks +
30'

- ARTICLE 4. - ZONING DISTRICTS
DIVISION 5. - Overlay zoning districts.
- (f) *Permitted uses.* The following uses are permitted as principal uses in the watershed protection overlay district provided such uses are also permitted in the underlying zoning district and providing that the requirements stated in this section and this zoning and subdivision ordinances.
- (1) *Protected area.*
- a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11.0101.0209).
- c. Residential development as permitted in the underlying zoning district provided that it meets the standards of the WSWOD.
- d. Nonresidential development as permitted in the underlying zoning district provided that it meets the standards of the WSWOD.
- (2) *Density and built-upon (impervious) limits in the protected area.*
- a. Where the maximum allowed built-upon area conflicts with another ordinance or standard, the stricter standard, or lower maximum allowed built-upon area applies. For example, where either (i) the Johnston County Stormwater Management Ordinance as adopted by reference by the Town, or (ii) § 30-7003 Lot size standards of this Ordinance shall apply, then lower built-upon area requirements apply.
- b. Single family residential uses shall develop at a maximum of two dwelling units per acre (2 du/acre) or 20,000 square feet per lot, excluding street rights-of-way. In the alternative, the maximum built-upon area shall be 24% per individual lot.
- c. All other residential and non-residential development shall not exceed 24 percent built-upon area. For projects without a curb and gutter street system, development shall not exceed 36 percent built-upon area.
- d. Cluster development is allowed on a project-by-project basis provided all of the following conditions are met:
1. Overall density shall meet the requirements of sub-section (1) or (2) above, not exceed 20,000 square feet per lot or a maximum overall density of the entire site of two dwelling units per acre; and
 2. The minimum lot area standard for the zoning district shall not be applied, but in no instance shall an individual lot have more than 24% built-upon area, and
 3. The minimum lot width standard for the zoning district shall not be applied, but the lot shall include sufficient width to accommodate both applicable side lot line or street setbacks and an additional 30' rear lot line, and
 4. The required setbacks for the zoning district shall continue to apply to each buildable lot, and
 5. Buffers (vegetated setbacks) shall meet the requirements of sub-section (3) below; and
 6. Built-upon areas are designed and located to minimize stormwater runoff impacts to receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas and maximize the flow length through vegetated areas; and
 7. Areas of concentrated development shall be located in upland areas and away from surface waters and drainage ways. In determining whether these criteria have been met the approving body shall take into account site-specific factors such as topography, site layout and the protection of water quality; and
 8. The remainder of the tract shall remain in a vegetated or natural state; and

TOWN OF ARCHER LODGE
Unified Development Ordinance

93

LAST AMENDED
Article 7, _____, 2021

22

Water Supply Watershed Overlay District

23

Numbering /
cross
reference
updates

ARTICLE 4 - ZONING DISTRICTS

DIVISION 5 - Overlay zoning districts.

- 6.9.** The area in a vegetated state shall be conveyed to a homeowner's association, the Town for preservation as a park or greenway, a conservation organization, or placed in a permanent conservation or farmland preservation easement, and
- 7.10.** A maintenance agreement for the vegetated or natural area shall be recorded with the Johnston County Register of Deeds and incorporated into any restrictive covenants for the development, and
- 6.11.** Vegetated swales and/or "curb outlet systems" as described in § 30-4502(g), Vegetated setback (landscape buffer area), ~~requirements~~ will be provided.
- 6.** Density averaging. An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:
1. The properties are within the Archer Lodge Water Supply Watershed Protection Overlay District boundary.
 2. Overall project density meets applicable density or stormwater control requirements of this section.
 3. Vegetated setbacks on both properties meet the minimum requirements in § 30-4502(g), Vegetated setback (landscape buffer area) required.
 4. Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
 5. Areas of concentrated densely development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainage ways.
 6. The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to the Town or Dealing as a park or greenway, or placed under a permanent conservation or farmland preservation A miles and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.
 7. Development permitted under density averaging shall transport stormwater runoff by vegetated conveyances, to the maximum extent practicable.
 8. A special use permit shall be obtained from the Town Council to ensure that both properties considered together meet these standards and that potential owners have record of how these standards were applied to the properties.
- f. Low-Density Option.** The standards in ~~this~~ Section (2) and sub-section (1) above are collectively known as the "low density option." No "high density option" is permitted in the protected area.
- g. Calculation of density.**
1. Project density is calculated as the total built-upon area divided by the total project area;
 2. A project with "existing development" may calculate project density, in either of the following methods: total built-upon area divided by total project area, or (total built-upon area minus existing built-upon area) divided by (total project area minus existing built-upon area)
 3. When there is a net increase of built-upon area, only the area of net increase is subject to the Water Supply Watershed Protection Overlay (WSWCO) District standards.
 4. Where existing development is replaced with a new built-upon area, and there is a net increase of built-upon area, only the area of net increase is subject to the Water Supply Watershed Protection Overlay Standards.
- (i) Vegetated setback (landscaped buffer area) required.**

TOWN OF ARCHER LODGE
Unified Development Ordinance

94

LAST AMENDED
June 7, 2021

23

Manufactured Housing

24

SL2021-117
prohibits
masonry
skirting
requirements
for units in
parks

ARTICLE 5 - USE REGULATIONS

DIVISION 3 - Use standards.

- All streets in a manufactured home park shall meet the road construction standards as set forth in the latest edition of the NCDOT subdivision roads minimum construction standards.
 - Maintenance of such streets shall be provided by the owner or operator of the park.
 - Permanent dead-end streets or cul-de-sacs shall not exceed 1,000 feet in length and shall be provided with a turnaround of at least 100 feet in diameter.
 - New street names or manufactured home park names shall not duplicate, or be similar to, existing street names or manufactured home park names in the Town.
 - The developer shall be required to provide and erect street name signs to State standards at all intersections within the manufactured home park.
 - Sidewalks, or a paved pedestrian walkways, shall be provided along all streets within the manufactured home park.
 - A minimum of two off-street automobile parking spaces surfaced with an all-weather surface such as concrete, asphalt, or crushed stone shall be provided adjacent to each manufactured home space but shall not be located within any public right-of-way or within any accessway in the park.
 - All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed in the front of the manufactured home on the driveway side with four-inch lettering.
 - All streets in the manufactured home park shall be adequately illuminated in accordance with § 30-6302.
- (3) Sidewalks.**
- Sidewalks shall be located on at least one side of each street within the manufactured home park.
 - Sidewalks shall be five feet in width located fronting arterial, collector, local, and private streets.
- (4) Residential-manufactured home park use/appearance requirements.** All uses within a manufactured home park shall conform to the following regulations:
- Abandoned vehicle. No junked or abandoned vehicles shall be allowed.
 - Additions. No living compartment or structure other than a "Florida-type" room, or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this Article are not violated.
 - Administrative office. An administrative office may be permitted in accordance with the State Building Code.
 - Building proportion. The main portion of the building, when viewed from the front lot line, shall have a building length not exceeding six times the building width.
 - Dwelling configuration. All manufactured homes shall comply with the standards for individual manufactured dwellings in § 30-5302(d). Manufactured dwelling, ~~except that no continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, shall be required under the perimeter of the dwelling.~~
 - Evacuation plan. Each manufactured home park in the flood damage prevention area shall have an evacuation plan indicating alternate vehicular access and escape routes. All manufactured homes to be placed in flood prone areas shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top ties at each of the four corners of the manufactured home with two additional ties per side at intermediate locations.
 - Mailboxes. When more than five rural mailboxes are used for mail delivery, the approval of the local post office department and the State department of transportation shall be required.

TOWN OF ARCHER LODGE
Unified Development Ordinance

109

LAST AMENDED
June 7, 2021

24

Electronic Gaming Establishment

25

Remove
privilege
licenses

Clarified
zoning
compliance
permit
requirements

ARTICLE 5. - USE REGULATIONS DIVISION 3. - Use standards.

- (1) Prior to the operation of an electronic gaming operation, a zoning compliance permit ~~and privilege license for an electronic gaming operation~~ must be issued. In addition, an annual gaming machine fee in the amount of \$500.00 per gaming machine or device as established in the Town's adopted fee schedule shall be paid. This annual per gaming machine fee shall be due annually ~~as the privilege license is established~~.
- (2) Electronic gaming operations shall be regulated as to location in the following manner in addition to any other requirements of this Article:
- Electronic gaming operations shall be located a minimum of 1,000 feet measured in any direction, from:
 - A place of worship or other religious institution;
 - A day care center, public or private school;
 - A public or private park, playground, public library, or cemetery;
 - A skating rink, video arcade, or motion picture theater which shows G- or PG-rated movies to the general public on a regular basis;
 - Electronic gaming operations, tattoo or body piercing establishments;
 - Adult and sexually oriented businesses; or
 - A residential zoned residential used parcel.
 - Applicants shall submit a current straight line drawing prepared within 30 days prior to the application by a registered surveyor, depicting the property lines and the structures containing any of the above uses and the straight line measurements to each. Straight line distance shall be measured from the property line of the existing or established use to the building of the proposed electronic gaming operation. A use in sub-section (a)(2) of this section shall be considered to be existing or established if it is in place or actively under construction at the time the application is submitted. Residential zoning districts shall be based upon the most current official zoning map.
 - Hours of operation shall be limited to 8:00 a.m. through 12:00 midnight seven days a week.
 - No minor (17 years of age or younger) shall be allowed to operate a gaming machine subject to this Article.
 - All electronic gaming operations shall comply with requirements of Chapter 14, Article 37 of the North Carolina General Statutes.
 - The maximum number of gaming machines for any electronic gaming operation business is 15 and the minimum building square footage shall be at least 200 square feet per machine.
 - Electronic gaming operations must be visible and open to the store front of the building or structure. Shading or tinting of store front windows shall not exceed 35 percent.
 - ~~Failure to obtain a privilege license for an electronic gaming operation or pay the privilege license fee upon initial issuance or renewal of a privilege license for an electronic gaming operation as required by the Town shall result in a penalty equal to 100 percent of the fee that is due in addition to the fee itself.~~
 - ~~Consistently and purposely hiding machines/terminals/computers, using switching devices to change screens in order to hide the true purpose and use of a computer, or any other play to hide the intended use of any computer within the establishment shall be considered as perpetrating a fraud upon the Town and shall result in the immediate permanent revocation of the establishment's privilege license, zoning compliance permit, and shall result in a penalty equal to 100 percent of the fee that is due in addition to the fee itself.~~
 - ~~There shall be an adult manager, 18 years of age or older, on the premises during the hours of operation.~~

TOWN OF ARCHER LODGE
Unified Development Ordinance

121

LAST AMENDED
June 9, 2021

25

Electronic Gaming Establishment

26

Remove
privilege
licenses

Clarified
zoning
compliance
permit
requirements

Off-street
parking
requirements

ARTICLE 5. - USE REGULATIONS DIVISION 3. - Use standards.

- ~~h. Each applicant for a zoning compliance permit as required by this Article shall be upon a form approved by the Town Council and shall be filed with the Town Clerk. Each applicant shall certify, under oath, the following information:~~
- The name, age and residence of all interested parties;
 - The address of the premises where the business shall be located;
 - The proposed hours of operation of the business;
 - The dimensions of land owned or controlled by the applicant as premises for the electronic gaming operation;
 - A description of any other business to be operated on the same premises or any adjoining premises owned or controlled by the applicant; and
 - A statement of any prior revocations of a license ~~or permit~~ of any interested party to operate an electronic gaming operation or similar business in any jurisdiction.
- ~~i. k. The applicant shall provide the serial number of each and every computer in the establishment. The Town Clerk or Town Planner will issue a Town decal including the serial number, Town terminal number, and date of issuance, to be displayed visibly on the computer or gaming terminal at all times. The Town terminal number will be assigned by the code enforcement officer at the time the application for a zoning compliance permit is submitted to development services, and shall be maintained on file by the Town. The serial numbers of computers or gaming terminals placed into service after the privilege license is granted (and the additional privilege license fees) shall be provided to the Town Clerk or Town Planner prior to any use of the machine.~~
- Computers that are removed from the establishment shall be reported, with the serial number, to the Town Clerk or Town Planner; any replacement computer shall be reported, with the serial numbers of the original and replacement machines, to the code enforcement officer. New computers or gaming terminals must be issued a Town decal prior to operation.
 - Alteration or modification of any Town-issued decal shall be considered a zoning violation and subject to civil penalties per Article 9 Enforcement.
- ~~m. No interested party shall operate an electronic gaming operation unless the party shall have first applied for and received the privilege license provided for by the Town's zoning compliance permit. It shall be unlawful to operate an electronic gaming operation within the Town without a privilege license and zoning compliance permit as required by this section and the Town.~~
- ~~n. Electronic gaming operations that are operating at the time of the adoption of this section shall have applied for the privilege license provided for by the Town. Any such establishment denied a license shall cease operations of machines within three days of notice of such denial by the Town Clerk or Town Planner.~~
- ~~o. m. A change of any facts stated in an application filed under this Article shall be reported immediately to the Town Clerk and Town Planner. Failure to report any change of the facts stated in the application shall be subject to civil penalties as outlined in § 30-9501 Amount of civil penalties.~~
- ~~p. A zoning compliance certificate issued pursuant to this Article shall become void if the licensee moves or ceases to operate at the location required to be stated in the application for the license.~~
- ~~q. Off-street parking requirements shall be as follows:~~
- One parking space per machine;
 - One parking space per employee; and
 - Two state department of insurance designed handicap parking spaces per first 25 parking spaces and one for every 25 parking spaces thereafter.

