



**SURF CITY TOWN COUNCIL REGULAR  
MEETING AGENDA  
Tuesday, October 5, 2021  
Surf City Municipal Complex – 214 W. Florence Way  
Stream Live: [www.youtube.com