TOWN OF ARCHER LODGE
Unified Development Ordinance

122

LAST AMENDED
June 9, 2021

26

2030 Future Land Use Plan Excerpts

27

2030 Future Land Use Plan Excerpts

- Furthermore, the proposed amendments are in accordance with the ***Town of Archer Lodge, NC 2030 Comprehensive Land Use Plan***, aka “Comprehensive Plan”, and other adopted Town plans having bearing on the matter.
- The proposed revisions follow the guiding land use principals of the Comprehensive Plan. “Archer Lodge’s vision for future land development is to encourage a compatible mix of uses which preserves the Town of Archer Lodge’s small-town character while respecting its historic features.”
- Incorporates growing greener through conservation by design as a means of responsible development and farmland preservation
- Considers environmental protection with all planning.

27

Next Steps...

28

Town Council Consideration

1. Consideration of Comments Expressed at the Public Hearing
2. Consideration of Staff and Planning Board Recommendation.*

Clarify (on page 93) Article 4.- Zoning Districts, Division 5, (i) (2) (d)3 to read as follows.

The minimum lot width standard for the zoning district shall not be applied, but the lot shall include sufficient width to accommodate both ~~applicable-side lot-line-or-street~~ setbacks ~~and an additional plus~~ 30 linear feet ~~between the side setback lines~~; and
3. Make Consistency Determination (Draft Town Consistency Statement included in the Staff Report.)
4. Adoption of Amendments (Adopted amendments will be submitted to for Final Approval by Water Supply Watershed Protection Coordinator, Storm water Program, Division of Energy, Mineral, and Land Resources, NC Department of Environmental Quality)
5. Accept Redlines,
6. Add Editor’s Notes, and Update Footer
7. Post new UDO

28

Discussion – Consideration- Adoption of Consistency Statement and Ordinance AL# 2021-11-2-1

Slide 29



29

Town Council Draft Consistency Statement

30

Town Council Consideration

- The Town Council finds that the proposed amendments to Chapter 30, Article 2. - Authorities, Divisions 1, 5, 6 and Article 3 - Procedures, Division 1, to clarify the definition, roles, and duties of review authorities; Article 4. - Zoning Districts, Division 5, to update and clarify the Water Supply Protection Overlay District standards; and Article 5. – Use Regulations, Division 3, to update manufactured home park standards for masonry skirting (in parks) and update/clarify electronic gaming operations provisions (i.e., removes privilege license requirement) in accordance with state law are reasonable and in the public interest. The proposed revisions clarify/streamline ordinance provisions, facilitates environmental protection, plans for future development, and addresses changes in state law. Furthermore, the proposed amendments are consistent with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka "Comprehensive Plan", vision and mission statements and other adopted Town plans having bearing on the matte
-

30

Draft Town Council Motion

31

Upon making consistency findings, Council Member _____ moves to approve Archer Lodge Ordinance #AL-2021-11-1 (incorporating proposed text in **red font**, and deleting text in **blue font with strikethrough**). The motion was seconding by Council Member _____ with a ____ to ____ vote.

31

11.15.2021 - Approved Consistency Statement

The Town Council finds that the proposed amendments to Chapter 30, Article 2. - Authorities, Divisions 1, 5, 6 and Article 3 - Procedures, Division 1, to clarify the definition, roles, and duties of review authorities; Article 4. - Zoning Districts, Division 5, to update and clarify the Water Supply Protection Overlay District standards; and Article 5. – Use Regulations, Division 3, to update manufactured home park standards for masonry skirting (in parks) and update/clarify electronic gaming operations provisions (i.e., removes privilege license requirement) in accordance with state law are reasonable and in the public interest. The proposed revisions clarify/streamline ordinance provisions, facilitate environmental protection, plans for future development, and addresses changes in state law. Furthermore, the proposed amendments are consistent with the Town of Archer Lodge 2030 Comprehensive Land Use Plan, aka “Comprehensive Plan”, vision and mission statements and other adopted Town plans having bearing on the matter.

**AN ORDINANCE AMENDING THE CODE OF ORDINANCES,
TOWN OF ARCHER LODGE, NORTH CAROLINA,
CHAPTER 30 – UNIFIED DEVELOPMENT ORDINANCE: ARTICLE 2. –
AUTHORITIES, DIVISIONS 1, 5, AND 6; ARTICLE 3. – PROCEDURES, DIVISION 1;
ARTICLE 4. – ZONING DISTRICTS, DIVISION 5; AND
ARTICLE 5. – USE REGULATIONS, DIVISION 3**

Section 1. Pursuant to authority granted by N.C. Gen. Stat. § 143 - 214.5, 160A - 174, 160D - 801, and 160D - 702, the Town of Archer Lodge hereby amends the Code of Ordinances, Town of Archer Lodge, North Carolina, Chapter 30 – Unified Development Ordinance, as follows, attached hereto and incorporated herein by reference:

Article 2. – Authorities, Divisions 1, 5 and 6

Article 3. – Procedures, Division 1

Article 4. – Zoning District, Division 5

Article 5. – Use regulations, Division 3

Section 2. The amendments to Chapter 30 - Unified Development Ordinance, attached hereto and incorporated herein by reference, shall become effective on November 15, 2021.

DULY ADOPTED, THIS THE 15TH DAY OF NOVEMBER 2021.

TOWN OF ARCHER LODGE:

(SEAL)



Matthew B. Mulhollem, Mayor



ATTEST:


Kim P. Batten, Town Clerk

ARTICLE 2. - AUTHORITIES

DIVISION 1. - GENERAL REQUIREMENTS FOR ALL REVIEW AUTHORITIES.

A review authority is any board, council, committee, or staff member identified in this Ordinance that review applications for development approval under this Ordinance. An application may be reviewed by more than one review authority. (Amended 11-15-21 UDOTA 1-21)

Sec. 30-2101 - Oath of office required.

- (a) All members appointed to boards shall, before entering their duties, qualify by taking an oath of office administered by the Mayor or the Mayor Pro Tem.
- (b) Oaths shall be signed and filed with the Town Clerk.
- (c) The oath to be administered is prescribed in Article VI, § 7 of the N.C. Constitution, as follows:
“I,, do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as, so help me God.”

Sec. 30-2102 - Open meetings.

Except as provided by N.C. Statute, each official meeting of the public bodies described in this Article shall be open to the public, and any person is entitled to attend such a meeting. Remote meetings conducted in accordance with §166A-19.24 of the North Carolina General Statutes shall comply with this subsection even if all members of the public body are participating remotely.

Sec. 30-2103 - Attendance.

Faithful attendance at scheduled meetings is required. The Town Council may remove any appointed member for absenteeism. Missing three or more meetings in a twelve-month period is prima facie evidence of absenteeism. The Secretary to each board shall make a report on attendance to the Town Council in writing at least once in every calendar year.

Sec. 30-2104 - Minutes and rules of procedure.

- (a) Each board shall draw up rules of procedure under which it will operate. The Town Council will adopt rules of procedure and any amendments that are consistent with the provisions of this UDO. In the absence of action by the Town Council, each board created under this Article is authorized to adopt its own rules of procedure that are consistent with the provisions of this Ordinance. A copy of any adopted rules of procedure shall be maintained by the Town Clerk and posted on the Town's official web site.
- (b) Each board shall keep minutes of its proceedings. The Secretary shall keep minutes of its proceedings, showing the vote of each member upon each question, and the absence or failure of any member to vote, and a copy of the minutes shall be maintained on file for public record in the office of the Town Clerk.

Sec. 30-2105 - Conflict of interest.

- (a) A Town Council or Planning Board member shall not vote on any legislative decision regarding a development regulation adopted pursuant to this UDO where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member. A Town Council or Planning Board member shall not vote on any zoning amendment if the landowner of the property subject to a rezoning petition or the applicant for a text amendment is a person with whom the member has a close familial, business, or other associational relationship.

- (b) *Quasi-Judicial Decisions.*--A member of the Board of Adjustment, Stormwater Review Board, or Town Council shall not participate in or vote on any quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker. Impermissible violations of due process include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. Quasi-judicial decisions include variances and special use permits.

DIVISION 5. - TECHNICAL REVIEW COMMITTEE.**Sec. 30-2501 - Establishment.**

The Town Administrator shall appoint a committee of staff members having particular expertise in the development of real property as the Technical Review Committee (TRC). The Committee shall be chaired by the Town Planner. The TRC members shall consist of the Planning Board Chair, and the Fire Chief or their designees. Other members shall serve on the TRC on an ad hoc basis, depending on the nature, size, and complexity of the development project to be reviewed include, but are not limited to: Parks and Recreation, Legal, NCDOT, and the following Johnston County agencies: Public Utilities (including storm water, erosion control, infrastructure), Environmental Health, Health Department, Inspections, and Emergency Management Services.

Sec. 30-2502 - Powers and Duties.

(a) The TRC shall provide a recommendation to the Planning Board on the following:

- (1) Major subdivisions;
- (2) Site plans; and
- (3) Plans filed with applications for a special use permit. (Amended 11-15-21 UDOTA 1-21)

(b) The TRC shall review and comment, prior to consideration by other review authorities, on the following:

- (1) The Comprehensive Plan or an amendment to the Comprehensive Plan;
- (2) Planned development master plans; and
- (3) Reasonable accommodations. (Amended 11-15-21 UDOTA 1-21)

(c) The TRC shall participate in pre-application conferences as requested by the Town Planner.

(Amended 11-15-21 UDOTA 1-21)

Sec. 30-2503 - Conflicts of Interest

The members of the TRC shall follow and abide by § 30-2603 Conflict of interest.

DIVISION 6. - TOWN PLANNER.

Sec. 30-2601 - Powers and Duties.

The Town Planner shall have the following powers and duties, to be carried out in accordance with the terms of this Ordinance:

(a) Review and decision. (Amended 11-15-21 UDOTA 1-21)

To review and decide applications for the following:

- (1) Administrative adjustments (see Section 30-3301, Administrative adjustments);
- (2) Determinations regarding the text of this Ordinance (see § 30-3306, Determinations and interpretations);
- (3) Exempt subdivisions;
- (4) Expedited subdivisions;
- (5) Final plats;
- (6) Floodplain development permits;
- (7) Minor subdivisions;
- (8) Temporary use permits; and
- (9) Zoning compliance permits.

(b) Review and recommend. (Amended 11-15-21 UDOTA 1-21)

To review and provide a recommendation to the Town Council on applications for vested rights certificates.

(c) Review and comment. (Amended 11-15-21 UDOTA 1-21)

To review and provide comments to other review authorities on applications for the following:

- (1) Building permits;
- (2) Certificates of occupancy;
- (3) Development agreements;
- (4) Major subdivisions;
- (5) Rezoning/map amendments;
- (6) Text amendments; and
- (7) Variance requests.

(d) General planning and permitting. (Amended 11-15-21 UDOTA 1-21)

- (1) To review all applications for land development for completeness and compliance with the terms of this Ordinance.
- (2) To ensure that submitted applications are reviewed and comments returned to applicants in a timely manner.
- (3) To issue and maintain a record of all development related permits, subdivisions of land and approvals on file and to make copies available to interested parties.
- (4) To provide the Town Council, Planning Board, Board of Adjustment, Town Staff, and applicants with reports and recommendations, as required by this Ordinance, other laws or regulations, or at the request of another review authority.
- (5) To enforce compliance with the terms of this Ordinance, unless otherwise specified.

(6) To revoke any permits provided therein.

(e) *Environmental protection.*

(1) To administer the Town's Water Supply Watershed Protection Overlay District standards.

(2) To serve as the Floodplain Administrator in accordance with the Archer Lodge Code of Ordinances Chapter 14 Flood Damage Prevention.

Sec. 30-2602 - Conflict of Interest.

- (a) No Town staff member shall make a final decision on an administrative decision required by this UDO if the outcome of that decision would have a direct, substantial, and readily identifiable financial impact on the staff member or if the applicant or other person subject to that decision is a person with whom the staff member has a close familial, business, or other associational relationship. If a staff member has a conflict of interest under this section, the decision shall be assigned to the supervisor of the staff person or such other staff person as may be designated by the UDO.
- (b) No staff member shall be financially interested or employed by a business that is financially interested in a development subject to regulation under this Ordinance unless the staff member is the owner of the land or building involved. No staff member or other individual or an employee of a company contracting with a local government to provide staff support shall engage in any work that is inconsistent with his or her duties or with the interest of the Town, as determined by the Town.

ARTICLE 3. - PROCEDURES

DIVISION 1. - SUMMARY PROCEDURES TABLE.

(Amended 11-15-21 UDOTA 1-21)

APPLICATION SUMMARY TABLE								
Review Authority Actions:			C = Comment; R= Recommendation; D = Decision; A = Appeal;					
Pre-Application Conferences			M = Mandatory; O = Optional; N/A = Not Applicable					
Type of Review:			=Public Meeting; / \=Legislative Hearing; { }=Quasi-Judicial Hearing					
APPLICATION TYPE	UDO SECTION NUMBER	PRE-APPLICATION	REVIEW AUTHORITY /1/					
			TOWN PLANNER	TECH. REVIEW COMMITTEE	PLANNING BOARD	BOARD OF ADJUSTMENT	TOWN COUNCIL	SUPERIOR COURT
Administrative Adjustment	30-3301	M	D	•	•	{A}	•	•
Appeal	30-3302	N/A	•	•	•	{D}	•	A
Building Permit /2/	30-3303	N/A	C	•	•	•	•	•
Certificate of Occupancy /2/	30-3304	N/A	C	•	•	•	•	•
Comprehensive Plan	30-3305	M	C	C	R	•	/D\	A
Determination and Interpretation	30-3306	O	D /3/	•	•	{D} /4/	•	•
Development Agreement	30-3307	M	C	•	R	•	/D\	A
Exempt Subdivision	30-3308	N/A	D	•	•	{A}	•	•
Expedited Subdivision	30-3309	N/A	D	•	•	•	•	A
Final Plat	30-3310	N/A	D	•	•	•	•	A
Floodplain Development Permit	30-3311	N/A	D	•	•	{A}	•	•
Major Subdivision	30-3312	O	C	R	D	•	•	A
Minor Subdivision	30-3313	O	D	•	•	{A}	•	•
Planned Development	30-3314	M	•	C	R	•	/D\	A
Reasonable Accommodation	30-3315	O	•	C	•	•	{D}	A
Rezoning/Map amendment	30-3316	O	C	•	R	•	/D\	A
Site Plan	30-3317	M	•	R	R	•	/D\	A
Special Use Permit	30-3318	M	•	R	R	•	{D}	A
Temporary Use Permit	30-3319	N/A	D	•	•	{A}	•	•
Text Amendment	30-3320	O	C	•	R	•	/D\	A
Variance	30-3321	M	C	•	•	{D}	•	A

APPLICATION SUMMARY TABLE								
Review Authority Actions: C = Comment; R= Recommendation; D = Decision; A = Appeal; Pre-Application Conferences M = Mandatory; O = Optional; N/A = Not Applicable Type of Review: =Public Meeting; / \=Legislative Hearing; { }=Quasi-Judicial Hearing								
APPLICATION TYPE	UDO SECTION NUMBER	PRE- APPLICATION	REVIEW AUTHORITY /1/					
			TOWN PLANNER	TECH. REVIEW COMMITTEE	PLANNING BOARD	BOARD OF ADJUSTMENT	TOWN COUNCIL	SUPERIOR COURT
Vested Rights Certificate	30-3322	O	R	•	•	•	/D\	A
Zoning Compliance Permit	30-3323	N/A	D	•	•	{A}	•	•
NOTES: /1/ Review authorities are defined in Article 2, Authorities. /2/ Issued by Johnston County Building Inspections Dept.; Town Planner checks for zoning compliance. /3/ The Town Planner shall decide interpretations of the text of this Ordinance. /4/ The Board of Adjustment shall decide interpretations of the Official Zoning Map.								

DIVISION 5. - OVERLAY ZONING DISTRICTS.

Sec. 30-4501 - Intent.

It is the intent of this Division to provide for various zoning districts which shall overlay the conventional and planned development zoning districts enumerated in this Article, and which shall provide for special review of development within such overlay districts in accordance with the intents, procedures, and standards established for the overlay districts.

Sec. 30-4502 - Water supply watershed protection overlay district (WSWOD).

- (a) *Authority.* The General Assembly has, in §§143-214.5, 160A-174, 160D-801 and, 160D-702 of the North Carolina General Statutes, delegated the responsibility and directed the Town to establish water supply watershed protection programs, to regulate land use and development within water supply watersheds and to adopt regulations designed to promote the public health, safety and general welfare of its citizenry.
- (b) *Intent.* The Water Supply Watershed Protection Overlay District (WSWOD) is to provide, in designated watershed areas, a higher level of control from activities and situations that could degrade the quality of the water entering the Neuse River, as identified in the State watershed protection management plan.
- (c) *Applicability.* The provisions of this section shall apply within the area designated as a public water supply watershed by the N.C. Environmental Commission and are defined and established on the map entitled "Water Supply Watershed Protection Overlay District of Archer Lodge, North Carolina," on the Official Zoning Map of the Town. Land use and development within this district that requires an erosion and sedimentation control permit must comply with all the requirements of this Article and the underlying zoning district.
- (d) *Exceptions to applicability.* The watershed protection requirements of this section shall not apply to:
 - (1) Development established prior to December 4, 2009, the first date of adoption of this Ordinance.
 - (2) New or existing single-family detached dwelling unit.
 - (3) Development that does not require an erosion and sedimentation control permit.
 - (4) Existing development, unless it is expanded or replaced, in which case the rules at sub-section (f) below apply.
 - (5) In addition, the following exceptions also apply:
 - a. Nothing contained herein shall repeal, modify, or amend any Federal or State law or regulation, or any ordinance or regulation pertaining thereto except any ordinance which these regulations specifically replace; nor shall any provision of this Ordinance amend, modify, or restrict any provisions of the Code of Ordinances of the Town; however, the adoption of this Ordinance shall and does amend any and all ordinances, resolutions, and regulations in effect in the Town at the time of the adoption of this Ordinance that may be construed to impair or reduce the effectiveness of this Ordinance or to conflict with any of its provisions.
 - b. It is not intended that these regulations interfere with any easement, covenants, or other agreements between parties. However, if the provisions of these regulations impose greater restrictions or higher standards for the use of a building or land, then the provisions of these regulations shall control.
- (6) *Non-conforming lots.* If a nonconforming lot of record is not contiguous to any other lot owned by the same party, then that lot of record shall not be subject to the development restrictions of this Ordinance if it is developed for single-family residential purposes. If a non-conforming lot of record is contiguous to another lot owned by the same party, the lots shall be combined to make a conforming lot or one that is more conforming than each lot individually. Any lot or parcel created as part of any other type of subdivision that is exempt from this Ordinance shall be subject to the land use requirements (including impervious surface requirements) of these rules, except that such a lot or parcel must meet the minimum buffer requirements to the maximum extent practicable.

(e) *Definitions.* The terms used in this section are further defined in Article 10: Measurement and Definitions.

(f) *Permits.*

(1) *Zoning compliance permit / Watershed protection permit.*

- a. Except where either (i) a single family residence is constructed on a lot deeded prior to Dec. 4, 2009, or (ii) An erosion and sedimentation control permit is not required, no building or built-upon area shall be erected, moved, enlarged or structurally altered, nor shall any zoning compliance permit be issued nor shall any change in the use of any building or land be made until a the information required by this section has been received by the Town Planner and a watershed protection permit has been issued. No watershed protection permit shall be issued except in conformity with the provisions of this Ordinance. This permit shall be filed with the Town and shall expire at the end of 24 months if not used, or if a building permit is not obtained.
- b. Watershed protection permit applications shall be filed with the Town Planner. The application shall include a completed application form and supporting documentation deemed necessary by the Town.
- c. Prior to issuing a watershed protection permit, the Town Planner may consult with qualified personnel for assistance to determine if the application meets the requirements of this ordinance.
- d. A zoning compliance permit shall serve as a watershed protection permit for development located within the Water Supply Watershed Protection Overlay (WSWOD). A zoning compliance permit shall not be issued unless the development complies with all applicable requirements in this section. If the zoning compliance permit is denied, the Town Planner shall notify the applicant in writing stating the reasons for denial.

(2) *Building permit required.* Except where provided elsewhere in this Article, no building permit required under the State Building Code shall be issued for any activity for which a watershed protection permit is required until a zoning compliance permit has been issued.

(3) *Watershed protection occupancy permit.*

- a. Prior to the occupancy or use of a building erected, altered, or moved and/or prior to the change of use of any building or land, the Town Planner shall issue a watershed protection occupancy permit certifying that all requirements of this Article have been met.
- b. A certificate of occupancy shall serve as a watershed protection occupancy permit for development located within the Water Supply Watershed Protection Overlay (WSWOD). A certificate of occupancy shall not be issued unless the development complies with all applicable requirements in this section.
- c. If the watershed protection occupancy permit is denied, the Town Planner shall notify the applicant in writing stating the reasons for denial.

(g) *Occupied lots.* This category consists of lots occupied for residential purposes at the time of the adoption of the ordinance from which this Article is derived. These lots may continue to be used, provided that whenever two or more adjoining lots of record, one of which is occupied, are in single ownership at any time after Dec. 4, 2009, and such lots individually or together have less area than the minimum requirements for residential purposes specified in this Article, such lots shall be combined to create lots which meet the minimum size requirements, or which minimize the degree of nonconformity. The undeveloped lot may not be developed unless and until it complies with this ordinance.

(h) *Industrial use of land.* This category consists of existing industrial uses and/or the storage of hazardous or toxic materials where a spill containment plan is not implemented and where such use of the land is not permitted to be established in the watershed area. Such existing uses may be continued except as provided for in sub-section (1)(d) below.

- (i) *Permitted uses.* The following uses are permitted as principal uses in the watershed protection overlay district provided such uses are also permitted in the underlying zoning district and providing that the requirements stated in this section and this zoning and subdivision ordinances.

(1) *Protected area.*

- a. Agriculture, subject to the provisions of the Food Security Act of 1985 and the Food, Agricultural, Conservation and Trade Act of 1990.
- b. Silviculture, subject to the provisions of the Forest Practices Guidelines Related to Water Quality (15 NCAC 11 .0101.0209).
- c. Residential development as permitted in the underlying zoning district provided that it meets the standards of the WSWOD.
- d. Nonresidential development as permitted in the underlying zoning district provided that it meets the standards of the WSWOD.

(2) *Density and built-upon (impervious) limits in the protected area.*

- a. Where the maximum allowed built-upon area conflicts with another ordinance or standard, the stricter standard, or lower maximum allowed built-upon area applies. For example, where either (i) the Johnston County Stormwater Management Ordinance as adopted by reference by the Town, or (ii) § 30-7203 Lot size standards of this Ordinance shall apply, then lower built-upon area requirements apply.
- b. Single family residential uses shall develop at a maximum of two dwelling units per acre (2 du/ac) or 20,000 square feet per lot, excluding street rights-of-way. In the alternative, the maximum built upon area shall be 24% per individual lot. (Amended 11-15-21 UDOTA 1-21)
- c. All other residential and non-residential development shall not exceed 24 percent built-upon area. For projects without a curb and gutter street system, development shall not exceed 36 percent built-upon area.
- d. Cluster development is allowed on a project-by-project basis provided of all of the following conditions are met: (Amended 11-15-21 UDOTA 1-21)
 1. Overall density shall not exceed 20,000 square feet per lot or a maximum overall density of the entire site of two dwelling units per acre; and
 2. The minimum lot area standard for the zoning district shall not be applied, but in no instance shall an individual lot have more than 24% built-upon area; and
 3. The minimum lot width standard for the zoning district shall not be applied, but the lot shall include sufficient width to accommodate both side setbacks and plus 30 feet between the side setback lines; and
 4. The required setbacks for the zoning district shall continue to apply to each buildable lot; and
 5. Buffers (vegetated setbacks) shall meet the requirements of sub-section (j) below; and
 6. Built-upon areas are designed and located to minimize stormwater runoff impacts to receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas and maximize the flow length through vegetated areas; and
 7. Areas of concentrated development shall be located in upland areas and away from surface waters and drainage ways. In determining whether these criteria have been met the approving body shall take into account site-specific factors such as topography, site layout and the protection of water quality; and
 8. The remainder of the tract shall remain in a vegetated or natural state; and
 9. The area in a vegetated state shall be conveyed to a homeowner's association, the Town for preservation as a park or greenway, a conservation organization, or placed in a permanent conservation or farmland preservation easement; and

10. A maintenance agreement for the vegetated or natural area shall be recorded with the Johnston County Register of Deeds and incorporated into any restrictive covenants for the development; and
 11. Vegetated swales and/or “curb outlet systems” as described in § 30-4502(j), Vegetated setback (buffer), will be provided. (Amended 11-15-21 UDOTA 1-21)
- e. *Density averaging.* An applicant may average development density on up to two noncontiguous properties for purposes of achieving compliance with the water supply watershed development standards if all of the following circumstances exist:
1. The properties are within the Archer Lodge Water Supply Watershed Protection Overlay District boundary.
 2. Overall project density meets applicable density or stormwater control requirements of this section.
 3. Vegetated setbacks on both properties meet the minimum requirements in § 30-4502(j), Vegetated setback (landscape buffer area) required.
 4. Built upon areas are designed and located to minimize stormwater runoff impact to the receiving waters, minimize concentrated stormwater flow, maximize the use of sheet flow through vegetated areas, and maximize the flow length through vegetated areas.
 5. Areas of concentrated density development are located in upland areas and, to the maximum extent practicable, away from surface waters and drainage ways.
 6. The property or portions of the properties that are not being developed will remain in a vegetated or natural state and will be managed by a homeowners' association as common area, conveyed to the Town or County as a park or greenway, or placed under a permanent conservation or farmland preservation A metes and bounds description of the areas to remain vegetated and limits on use shall be recorded on the subdivision plat, in homeowners' covenants, and on individual deed and shall be irrevocable.
 7. Development permitted under density averaging shall transport stormwater runoff by vegetated conveyances, to the maximum extent practicable.
 8. A special use permit shall be obtained from the Town Council to ensure that both properties considered together meet these standards and that potential owners have record of how these standards were applied to the properties.
- f. *Low-Density Option.* The standards in Section (2) are collectively known as the “low density option.” No “high density option” is permitted in the protected area. (Amended 11-15-21 UDOTA 1-21)
- g. *Calculation of density.*
1. Project density is calculated as the total built upon area divided by the total project area;
 2. A project with “existing development” may calculate project density. in either of the following methods: total built upon area divided by total project area, or (total built-upon area minus existing built-upon area) divided by (total project area minus existing built-upon area)
 3. When there is a net increase of built-upon area, only the area of net increase is subject to the Water Supply Watershed Protection Overlay (WSWOD) District standards.
 4. Where existing development is replaced with a new built-upon area, and there is a net increase of built-upon area, only the area of net increase is subject to the Water Supply Watershed Protection Overlay Standards.
- (j) *Vegetated setback (landscaped buffer area) required.*
- (1) *Vegetated setback (buffer)*

- a. Vegetated setbacks or buffers are required along all perennial streams and waterbodies as indicated on either the most recent versions of the U.S. Geological Survey (USGS) 1:24,000 scale (7.5 minute) quadrangle topographic maps, which are incorporated herein by reference and are available online at no cost at <http://www.usgs.gov/pubprod>; or another map developed by the Town, County, or N.C. DEQ and approved by the Environmental Management Commission.
 - b. Where USGS topographic maps do not distinguish between perennial and intermittent streams, an on-site stream determination may be performed by an individual qualified to perform such stream determinations. "Qualified Individual" is defined in § 30-10301, Defined terms.
 - c. *Width of vegetated setback / buffers.* The following minimum widths apply from both banks or sides of any surface waters, including perennial streams, lakes, ponds, reservoirs measured horizontally from the normal pool elevation of impoundments or the top of bank of streams:
 1. Thirty feet for all Low-Density Option development; or
 2. Ten feet OR equivalent as determined under 15A NCAC 02B.0622 for agricultural activities.
- (2) *Uses of the vegetated setback/buffer.* The vegetated setbacks may be cleared or graded but shall be replanted and maintained in grass or other vegetation. No new built-upon area shall be allowed except for the following uses where it is not practical to locate them elsewhere:
- a. Publicly funded linear projects such as roads, greenways, and sidewalks;
 - b. Water-dependent structures such as docks; and
 - c. Minimal footprint uses such as poles, signs, utility appurtenances and security lights. Built-upon area associated with these uses shall be minimized and the channelization of run-off shall be avoided.
 - d. Artificial stream bank and shoreline stabilization is not subject to the requirements of this sub-section.
 - e. Divisions of property into lots that are exempt from the subdivision requirements in this Ordinance shall implement the requirements of this sub-section to the maximum extent practicable considering site-specific factors including technical and cost considerations as well as water-quality protection.
- (k) *Additional requirements for low density projects.* Low-density projects shall comply with all of the following:
- (1) *Vegetated conveyances.* Stormwater runoff from any development shall be released to vegetated areas as dispersed flow or transported by vegetated conveyances to the maximum extent practicable. In determining whether this criteria has been met the Town Planner shall take into account site specific factors such as topography and site layout as well as water quality protection. Vegetated conveyances shall be maintained in perpetuity to ensure that they function as designed. Vegetated conveyances meeting the following criteria satisfy the following requirements:
 - a. Side slopes shall be no steeper than 3:1 (horizontal-to-vertical) unless it is demonstrated to the Town Planner that the soils and vegetation will remain stable in perpetuity based on engineering calculations and on-site soil investigation; and
 - b. The conveyance is designed so that it does not erode during peak flow from the 10-year storm as demonstrated by engineering calculations submitted with the application for a watershed protection permit by a professional engineer licensed by the State of North Carolina.
 - (2) *Curb outlet systems.* Instead of vegetated conveyances, low density projects have the option to use curb and gutter with outlets to convey stormwater to grassed swales or vegetated areas. The requirements for curb outlet systems are as follows:
 - a. The curb outlets are located so that the swale or vegetated area can carry the peak flow from the 10-year storm at a non-erosive velocity.

- b. The longitudinal slope of the swale or vegetated area shall not exceed five percent except where not practical due to physical constraints. In these cases, devices to slow the rate of runoff and encourage infiltration to reduce pollutant delivery to surface waters shall be provided.
 - c. The swale's cross-section shall be trapezoidal with a minimum bottom width of two feet.
 - d. The side slope of the swale or vegetated area shall be no steeper than 3:1 (horizontal-to-vertical).
 - e. Low density developments may use treatment swales designed in accordance with 15A N.C. Administrative Code 02H.1061.
- (l) *Establishment of the Watershed Review Board.* The Board of Adjustment shall serve as the Watershed Review Board as it is required in 15A N.C. Administrative Code 02B.0623 (5) (March 1, 2019).
 - (1) Instead of the relying upon the standards in § 30-3321, Variance, the Watershed Review Board shall use the following standards when considering applications for variances from these WSWOD standards:
 - a. There are difficulties or hardships that prevent compliance with § 30-4502 Water Supply Watershed Protection Overlay (WSWOD) District; and
 - b. The variance is in accordance with the general purposes and intent of § 30-4502(b) Intent; and
 - c. If the variance is granted, the proposed development will ensure equal or better protection of the waters of the State than the requirements of this 30-4502, Water Supply Watershed Protection Overlay (WSWOD) District and that the stormwater controls will function in perpetuity.
 - (2) *Procedural changes to quasi-judicial hearing procedures.* In addition to the requirements of § 30-3205(c), Quasi-judicial public hearings, the following procedures will be followed:
 - a. *Minor watershed variances.* A thirty-day comment period shall run following the submission of a completed variance application and before the Watershed Review Board hears the application. The Town Planner shall notify all other local governments having jurisdiction in the watershed and all entities using the water supply for consumption.
 - b. *Major watershed variances.* A decision by the Watershed Review Board to approve a major watershed variance shall be preliminary only. The Town Planner shall within 30 days of the Watershed Review Board's decision, forward a record of the hearing, findings, and conclusions of law to the Environmental Management Commission for review and final decision. The preliminary record of the hearing shall include:
 - 1. The variance application;
 - 2. The hearing notices;
 - 3. The evidence presented;
 - 4. Motions, offers of proof, objections to evidence, and rulings on them;
 - 5. Proposed findings and expectations;
 - 6. The proposed decision, including all conditions proposed to be added to the permit.
 - c. If the Environmental Management Commission approves the decision of the Watershed Review Board or approves the decision with conditions, then the Environmental Management Commission shall prepare decision that authorizes the Watershed Review Board to issue a final decision including any conditions added by the Environmental Management Commission.
 - d. If the Environmental Management Commission denies the major watershed variance, it shall send the decision to the Watershed Review Board for final action in accord with the Environmental Management Commission's order.
- (m) *Additional duties of the Town Planner.* The Town Planner shall maintain the following records and furnish a copy to the Water Resources Division upon request:

- (1) A copy of the records of all variance applications heard by Watershed Review Board, including the record of decision; and
- (2) A description of all projects for which the Watershed Review Board has granted a variance; and
- (3) Records of inspections of stormwater control measures.
- (n) *Operation and maintenance of stormwater control measures (SCM).* When engineered stormwater control measures are required, they shall be operated and maintained according to the provisions of 15A NCAC 02B.0623 (7), as amended, which is incorporated herein by reference as if fully set out herein.

Sec. 30-4503 - Amendments to overlay district boundaries.

Amendments to the boundary of an overlay district shall be made consistent with § 30-3316, Rezoning/Map amendment. Requests to expand an existing overlay district boundary shall only be considered where such request abuts, adjoins, or is contiguous to, the established overlay district boundary.

DIVISION 3. - USE STANDARDS.**Sec. 30-5301 - Agricultural uses.**

- (a) *Agri-tourism*. Agri-tourism shall be subject to the district dimensional requirements where located, and shall require approval of a site plan in accordance with § 30-3317. Nothing shall limit the sale of concessions or products grown on site as part of an agri-tourism use.
- (b) *Agriculture and horticulture*. Agriculture and horticulture uses (structures and activities) taking place outside of a bona fide farm use shall be located at least 50 feet from any lot line shared with a residential zoning district and at least 100 feet from any existing residence on an adjacent lot.
- (c) *Agriculture support service*. Such uses shall be limited to a maximum of 6,500 gross square feet of floor area in the CB district.

Sec. 30-5302 - Residential uses.

- (a) *Assisted living facility*. Such uses shall not be primarily for the treatment of contagious diseases, mental illness, or addiction.
- (b) *Family Care Home*
 - (1) Family care homes shall comply with the standards in § 160D-907 of the North Carolina General Statutes.
 - (2) A lot containing a family care home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or a group home.
- (c) *Group home*. A group home shall comply with the following standards:
 - (1) A lot containing a group home shall not be located within one-half mile (2,640 feet) of another lot containing a family care home or another group home;
 - (2) The use shall be operated in a manner that is compatible with the surrounding neighborhood and shall not be detrimental to adjacent lands as a result of traffic, noise, refuse, parking, loitering, or other activities;
 - (3) The number of occupants in a group home shall be limited to the maximum number that may be accommodated while at the same time complying with all applicable Town regulations and State requirements;
 - (4) The use shall maintain a residential appearance compatible with its surroundings when proposed in a residential or mixed-use district; and
 - (5) The use shall meet all State requirements, as well as all applicable housing and building code requirements.
- (d) *Manufactured dwelling*. A manufactured dwelling shall comply with § 160D-910 of the North Carolina General Statutes, and the following standards:
 - (1) All class A and B manufactured homes, regardless of availability of public utilities, shall have a minimum lot size of one acre;
 - (2) Class A manufactured homes shall have a minimum 80-foot-wide front yard width and shall front on and the front door shall be parallel to the roadway and/or the access road;
 - (3) It shall be occupied only as a single-family dwelling;
 - (4) It shall be configured in accordance with the standards established by the North Carolina Department of Insurance and the most current version of the State of North Carolina Regulations for Manufactured Homes;
 - (5) It shall maintain a minimum width of 16 feet;
 - (6) It shall be oriented with the longest axis parallel to the lot frontage, to the maximum extent practicable;

- (7) The towing apparatus, wheels, axles, and transporting lights shall be removed;
 - (8) It shall include a continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, installed under the perimeter and unpierced except for required ventilation and access;
 - (9) It shall include stairs, porches, entrance platforms, ramps, and other means of entrance and exit that are installed or constructed in accordance with the standards set by the North Carolina Building Code. They shall be attached firmly to the primary structure and anchored securely to the ground;
 - (10) It shall maintain exterior siding comparable in composition, appearance, and durability to the exterior siding commonly used in standard residential construction, which consists of one or more of the following:
 - a. Vinyl or aluminum lap siding (whose reflectivity does not exceed that of flat white paint);
 - b. Cedar or other wood siding;
 - c. Stucco siding; or
 - d. Brick or stone siding;
 - (11) It shall maintain a roof pitch with a minimum vertical rise of three feet for each 12 feet of horizontal run;
 - (12) It shall include a roof finished with a Class C or better roofing material that is commonly used in standard residential construction;
 - (13) It shall provide an eave projection of no less than six inches, which may include a gutter; and
 - (14) In no instance shall a manufactured home be used solely for the purposes of storage.
- (e) *Manufactured home park.*
- (1) *Utility requirements.* All manufactured home parks shall conform to the following utility requirements:
 - a. An accessible adequate, safe supply of water shall be provided in each residential-manufactured home park. When a municipal water supply is not available, a community water supply shall be developed and its supply used exclusively in accordance with the standards of all applicable State, County and Town agencies.
 - b. Adequate and safe sewage disposal facilities shall be provided in all residential-manufactured home parks. Collection systems and sewage treatment plants shall comply with the standards of all applicable State, County, and Town agencies. Individual septic tank systems can be considered, if soil, topography, and groundwater conditions are favorable and such systems are approved by the appropriate State, County, and local agencies.
 - c. To protect the public health and monitor on-site wastewater systems, an environmental health authorization to relocate a manufactured/mobile home on a vacated or about to be vacated manufactured/mobile home space served by a septic tank within a manufactured home park is required. This authorization will be needed prior to issuing a building permit. The environmental authorization requirement is part of the laws and rules governing the operation of septic systems under provisions of 15A NCAC .1900 or § 130A-337(c) of the North Carolina General Statutes. Once a relocation application is received at the environmental health office, a member of the staff will make a visit to the lot in question to determine if the septic system appears to be in operating order. If the septic system appears to be functioning properly then an authorization to relocate a manufactured home on that lot will be issued. At that point, the owner of the manufactured home can secure a building permit.
 - d. All utilities, including piping, phone, electricity, and cable, shall be underground.
 - (2) *Streets and parking.* All manufactured home parks shall conform to the following street and parking requirements:

- a. All streets in a manufactured home park shall meet the road construction standards as set forth in the latest edition of the NCDOT subdivision roads minimum construction standards.
- b. Maintenance of such streets shall be provided by the owner or operator of the park.
- c. Permanent dead-end streets or cul-de-sac shall not exceed 1,000 feet in length and shall be provided with a turnaround of at least 100 feet in diameter.
- d. New street names or manufactured home park names shall not duplicate, or be similar to, existing street names or manufactured home park names in the Town.
- e. The developer shall be required to provide and erect street name signs to State standards at all intersections within the manufactured home park.
- f. Sidewalks, or a paved pedestrian walkways, shall be provided along all streets within the manufactured home park.
- g. A minimum of two off-street automobile parking spaces surfaced with an all-weather surface such as concrete, asphalt, or crushed stone shall be provided adjacent to each manufactured home space but shall not be located within any public right-of-way or within any accessway in the park.
- h. All spaces within a manufactured home park shall be serially numbered for mailing address purposes. These numbers shall be displayed in the front of the manufactured home on the driveway side with four-inch lettering.
- i. All streets in the manufactured home park shall be adequately illuminated in accordance with § 30-6302.

(3) *Sidewalks.*

- a. Sidewalks shall be located on at least one side of each street within the manufactured home park.
- b. Sidewalks shall be five feet in width located fronting arterial, collector, local, and private streets.

(4) *Residential-manufactured home park use/appearance requirements.* All uses within a manufactured home park shall conform to the following regulations:

- a. *Abandoned vehicle.* No junked or abandoned vehicles shall be allowed.
- b. *Additions.* No living compartment or structure other than a "Florida-type" room, or other prefabricated structure, specifically designed for manufactured home use or extension, shall be added to any manufactured home. Porches covered with a roof and open on three sides may be permitted if yard space requirements of this Article are not violated.
- c. *Administrative office.* An administrative office may be permitted in accordance with the State Building Code.
- d. *Building proportion.* The main portion of the building, when viewed from the front lot line, shall have a building length not exceeding six times the building width.
- e. *Dwelling configuration.* All manufactured homes shall comply with the standards for individual manufactured dwellings in § 30-5302(d), Manufactured dwelling, except that no continuous, permanent masonry foundation or masonry curtain wall of solid brick or brick veneer, shall be required under the perimeter of the dwelling. (Amended 11-15-21 UDOTA 1-21)
- f. *Evacuation plan.* Each manufactured home park in the flood damage prevention area shall have an evacuation plan indicating alternate vehicular access and escape routes. All manufactured homes to be placed in flood prone areas shall be anchored to resist flotation, collapse, or lateral movement by providing over-the-top ties at each of the four corners of the manufactured home with two additional ties per side at intermediate locations.
- g. *Mailboxes.* When more than five rural mailboxes are used for mail delivery, the approval of the local post office department and the State department of transportation shall be required.

- h. Project identification sign.* Park identification signs shall comply with the standards for a monument sign in accordance with § 30-6806, Signs in residential districts.
- (5) *Solid waste.* The residential-manufactured home park management shall be responsible for the proper storage, collection, and disposal of solid waste in accordance with § 30-6901 Collection of solid waste and recycling.
- (6) *Resident requirements.* All residential-manufactured home park residents must be required to comply with an established set of requirements through contracts, restrictive covenants, or other valid means. Failure to enforce such restrictions subjects the property to revocation of the manufacturing home park zoning.
- (7) *Landscape requirements.*
- a. All manufactured home parks shall be landscaped in accordance with § 30-6501, Landscaping.*
- b. A landscaped buffer strip shall be provided at all exterior property lines and shall consist of an approved wall, fence, or a planted strip at least eight feet in width, composed of deciduous or evergreen trees or a mixture of each, spaced not more than 20 feet apart and not less than one row of dense shrubs, spaced not more than five feet apart and five feet in height; after one growing season, which shall be planted and maintained in a healthy, growing condition by the property owner.*
- (8) *Conformance with residential-manufactured home park standards.*
- a. It shall be unlawful for any person to construct or engage in the construction of any manufactured home park or make any addition or alteration to an existing manufactured home park within the Town's planning jurisdiction unless a final plan of the manufactured home park has been approved in accordance with this section.*
- b. No new manufactured home park or manufactured home park addition shall be occupied until a certificate of occupancy has been issued by the County inspections department.*
- c. The owners, management, or occupants to whom a construction permit for a manufactured home park is issued shall operate the park in compliance with this section and shall provide adequate supervision to maintain the park, its facilities and equipment in good repair and in a clean and sanitary condition.*
- d. The County inspections department may, after due notice, subject to the right of appeal, suspend or revoke the certificate of occupancy for failure to maintain the park in compliance with the provisions of this section.*
- e. The certificate of occupancy may be revoked for a specific section of a manufactured home park which is in violation and occupancy allowed to continue in portions of the park which are in conformity with the certificate of occupancy. The Town Planner and the Johnston County Inspections and Environmental Health Departments may conduct as many inspections of manufactured home parks as are deemed necessary to ensure the compliance of applicable standards.*
- (9) *Certificate of occupancy and compliance.*
- a. The Town Council will authorize the Town Planner to issue a zoning compliance certificate prior to the issuance of a County inspections department certificate of occupancy and compliance.*
- b. A certificate of occupancy must be authorized and issued by the inspections department prior to occupancy of a manufactured home park. Construction must conform to the approved plan.*
- c. A certificate of occupancy may be issued if all required work, other than the completion of the foundation skirting, is completed, provided that a certificate of completion is issued by the Town Planner within 90 days of the issuance of the certificate of occupancy.*
- d. If no certificate of completion is issued within 90 days, the certificate of occupancy shall be void.*

(f) *Nursing home.*

- (1) Such uses shall not be primarily for the treatment of contagious diseases, mental illness, or addiction.
- (2) Nursing homes in the CB district shall be limited to a maximum of 18 patients.

Sec. 30-5303 - Institutional uses.

(a) *Church.* All buildings shall be set back at least 20 feet from any lot line.

(b) *Day care, adult.* Such uses shall be limited to a maximum of 12 adults in the CB district.

(c) *Day care, child.*

- (1) Such uses shall be limited to a maximum of 2,500 gross square feet in the NB district and a maximum of 5,000 gross square feet in the CB district.
- (2) Day care uses taking place within a private dwelling are treated as an accessory use (see Division 4).

(d) *Health care use.* Medical clinics, outpatient treatment facilities, and urgent care uses shall be limited to a maximum of 12,500 gross square feet in the CB district.

(e) *Telecommunications facilities.*

- (1) *Purpose and intent.* This section establishes general standards for the siting of wireless telecommunications facilities that will provide for the public health, safety, and welfare. The standards are intended to ensure that residents, businesses, and public safety operations in the Town's planning jurisdiction have reliable access to wireless communications services. More specifically, the provisions of this section are intended to:

- a. Ensure adequate protection of residential areas and uses from potential adverse impacts of wireless communications facilities, and to generally encourage the location of these facilities in areas where adverse impact on the community is minimal;
- b. Encourage the placement of wireless telecommunications facilities in non-residential areas;
- c. Minimize the number of new major telecommunications towers generally;
- d. Create conditions where wireless telecommunications service providers are able to provide wireless telecommunications services effectively and efficiently in accordance with State and federal law;
- e. Strongly encourage the joint use or collocation of new and existing wireless telecommunications facilities so as to minimize the number of new telecommunications towers throughout the Town;
- f. Establish collocation and concealed towers as the preferred options for the accommodation of wireless telecommunications equipment; and
- g. Ensure that wireless telecommunications facilities located within the public right of way do not obstruct sight distance triangles or create safety hazards for pedestrians or bicyclists.

- (2) *Applicability.* The standards in this section shall apply to all wireless telecommunications facilities except for the following, which are exempted from these standards but remain subject to all other applicable standards in this Ordinance:

- a. Removal of antennas, antenna support structures, or wireless telecommunications equipment on an existing telecommunications tower, utility pole, vertical projection, or equipment compound that does not result in a substantial modification;
- b. The operation of a small wireless facility solely within the interior of a structure, stadium, or athletic facility;
- c. Routine maintenance on an existing wireless telecommunication facility;

- d. Installation, modification, or operation of a micro-wireless facility, receive-only television antenna, or receive-only radio antenna for noncommercial use;
 - e. Installation, modification, or operation of FCC-licensed amateur ("ham") radio equipment; and
 - f. Dish antenna or earth stations.
- (3) *Retention of expert assistance and reimbursement by applicant.* The Town may hire any consultant and/or expert necessary to assist the Town in reviewing and evaluating application for a wireless telecommunications facility, including the construction and modification of the site, in accordance with these standards.
 - a. Upon filing an application, an applicant shall deposit with the Town funds sufficient to reimburse the Town for all reasonable costs of consultant and expert evaluation and consultation to the Town in connection with the review of any application, including the construction and modification of the site, once permitted.
 - b. The initial deposit shall be in the amount set forth in the adopted fee schedule and shall be paid at the time the application is submitted. The Town will maintain a separate escrow account for all such funds.
 - c. The Town consultants/experts shall invoice the Town for its services in reviewing the application, including the construction and modification of the site, once permitted.
 - d. If at any time during the process this escrow account has a balance less than an amount set forth in the adopted fee schedule, the applicant shall immediately, upon notification by the Town, replenish the escrow account so that it maintains the minimum required balance. Any additional escrow funds shall be deposited with the Town before any further action or consideration is taken on the application.
 - e. In the event that the amount held in escrow by the Town is more than the amount of the actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.
- (4) *Wireless telecommunications facilities distinguished.* The following use types and configurations are considered to be wireless telecommunications facilities subject to these requirements:
 - a. New and replacement major telecommunication towers of 50 feet in height or taller;
 - b. New and replacement minor telecommunication towers of up to 50 feet in height;
 - c. Stealth or concealed telecommunication towers, antennae, or wireless telecommunications equipment;
 - d. Major collocations of antennae and associated equipment on existing towers, buildings, or other vertical projections;
 - e. Minor collocations of antennae and associated equipment on existing towers, buildings, or other vertical projections; and
 - f. The installation of small wireless telecommunications facilities on land outside a public street right-of-way.
- (5) *General standards applicable to all types of wireless telecommunications facilities.* The following requirements shall apply to all new wireless telecommunications facilities and any modifications to an existing wireless telecommunications facility that exceeds the scope of routine maintenance, as defined in this section.
 - a. *Building permit required.* Prior to installation or modification exceeding the scope of routine maintenance, all wireless telecommunications facilities shall receive a building permit in accordance with the requirements in this Ordinance.

- b. Compliance with federal and state regulations.* All wireless telecommunication facilities shall comply with or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the federal government that regulates telecommunications facilities. In addition to federal requirements, all wireless telecommunication facilities shall comply with or exceed current standards and regulations of the State of North Carolina pertaining to wireless telecommunications facilities in §§160D-930 through 160D-934 of the North Carolina General Statutes.
- c. Interference.* No wireless communication facility shall disturb, diminish, or interfere with public safety, radio, television, or other wireless telecommunications signals in accordance with FCC requirements.
- d. Structurally sound.* All elements of a wireless telecommunication facility shall demonstrate, to the satisfaction of the Town, that the equipment and the structure supporting the equipment is structurally sound and can accommodate the proposed equipment and appurtenances.
- e. Sight distance at intersections.* All elements of a wireless telecommunication facility shall be located outside of, and shall in no way obstruct, required sight distance triangles. This requirement shall apply to existing streets as well as to future street intersections that have been designed or where right-of-way is currently being protected by the Town or the State.
- f. Accessory equipment.* Accessory equipment, including any buildings, cabinets, or shelters, shall be used only for the purposes of housing wireless telecommunications equipment and other supplies in direct support of the operation of the wireless telecommunications facility. Any equipment or materials not used in direct support of such operation shall not be stored on the site.
- g. Obstruction lighting.* Lighting of a wireless telecommunications facility shall be limited to that required for compliance with FAA minimum standards. Any lighting required by the FAA must be of the minimum intensity and number of flashes per minute (i.e., the longest duration between flashes) allowable by the FAA. Nighttime strobing or flashing lights are prohibited, unless required by the FAA.
- h. Signage.* Signage shall be limited to safety or informational signage identifying the party responsible for the operation and maintenance of the facility and any additional security or safety signs, as necessary, in the opinion of the Town Planner.
- i. Unauthorized access prohibited.* Telecommunications towers and vertical projections with wireless telecommunications equipment with a height of 30 feet above grade or more shall be designed or configured to prevent unauthorized persons from climbing on the wireless telecommunication facility whether through use of walls or fencing with a minimum height of six feet above adjacent grade, or anti-climbing devices.
- j. Nonconforming wireless telecommunications facilities.*

 - 1. Lawfully established wireless telecommunications facilities in operation prior to June 7, 2021, that do not comply with these standards may remain and operate as nonconforming uses.
 - 2. Ordinary and routine maintenance may be performed on a nonconforming wireless telecommunications facility.
 - 3. Minor collocation of antennae, antenna-support structures, and related wireless telecommunications equipment is allowed, provided that the overall height of the existing nonconforming wireless telecommunications facility remains unchanged or is reduced.
 - 4. In no instance shall a collocation resulting in an increased overall height or a requiring substantial modification, as defined in this section and §160D-932 of the North Carolina General Statutes, be permitted on a nonconforming wireless telecommunications facility.
 - 5. In the event a nonconforming telecommunications tower is removed, it shall not be replaced with another nonconforming wireless telecommunications tower.
- k. Cessation.*

1. A wireless telecommunication facility shall be considered to have ceased operation if the Town receives written notice from a wireless services provider that it intends to cease operations at a particular wireless telecommunication facility, or a wireless telecommunications facility ceases to transmit a wireless telecommunications signal for a period of 30 consecutive days or longer.
 2. Upon receipt of a written notice from a wireless services provider or upon determination that a wireless communication facility has ceased operation, the Town shall forward written documentation of the cessation to the wireless services provider, or the owner of the land, if different.
- l. Abandonment.*
1. The wireless telecommunications facility shall be deemed abandoned if wireless telecommunications signals do not resume for a period of 180 consecutive days or longer from the date the written documentation of cessation is filed.
 2. Upon making a determination that a wireless telecommunications facility has been abandoned, the Town shall forward written documentation of the abandonment to the wireless services provider, or the owner of the land, if different.
- m. Removal.*
1. The Town may require the wireless services provider or the owner of the land, if different, to remove an abandoned wireless telecommunications facility within 30 days of the date it is deemed abandoned.
 2. Should the wireless services provider, or the owner of the land, if different, fail to remove the abandoned telecommunications facility within 30 days of the date that notice of abandonment is filed, the Town may cause the wireless telecommunications facility to be removed and may recover the actual cost of such removal, including legal fees, if any, from the wireless services provider, or the owner of the land, if different.
- (6) *Standards for specific types of wireless telecommunication facilities.*
- a. Collocations distinguished.* All collocations shall be classified as either a major collocation or a minor collocation in accordance with Article 10, and the following:
1. A major collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on any of the following: a building's roof; a building's wall; a vertical projection such as a water tank, electric transmission tower, or similar vertical projection not constructed for the sole purpose of providing wireless telecommunications services; or an existing or replacement telecommunications tower where the collocation requires a substantial modification, as defined in these standards and §160D-931 of the North Carolina General Statutes.
 2. A minor collocation includes placement of antennas, antenna-support structures, and related wireless telecommunications equipment on an existing or replacement telecommunications tower, provided no substantial modification, as defined in these standards and §160D-931 of the North Carolina General Statutes, is required. A minor collocation may also be referred to as an "eligible facility," as defined in these standards and §160D-931 of the North Carolina General Statutes.
 3. In addition to the placement of antennas and antenna-support structures, collocations may also include the placement of wireless telecommunications equipment on a telecommunications tower, on a vertical projection, on the ground in close proximity to a telecommunications tower or vertical project, within an equipment compound, within an equipment cabinet, within a building, or on a building's roof. Nothing shall prohibit the replacement of an existing telecommunications tower or activities that increase the overall height of an existing telecommunications tower in order to accommodate a proposed collocation.

4. *Substantial modification.* Collocations on an existing or replacement telecommunications tower that require or result in any of the following shall be considered a substantial modification: a) Increasing the existing overall height of the telecommunications tower by the greater of: 20 feet or more than ten percent; or b) Adding an appurtenance (excluding cabling supports) to the body of an existing telecommunications tower that protrudes horizontally from the edge of the tower by the greater of: more than the width of the telecommunications tower at the height of the appurtenance; or more than 20 feet from the edge of the tower; or c) Increasing the square footage of an existing equipment compound by more than 2,500 square feet. Substantial modifications that require an increase in the overall height of an existing telecommunications tower or require a replacement tower that exceeds the height of the existing telecommunications tower by more than 40 feet shall require review as a new telecommunication tower.
 5. *Maximum height.* Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a major collocation on a building wall or roof shall not project more than ten feet above the highest point of the building's roof or parapet wall.
 6. *Method of attachment.* Antennae, antenna-support structures, or other wireless telecommunications equipment, associated with a collocation shall be mechanically fastened to the building, roof, vertical projection, or telecommunications tower in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. The Town Planner shall require an applicant for a collocation to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed collocation meets the applicable State and local building and fire code requirements.
 7. *Appearance when concealed.* When a collocation is proposed on a concealed telecommunications tower, the collocation shall be configured in the manner necessary to ensure the tower's concealment is not compromised or negatively impacted.
 8. *Setbacks.* In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a collocation, the existing or replacement tower shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height, to the maximum extent practicable. Accessory structures, including equipment cabinets, guy wire anchors, and other ground-based equipment shall conform with the applicable dimensional requirements for the zoning district where located.
- b. *Telecommunications tower, major.* A new or replacement telecommunications tower with a height of 50 feet or more above grade is a major telecommunications tower subject to these standards. A new or replacement telecommunications tower with a height less than 50 feet above grade shall be considered a minor telecommunications tower.
1. *Setbacks.* Towers and their associated antennas shall be set back at least one foot from the front, side, and rear lot lines for each foot of overall wireless telecommunications facility height. In cases where an existing telecommunication tower's height is increased or where an existing telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement tower shall comply with the setback requirements, to the maximum extent practicable.
 2. *Maximum height.* The maximum height (including antenna and other appurtenances) for any new, replaced, or collocated wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. In no instance shall the collocation of an eligible facility or a collocation that constitutes a substantial modification result in a telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. In cases where a telecommunications tower is mounted to or on top of a building, the overall height of the building and the attached tower shall not exceed 200 feet from the adjacent preconstruction grade. The adjacent pre-construction grade shall be the grade at the base of the building closest to the tower.

3. *Collocation required.* Telecommunications towers shall be designed to accommodate the present and future needs of the owner and as well as the collocation of additional equipment, in accordance with the following standards: a) Towers of 50 to 80 feet in height shall be configured to accommodate the collocation of at least two wireless telecommunications service provider's equipment; b) Towers of 81 to 130 feet in height shall be configured to accommodate the collocation of at least three wireless telecommunications service provider's equipment; c) Towers of 131 feet in height or higher shall be configured to accommodate the collocation of at least four wireless telecommunications service provider's equipment.
- c. *Telecommunications tower, minor.* A concealed telecommunications tower is a telecommunications tower and associated equipment that is designed to appear as something other than a traditional wireless communications facility. A minor wireless telecommunications tower is a use that is designed to appear as a traditional wireless communications facility except that the maximum height of the tower portion of the facility is less than 30 feet above grade.
 1. *Appearance of a concealed telecommunications tower.* A concealed telecommunications tower shall be configured to conceal the presence of the tower, antennas, antenna-support structures, and related wireless telecommunications equipment in order to obscure its purpose as a wireless telecommunications facility, to the maximum extent practicable. Allowable configurations include, but are not limited to: bell towers, clock towers, water towers, silos, chimneys, steeples, light poles, flag poles, or evergreen trees. Antennae, antenna support structures, cabling, and related appurtenances shall be enclosed, camouflaged, screened, or otherwise obscured so that they are not readily identifiable as wireless telecommunications equipment to the casual observer.
 2. *Setbacks.* Concealed and minor telecommunications towers and associated accessory structures, including equipment cabinets, shall comply with the applicable dimensional requirements for non-residential uses in the zoning district where located. In no instance shall a concealed or minor telecommunications tower be exempted from the minimum applicable setback requirements for non-residential uses. In cases where an existing concealed telecommunication tower's height is increased or where an existing concealed telecommunications tower is replaced in order to accommodate a major or minor collocation, the existing or replacement concealed telecommunications tower shall comply with the setback requirements above, to the maximum extent practicable.
 3. *Maximum height.* The maximum height for any concealed wireless telecommunication tower is 200 feet, as measured from the adjacent pre-construction grade to the top of the highest appurtenance on the tower. In no instance shall a collocation of an eligible facility or work associated with a substantial modification result in a concealed telecommunication tower with a height that exceeds 200 feet above the adjacent pre-construction grade. The maximum height for a minor telecommunications tower is less than 50 feet from the adjacent pre-construction grade to the top of the highest appurtenance on the tower.
 4. *Collocation.* Concealed and minor telecommunications towers are encouraged (but not required) to accommodate the collocation of other antennae. Collocations of equipment on a minor telecommunications tower (whether a major or minor collocation) shall not increase the overall height of the tower by more than 10 feet beyond the initially approved height of the minor telecommunications tower. Actions that result in an increase in tower height by more than 10 feet shall require the minor telecommunications tower to undergo review as a major telecommunications tower. Any collocated equipment on a concealed telecommunications tower must maintain the appearance of the facility as a concealed telecommunications tower. In no instance shall a concealed telecommunications tower be replaced with a telecommunications tower that is not concealed in order to accommodate a collocation.
- d. *Wireless communications facilities, small.* An applicant may file a single consolidated application for up to 25 separate small wireless facilities at one time, but the Town may choose to issue separate decisions on one or more of the facilities included within a consolidated application.

1. *Located within public right-of-way.* In cases where a small wireless facility is proposed within a public right-of-way, the small wireless facility shall comply with all standards applicable to the right-of-way.
2. *Timeframe for review.* Applications for establishment of a small wireless facility shall be processed and decided within 45 days from the date the application is determined to be complete. Nothing shall prohibit the Town and the applicant from mutually agreeing to a longer review period.
3. *Timing for operation.* Construction of a small wireless facility shall commence within six months of its approval and the small wireless facility shall be activated for use within one year from the permit issuance date, unless delayed by a lack of commercial power at the site.
4. *Maximum equipment size.* In no instance shall a small wireless facility exceed the following maximum size limitations; a small wireless facility that exceeds these maximum size limitations shall be reviewed in accordance with the standards for a collocation: a) Each antenna, and any exposed elements, shall be capable of fitting within an enclosure of six cubic feet, or less; b) All other wireless equipment associated with the small wireless facility shall maintain a maximum cumulative volume of 28 cubic feet, or less. The following types of ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, vertical cable runs for the connection of power and other services, or the support structure.
5. *Maximum height.* No new structure intended to support a small wireless facility shall be taller than 50 feet above the adjacent pre-construction grade. An existing structure (such as a utility pole, light standard, sign, etc.) may be replaced in order to accommodate a small wireless facility, but the replacement structure shall not exceed the height of the original structure being replaced. In no instance shall the antennae or equipment associated with a small wireless facility project more than ten feet above the height of the structure the small wireless facility is mounted on. In cases where a new structure installed to serve a small wireless facility exceeds 50 feet in height, the structure shall be reviewed and decided in accordance with the standards for a telecommunications tower. In cases where a replacement structure intended to serve a small wireless exceeds the height of the original structure, the replacement structure shall be reviewed and decided in accordance with the standards for a collocation.
6. *Placement.* A small wireless facility, including the support structure and all other equipment, shall not obstruct the safe passage of vehicles, pedestrians, or bicycles.
7. *Method of attachment.* Antennae, antenna-support structures, or other wireless communications equipment, associated with a small wireless facility shall be mechanically fastened to the supporting structure in a manner that minimizes the potential for structural failure or endangerment of the public from falling wireless telecommunications equipment. The Town Planner shall require an applicant for a small wireless facility to furnish evidence from a professional engineer licensed in the State of North Carolina that the proposed wireless telecommunications facility meets the applicable State and local building and fire code requirements.
8. *Appearance.* The portion of a small wireless facility attached to the support structure shall match the color of the support structure, to the maximum extent practicable. In cases where an applicant proposes inclusion of a small wireless facility on a decorative support structure, sign, or other existing structure not constructed solely for the purposes of providing wireless telecommunications services, the Town may require the small wireless facility to be configured or concealed to ensure compatibility with the structure.
9. *Electrical service.* In cases where a small wireless facility is proposed in areas where electrical service is underground, all electrical service to the small wireless facility shall also be underground.

(f) *Utilities, major and minor.*

(1) *All utilities shall comply with the following standards:*

- a. Where possible, utilities should be located on lots interior to a development rather than on lots abutting streets;
- b. All dangerous apparatus shall be enclosed by a fence or wall at least eight feet in height;
- c. Major utilities may only be located on lots that meet the dimensional requirements for the zoning district where located. Minor utilities may be on lots, leaseholds, or easements that do not meet the minimum dimensional standards for lots in the district where located;
- d. The design of buildings, structures, and facilities located in residential neighborhoods shall conform as closely as possible to the character of development in the area to ensure compatibility. Utility placement and screening may also be used as a means of ensuring compatibility;
- e. No vehicles, trailers, or materials shall be stored outdoors on the premises;
- f. Portions of properties not used for facilities, off-street parking, or related services shall be maintained with natural ground cover; and
- g. Service and storage yards shall not be permitted within utility facilities located in residential or OI districts.

(2) Ground-based electrical substations and transformers shall be considered as minor utilities and shall also comply with the following additional standards:

- a. Ground-based electrical substations and transformers may only be located on a lot of one acre in area when located in a residential or OI district;
- b. Ground-based electrical substations and transformers shall include non-climbable fences or comparable safety devices to limit accessibility by the general public;
- c. Ground-based electrical substations and transformers shall include a durable masonry wall, fence, hedge, or other natural planting of comparable opacity shall be provided along the exterior lot lines abutting a lot in a residential or OI district;
- d. Walls, fences, or hedges required in this section shall be between five and seven feet in height measured from the ground along the lot line; and
- e. Plantings shall maintain an initial height of at least three feet at time of planting and shall achieve an average height of six feet within two years of the time of planting.

(3) Communications or relay towers associated with a utility use type shall comply with the following additional standards:

- a. Communications or relay towers associated with a utility use type may only be located on a lot of one acre in area when located in a residential or OI district; and
- b. The minimum distance from the base of any tower to the nearest property line shall be equal to the height of the tower.

Sec. 30-5304 - Commercial uses.

(a) *Automotive painting/body shop.* These uses shall comply with the following standards:

- (1) Buildings shall be limited to a gross floor area of up to 2,000 square feet within the CB district;
- (2) No more than eight vehicles may be stored outside overnight;
- (3) Any vehicles or materials stored overnight shall be located within a designated storage area; and
- (4) All storage areas shall be enclosed by a fully opaque fence or wall with a minimum height of six feet.

(b) *Automotive parts and accessory sales.* These uses are limited to a maximum of 6,500 square feet of floor area per lot.

- (c) *Automobile repair and servicing (without painting/bodywork).* These uses shall comply with the following standards:
- (1) Buildings shall be limited to a gross floor area of up to 2,000 square feet within the CB district;
 - (2) No more than eight vehicles may be stored outside overnight;
 - (3) Any vehicles or materials stored overnight shall be located within a designated storage area; and
 - (4) All storage areas shall be enclosed by a fully opaque fence or wall with a minimum height of six feet.
- (d) *Automobile sales or rentals.* Uses primarily involving the sales or rental of automobiles, trucks, or recreational vehicles shall comply with the following standards:
- (1) Vehicle display areas shall be surfaced with concrete, asphalt, or other permanent surfacing material other than crushed stone;
 - (2) No vehicles or other similar items shall be displayed on the top of a building;
 - (3) All lights and lighting shall be designed and arranged so no source of light is directly visible from any abutting residential property; and
 - (4) Repair and service functions are permitted as an accessory use provided all repair-related activities take place within an enclosed building.
- (e) *Automotive towing and storage lot.* Automotive towing and storage lot uses shall comply with the following requirements:
- (1) A maximum of no more than 50 vehicles at any one time shall be stored on the property.
 - (2) All towed vehicles must be stored in an approved vehicle towing and storage area.
 - (3) The minimum size of the fenced storage area shall be 3,000 square feet.
 - (4) An opaque chain link fence (with slats) or chain link fence supplemented with evergreen vegetation, of a minimum height necessary to fully screen all vehicles stored on the site, shall be provided around all accessible sides of the storage area.
 - (5) All entrances to and from the storage area shall be secured and locked whenever an employee is not present on the property.
 - (6) The storage area shall be paved with asphalt or concrete to minimize dust emissions and the buildup of dirt, mud, and other debris.
 - (7) All lighting shall be shielded in accordance with § 30-6303 Outdoor lighting, so as not to cast direct light upon any adjacent residential lot.
 - (8) No storage area shall be permitted within 100 feet of any residentially-zoned property or within any required front yard.
 - (9) All buildings used to protect stored motor vehicles shall be located on the same lot.
- (f) *Bar, cocktail lounge, or private club.* A bar, cocktail lounge, or private club shall comply with the following requirements:
- (1) Such uses shall be separated from a church or school use type by at least 200 feet;
 - (2) The use shall not orient the primary entrance toward an abutting lot in a residential district;
 - (3) The use shall have a six-foot-high opaque fence or masonry wall along all lot lines abutting a residential district;
 - (4) Outdoor seating (including, but not limited to, seating for dining or listening to live or recorded acoustic or amplified entertainment outside of the building) shall comply with the following standards:
 - a. The outdoor seating area shall be located no closer than 100 feet from any single-family residential zoning district;

- b. The outdoor seating area shall not obstruct the movement of pedestrians along sidewalks or through areas intended for public use; and
 - c. Any applicable NCDOT requirements.
- (g) *Bed and breakfast.* A bed and breakfast shall comply with the following standards:
 - (1) Be owner-occupied or have a manager who resides on the premises;
 - (2) Have no more than six sleeping rooms;
 - (3) Have only one kitchen;
 - (4) Limit meals served on the premises to overnight guests only; and
 - (5) Limit any signage to ground signage with a maximum sign face area of six square feet.
- (h) *Bottle shop.* A bottle shop use shall comply with the standards for a Bar, Cocktail Lounge, or Private Club.
- (i) *Business incubator.*
 - (1) A business incubator may be provided as a principal use in its own building, as a tenant in a multi-tenant building, or as an accessory use to an existing office, personal service, or industrial use.
 - (2) When proposed as an accessory use to an existing business or development, the floor area devoted to the business incubator shall not exceed 25 percent of the building's gross floor area.
 - (3) Business incubators shall meet the off-street parking requirement for this use type in the Table of Minimum Off-Street Parking Requirements, not the individual types of uses within the business incubator.
 - (4) Floor area within a building serving as a business incubator may be used for storage, but no outdoor activity or storage is permitted.
- (j) *Car wash or automobile detailing.* Such use types are limited to a maximum of four individual bays 4 bays or up to 2,500 sf detail service area.
- (k) *Coffee shop / bakery.* Coffee shops, bakeries, and other specialty eating establishments shall be limited to a maximum gross floor area of 3,500 square feet in the NB district and 4,000 square feet in the CB district. Outdoor seating area shall not be included within the maximum allowable gross floor area.
- (l) *Convenience store.*
 - (1) In the NB district, such uses are limited to a maximum gross floor area of 3,500 square feet and a maximum of six fuel pumps.
 - (2) In the CB district, such uses are limited to a maximum gross floor area of 5,000 square feet and a maximum of 12 fuel pumps.
- (m) *Co-working space.*
 - (1) Use types and activities associated with a co-working space shall be limited to the range of activities typically associated with office uses.
 - (2) Food or beverages produced or sold within the use shall be limited to patrons of co-working space not the general public.
 - (3) Delivery of personal services within the co-working space (manicure, massage, education, exercise classes, child care, etc.) shall be limited to patrons of the co-working space.
 - (4) Facilities for pets shall be indoors or fully screened from adjacent streets and other uses.
- (n) *Electronic gaming operations.*

- (1) Prior to the operation of an electronic gaming operation, a zoning compliance permit must be issued. In addition, an annual gaming machine fee in the amount of \$500.00 per gaming machine or device as established in the Town's adopted fee schedule shall be paid. This annual per gaming machine fee shall be due annually. (Amended 11-15-21 UDOTA 1-21)
- (2) Electronic gaming operations shall be regulated as to location in the following manner in addition to any other requirements of this Article:
- a. Electronic gaming operations shall be located a minimum of 1,000 feet measured in any direction, from:
 1. A place of worship or other religious institution;
 2. A day care center, public or private school;
 3. A public or private park, playground, public library, or cemetery;
 4. A skating rink, video arcade, or motion picture theater which shows G- or PG-rated movies to the general public on a regular basis;
 5. Electronic gaming operations, tattoo or body piercing establishments;
 6. Adult and sexually oriented businesses; or
 7. A residential zoned/residential used parcel.
 - b. Applicants shall submit a current straight line drawing prepared within 30 days prior to the application by a registered surveyor, depicting the property lines and the structures containing any of the above uses and the straight line measurements to each. Straight line distance shall be measured from the property line of the existing or established use to the building of the proposed electronic gaming operation. A use in sub-section (2) of this section shall be considered to be existing or established if it is in place or actively under construction at the time the application is submitted. Residential zoning districts shall be based upon the most current official zoning map. (Amended 11-15-21 UDOTA 1-21)
 - c. Hours of operation shall be limited to 8:00 a.m. through 12:00 midnight seven days a week.
 - d. No minor (17 years of age or younger) shall be allowed to operate a gaming machine subject to this Article.
 - e. All electronic gaming operations shall comply with requirements of Chapter 14, Article 37 of the North Carolina General Statutes.
 - f. The maximum number of gaming machines for any electronic gaming operation business is 15 and the minimum building square footage shall be at least 200 square feet per machine.
 - g. Electronic gaming operations must be visible and open to the store front of the building or structure. Shading or tinting of store front windows shall not exceed 35 percent.
 - h. Consciously and purposely hiding machines/terminals/computers, using switching devices to change screens in order to hide the true purpose and use of a computer, or any other ploy to hide the intended use of any computer within the establishment shall be considered as perpetrating a fraud upon the Town and shall result in the immediate permanent revocation of the zoning compliance permit. (Amended 11-15-21 UDOTA 1-21)
 - i. There shall be an adult manager, 18 years of age or older, on the premises during the hours of operation.
 - j. Each applicant for a zoning compliance permit shall be upon a form approved by the Town Council and shall be filed with the Town Clerk. Each applicant shall certify, under oath, the following information: (Amended 11-15-21 UDOTA 1-21)
 1. The name, age and residence of all interested parties;
 2. The address of the premises where the business shall be located;

3. The proposed hours of operation of the business;
 4. The dimensions of land owned or controlled by the applicant as premises for the electronic gaming operation;
 5. A description of any other business to be operated on the same premises or any adjoining premises owned or controlled by the applicant; and
 6. A statement of any prior revocations of a license or permit of any interested party to operate an electronic gaming operation or similar business in any jurisdiction.
- k. The applicant shall provide the serial number of each and every computer in the establishment. The Town Clerk or Town Planner will issue a Town decal including the serial number, Town terminal number, and date of issuance, to be displayed visibly on the computer or gaming terminal at all times. The Town terminal number will be assigned by the code enforcement officer at the time the application for a zoning compliance permit is submitted and shall be maintained on file by the Town. (Amended 11-15-21 UDOTA 1-21)
1. Computers that are removed from the establishment shall be reported, with the serial number, to the Town Clerk or Town Planner; any replacement computer shall be reported, with the serial numbers of the original and replacement machines, to the code enforcement officer. New computers or gaming terminals must be issued a Town decal prior to operation.
 2. Alteration or modification of any Town-issued decal shall be considered a zoning violation and subject to civil penalties per Article 9 Enforcement.
- l. No interested party shall operate an electronic gaming operation unless the party shall have first applied for and received a zoning compliance permit. It shall be unlawful to operate an electronic gaming operation within the Town without a zoning compliance permit as required by this section and the Town. (Amended 11-15-21 UDOTA 1-21)
- m. A change of any facts stated in an application filed under this Article shall be reported immediately to the Town Clerk and Town Planner. Failure to report any change of the facts stated in the application shall be subject to civil penalties as outlined in § 30-9501 Amount of civil penalties.
- n. A zoning compliance certificate issued pursuant to this Article shall become void if the licensee moves or ceases to operate at the location required to be stated in the application for the license.
- o. There shall be no alcohol sales or alcohol consumption on the premises of an electronic gaming operation.
- (o) *Event venue.* Event venues shall be operated in accordance with the following standards:
- (1) Outdoor activity areas shall be set back from lot lines shared with a residential use by an amount at least twice the minimum rear setback for the district where the use is located.
 - (2) The maximum number of guests shall be in accordance with the maximum occupancy of the principal structure in accordance with the State Building Code.
 - (3) Outdoor activities shall not take place between the hours of midnight and 7:00 AM.
 - (4) Exterior lighting shall not project into adjoining residential lots. Use of stadium-style or other pole-mounted lighting is prohibited. Lighting of accessible paths may be provided, if necessary.
 - (5) In cases where off-site parking is employed, the event venue shall maintain an agreement with the owner of land where vehicles are parked.
 - (6) The venue shall ensure guests may access the venue safely from off-site parking areas.
 - (7) In no instance shall vehicles be parked along streets in ways that block driveways, sight triangles, or emergency access.

- (8) The event venue shall provide sufficient on-site trash receptacles, and shall ensure that windblown trash or other debris does not accumulate anywhere on the site.
- (9) Event venue uses shall demarcate the boundaries of the event venue site for guests and shall include fences, walls, or other techniques such as landscaping to ensure guests to do not inadvertently trespass on adjacent lots.
- (10) Event venues shall ensure adequate ingress and egress from all buildings and structures to accommodate emergencies.
- (p) *Financial service.* Financial service uses shall comply with the following standards:
- (1) Such uses shall be limited to a maximum gross floor area of 4,000 square feet in the CB district; and
- (2) Uses with accessory features like automated teller machines and drive-throughs shall comply with the applicable accessory use standards in Division 4 of this Article.
- (q) *Hair, nails, and skin-related service.* Such uses shall be limited to a maximum of 500 square feet of floor area in the NB district and up to 2,000 square feet in the CB district.
- (r) *Heavy equipment and tool rental.* Uses primarily involving the sales, rental, service, or storage of heavy equipment shall comply with the following standards:
- (1) No heavy equipment or building displays shall be located within a required setback or perimeter buffer;
- (2) No heavy equipment shall be displayed on the top of a building; and
- (3) All lights and lighting shall be designed and arranged so no source of light is directly visible from any residential district or existing residential use.
- (s) *Indoor commercial recreation.* Such uses are limited to a maximum of 6,000 gross square feet in the NB district and a maximum of 12,500 gross square feet in the CB district.
- (t) *Microbrewery or microdistillery.* Such uses shall comply with the standards for a Bar, Cocktail Lounge, or Private Club.
- (u) *Office, professional.* Such uses shall be limited to a maximum of 3,500 gross square feet in the NB district and a maximum of 12,500 square feet in the CB district.
- (v) *Outdoor shooting range.* Outdoor shooting ranges may be permitted subject to the requirements of the district and provided that:
- (1) Outdoor shooting ranges shall be located on a site or parcel with an area of at least ten acres.
- (2) No part of a shooting range shall be located within 100 feet of any property line and less than 1,000 feet from any residential dwelling or school, as measured from the firing line in the direction of the line of fire.
- (3) Shooting range facilities shall be constructed, at a minimum to include the following protective barriers:
- a. Backstops with a minimum height of twenty feet;
- b. Side berms or walls with a minimum height of eight feet;
- c. Firing line covers of overhead safety baffles for rifle fire only;
- d. The range shall be enclosed by a six-foot chain link fence with a lockable gate at the entrance; and
- e. No trespassing – Danger – Shooting Range signs shall be posted along range fence lines every 150 feet.
- (4) Weapons types are restricted to pistol, rifle, or shotgun.
- (5) The use of explosives or any target that detonates is prohibited.

- (6) At least one qualified individual in the sponsoring club or organization shall be certified for shooting range supervision. Each facility shall adopt safety rules and regulations as determined by the sponsoring club or organization.
 - (7) No individuals under the age of 18 are permitted on the range during any practice or qualification of firearms unless such individual is participating in an organized and properly supervised event being conducted onsite by law enforcement personnel.
 - (8) The operators of the shooting range shall provide proof of accident and liability insurance coverage. A minimum coverage of \$1,000,000 per individual and \$2,000,000 in the aggregate shall be maintained.
- (w) *Outdoor storage (as a principal use).* The following standards shall apply to all outdoor storage areas:
- (1) The extent of the outdoor storage area shall be clearly delineated on an application for establishment of the use;
 - (2) Outdoor storage areas shall comply with the minimum setback standards applicable in the zoning district where the outdoor storage area is located;
 - (3) Outdoor storage areas are prohibited between the development's principal structure(s) and an arterial or collector street;
 - (4) No outdoor storage area shall be located within a required perimeter landscaping buffer;
 - (5) Flammable liquids or gas containers in excess of 1,000 gallons shall be stored underground;
 - (6) No materials shall be stored in areas intended for vehicular or pedestrian circulation;
 - (7) No materials shall be stored on any potable or non-potable water easement, stormwater easement, or sanitary sewer easement; and
 - (8) All areas of outdoor storage shall be surrounded by an opaque fence or wall of a minimum height sufficient to conceal the material stored within from off-site views. In the event the fence or wall is located within a required setback, the fence or wall shall not exceed the maximum height for fences or walls specified in Division 4 of Article 6 Development Standards. Nothing shall limit the height of a screening fence or wall if it is located 20 feet or more from the edge of a required setback.
 - (9) In no instance shall materials, equipment, or other items located within a storage area be visible above the fence or wall surrounding them.
 - (10) In no instance shall a manufactured or mobile home be used for the purposes of storage.
- (x) *Packaging and Printing Service.* Such uses shall be limited to a maximum of 2,000 gross square feet in the NB district and a maximum of 5,000 square feet in the CB district.
- (y) *Pharmacy.* Pharmacies shall comply with the following standards:
- (1) Such uses shall be limited to a maximum gross floor area of 6,500 square feet in the CB and OI districts; and
 - (2) Uses with accessory features like a drive-through shall comply with the applicable accessory use standards in Division 4 of this Article.
- (z) *Retail use.*
- (1) Except for grocery stores, no individual retail use shall occupy more than 3,500 gross square feet in the NB district or more than 12,500 gross square feet in the CB district.
 - (2) Thrift stores, flea markets, and pawn shops shall be limited to a maximum gross floor area of 6,500 square feet in the CB district.
 - (3) Nothing shall limit the establishment of a shopping center or other use that includes more than one retail establishment, but in no instance shall a lot or site include more than 100,000 gross square feet of retail uses on any single lot or site.
 - (4) A grocery store shall have a maximum gross floor area of 15,000 square feet in the NB district.

(aa) *Self-service storage.* Self-service storage facilities shall comply with the following standards:

- (1) The use shall be located on a lot or site of at least two acres in area;
- (2) No more than 50 percent of the total site may be occupied by buildings;
- (3) External-access only storage buildings shall not exceed 20 feet or one story in height;
- (4) No activity other than storage shall take place within a storage unit; and
- (5) Storage of hazardous, toxic, or explosive substances shall be prohibited.

(bb) *Sexually oriented/adult business.*

- (1) *Authority and jurisdiction.* The provisions of this Article are adopted by the Town Council under authority granted by the General Assembly in § 14-202.10 et seq. of the North Carolina General Statutes. This Article shall apply to every building, lot, tract, or parcel of land within the planning jurisdiction of the Town.
- (2) *Purpose.* For the purpose of promoting the health, safety, morals and general welfare of the citizenry of the Town, this Article is adopted by the Town Council to regulate adult and sexually oriented businesses located in the Town. Further, the regulations of this Article have been made with reasonable consideration among other things, as to the character of the Town and its areas and their peculiar suitability for these businesses.
- (3) *Abrogation.* The regulations of this Article shall not repeal, impair, abrogate, or interfere with any existing easements, covenants, deed restrictions, setback requirements, rules, definitions, or regulations previously adopted pursuant to law in any established zoning district in the Town. However, where these regulations impose greater restrictions, the provisions of these regulations shall govern.
- (4) *Massage of private parts prohibited.* It shall be unlawful for any person to massage or offer to massage the private parts of another for hire in the Town. The term "massage" is defined as meaning the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device. The term "private parts" is defined as meaning the penis, scrotum, mons, veneris, vulva or vaginal area. The provisions of this Article shall not apply to licensed medical practitioners, osteopaths, or chiropractors, or persons operating at their direction, in connection with the practice of medicine, chiropractic, or osteopathy.
- (5) *Scope and provisions of this section.*
 - a. *Sexually oriented/adult businesses.* No sexually oriented/adult business shall be permitted in any building located within 1,000 feet in any direction from:
 1. A building used as a dwelling.
 2. A building in which an adult business or a sexually oriented business is located.
 3. A building used as a church, synagogue, or other house of worship.
 4. A building used as a public school or as a state-licensed day care center.
 5. Any lot or parcel on which a public playground, public swimming pool, or public park is located.
- (6) *Nonconforming adult businesses and sexually oriented adult businesses.* Any adult business or sexually oriented business lawfully operating on the effective date of the ordinance from which this Article is derived, that is in violation of this Article shall be deemed a nonconforming use. Any use which is determined to be nonconforming by application of the provisions of this section shall be permitted to continue for a period not to exceed two years. Such nonconforming uses shall not be increased, enlarged, extended, or altered.

(cc) *Spa, Day or Medical.* Such uses shall be limited to a maximum of 12,500 gross square feet of floor area in the OI and CB districts.

(dd) *Veterinary clinic.* Such uses are limited to a maximum of 12,000 gross square feet of floor area.

Sec. 30-5305 - Industrial uses.

(a) *Asphalt or concrete plant.* An asphalt or concrete plant shall comply with the following standards:

- (1) An asphalt plant shall be located at least 50 feet from a lot line.
- (2) A security fence, a minimum of six feet in height, shall be provided around the use.
- (3) Within one year of the cessation of the use, all equipment and stock piles incidental to the operation shall be dismantled and removed by and at the expense of the landowner.
- (4) The site shall be drained to prevent the accumulation of standing water, and channelization of the drainage shall be designed and controlled so as not to cause erosion or silting of neighboring properties or public ways, nor to appreciably increase the turbidity of any natural water course, or to occlude any existing drainage course, except in an instance where redevelopment for another permitted use is in progress.
- (5) Vehicular access shall be constructed with an all-weather surface and be maintained in a dust-free condition.
- (6) Access drives shall be located no closer than 15 feet from a lot line.
- (7) A plan shall be submitted showing truck routes to and from the site. Such routes shall be designed to minimize impacts on residential areas, schools, or other uses negatively affected by truck traffic.

(b) *Extractive industry.* Quarries and other extractive industries shall comply with the following requirements:

- (1) The minimum development area shall be five acres.
- (2) The use shall not require the use of residential neighborhood streets to gain ingress or egress.
- (3) Where the final slope of areas being excavated will exceed 30 percent, such areas shall be enclosed with a fence at least five feet high located not less than ten feet from the excavation's edge.
- (4) Excavated areas, stockpiles, waste storage piles, and associated processing, storage, and loading areas shall be fully screened from view from principal arterials, collector streets, and lots in residential zoning districts.
- (5) No blasting operations shall be conducted during the hours from 6:00 p.m. to 7:00 a.m., and when conducted, shall not cause unreasonable amounts of noise, vibration, dust, or flying debris on nearby lots.
- (6) No operations shall impede the normal flow of any stream or watercourse, silt up or pollute any stream, undermine any public road or bridge, or promote flooding on adjacent land.
- (7) Upon discontinuance of operations, all buildings and equipment shall be removed, and excavated areas shall be rehabilitated in accordance with a rehabilitation plan included as part of the application to establish the use.
- (8) The rehabilitation plan shall identify the ways the site will be to returned as closely as possible to its original condition or a condition suitable for a specified alternate use. The rehabilitation plan shall address the storage and protection of topsoil removed during the course of operations as well as regrading, re-fertilization, and replanting.
- (9) The estimated cost of carrying out the rehabilitation plan shall be filed with the application. The estimate shall be certified as approximately correct by a professional engineer licensed to practice in the State of North Carolina with expertise in rehabilitation.
- (10) A rehabilitation guarantee, payable to the Town, shall be required in an amount equal to the estimated cost of carrying out the rehabilitation plan.
- (11) The rehabilitation guarantee shall be maintained as a legally binding obligation until such time as the Town Council determines that all rehabilitation work has been satisfactorily completed.

(12) If the Town Council finds that extractive uses have been discontinued for a period of 12 consecutive calendar months and that no major attempts have been made to implement the rehabilitation plan, it shall order forfeiture of the guarantee and the proceeds shall be used to carry out, to the extent possible, the rehabilitation plan.

(c) *Flex space.* Flex space use shall comply with the following standards:

- (1) Flex space uses shall meet the off-street parking requirement for this use type in the Table of Minimum Off-Street Parking Spaces Required (See § 30-6701), not the individual types of uses within the flex space;
- (2) The following activities shall not be included within a flex space use type:
 - a. Residential dwellings;
 - b. Churches;
 - c. Sexually oriented/adult businesses;
 - d. Restaurants; and
 - e. Cocktail lounges, or private clubs;
- (3) Outdoor storage or business-related activity is permitted as an accessory use, subject to all applicable standards in this Ordinance.

(d) *Makerspace.* Makerspace uses shall be configured in accordance with the following standards:

- (1) No outdoor storage or activity shall be permitted;
- (2) The use shall include adequate ventilation and equipment for the dispersal of vapors, dust, or airborne contaminants created within the structure;
- (3) The use shall include a fire suppression system as required by the fire marshal;
- (4) No operation between the hours of 11:00 PM and 7:00 AM; and
- (5) Incidental sale of products created on site is permitted.

(e) *Manufacturing, light.* All light manufacturing uses shall comply with the following standards:

- (1) Buffer and setback areas in the side and rear may not be used for parking; and
- (2) Finished products for display and sale shall not occupy more than 40 percent of the land area between the principal building and all adjacent streets.

(f) *Salvage or junkyard.* Junk yards, including junked automobile storage, shall be subject to the following regulations:

- (1) Junk yards shall be located at least 200 linear feet, as measured from the required perimeter screening from any lot in a residential zoning district;
- (2) An opaque screen eight feet in height shall be required around all boundaries;
- (3) Any planted opaque screen shall be at least four feet in height when planted; and
- (4) No required front or side yard shall be used for storage purposes.

(g) *Solar energy conversion, major.* Major solar energy conversion uses shall meet the following requirements:

- (1) *Setbacks.* Solar farms and their appurtenant components shall conform to the principal building setbacks of the underlying zoning district which they are located.
- (2) *Height requirements.* Individual modules/panels shall be a maximum of 25 feet in height as measured from the grade at the base of the structure to the apex of the structure.
- (3) *Site plan.* A site plan, drawn and stamped by a state-licensed surveyor or engineer, shall be submitted showing the following:

- a. The location and dimensions of all proposed areas for the placement of solar panels, screening/fencing and related improvements;
- b. Any preexisting structures on the same lot, and principal structures on other properties that would affect the placement of solar panels;
- c. Parking and access areas;
- d. Location of any proposed solar access easements;
- e. Location where wiring is brought together for inter-connection to system components and/or the local utility power grid, and location of disconnect switch;
- f. Any proposed new structures; and
- g. Any other relevant elements as requested by the board of adjustment.

(4) Other requirements.

- a. Development of a farm will be subject to other overlay district regulations including watershed impervious surface limits.
- b. Solar farms shall be fully screened from adjoining properties and adjacent roads by an evergreen buffer capable of reaching a height of ten feet within three years of planting, with at least 75 percent opacity at the time of planting.
- c. All outdoor lighting shall be shielded to direct light and glare onto the system's premises and may be of sufficient intensity to ensure security.
- d. Any electrical wiring used in the system shall be underground (trenched) except where wiring is brought together for inter-connection to system components and/or the local utility power grid.
- e. Solar panels shall be mounted onto a pole, rack or suitable foundation, in accordance with manufacturer specifications, in order to ensure the safe operation and stability of the system. The mounting structure (fixed or tracking capable) shall be comprised of materials approved by the manufacturer, which are able to fully support the system components and withstand adverse weather conditions. Only the attachment of the pole, rack or suitable foundation at the ground contact shall be counted towards impervious calculations.
- f. Multiple mounting structures shall be spaced apart at the distance recommended by the manufacturer to ensure safety and maximum efficiency.
- g. No ground-mounted large solar energy systems shall be affixed to a block wall or fence.
- h. With the exception of the manufactures, or installer's identification, appropriate warning signs, and owner identification sign, all other signs shall be prohibited. Not more than one manufacturer label bonded to or painted upon the solar energy system shall be permitted.
- i. It is the responsibility of the owner to remove all obsolete or unused systems within 12 months of cessation of operations.
- j. The Town Planner shall be provided copies of any lease agreement, solar access easement, and plan for removal of system/equipment. If the system is to be interconnected to the local utility power grid, a copy of the conditional approval from the local utility must also be provided before a special use permit will be granted.
- k. The farm and components shall meet all requirements of the state building code.
- l. The farm and components shall comply with the current edition of the National Electrical Code, UL listed, and be designed with an anti-reflective coating.
- m. The electrical disconnect switch shall be clearly identified and unobstructed and shall be noted clearly on the site plan.

- n. The owner or future owner of a property onto which a solar farm is installed assumes all risk associated with diminished performance of said system caused by any present or future adjacent structure or landscaping that may interfere with the system's ability to produce power at its rated capacity, regardless of when that adjacent structure or landscaping is constructed or installed.
 - o. Inverter noise shall not exceed 40 dBA, measured at the property line.
- (5) *Decommissioning, abandonment, hazard abatement.* A signed and notarized decommissioning plan shall be submitted with the special use permit application and shall be in a form suitable to be recorded with the Register of Deeds. The decommissioning plan shall include, at a minimum, all the following provisions and requirements:
- a. Following a six-month period in which no electricity is generated, the permit holder will have six months to complete decommissioning of the system. Decommissioning includes removal of solar panels, support columns, buildings, cabling, electrical components, and any other associated facilities down to 72 inches below grade;
 - b. Identification of any other conditions or circumstances upon which decommissioning will be initiated (e.g., end of lease, condition of a potential public safety hazard, etc.);
 - c. Following removal, disturbed earth shall be graded and reseeded, unless the landowner requests in writing that access roads or other land surface areas are not to be restored;
 - d. Prompt repair or removal of any structures that no longer function, become damaged, or that constitute a safety hazard regardless of whether due to neglect, man-made, or natural causes;
 - e. The timeframe for completion of removal and decommissioning activities shall be from 180 days to 12 months unless otherwise extended following receipt of an application for extension; and
 - f. A signed statement from the party responsible for completing the decommissioning plan acknowledging their responsibility to execute the decommissioning plan in accordance with these standards.
- (6) *Decommissioning performance guarantee.* A performance guarantee for the potential decommissioning of a major solar energy conversion system shall be provided to the Town by an applicant in accordance with the following standards:
- a. The guarantee shall be posted with the Town prior to establishment of the facility;
 - b. The performance guarantee shall renew automatically and shall include a minimum 60-day notice to the Town prior to cancellation;
 - c. The guarantee shall be provided by a company on the U.S. Department of Treasury's Listing of Certified Companies;
 - d. A guarantee consisting of a bond certificate shall be submitted to the Town Planner each year verifying the bond has been properly renewed;
 - e. The amount of the guarantee shall be one and a quarter times the estimated decommissioning cost, or \$50,000, whichever is greater, and shall not be reduced by the salvage value;
 - f. Cost estimates for decommissioning shall be determined by a North Carolina licensed engineer or a licensed contractor and shall be provided by the applicant;
 - g. Compliance with these requirements shall be fulfilled upon deposit of a certified check deposited with the Finance Officer;
 - h. Funds deposited with the Finance Officer will only be returned when the facility is decommissioned, and any necessary site restoration is completed; and
 - i. The full amount of the bond or certified check shall remain in full effect until the facility is decommissioned and any necessary site restoration is complete.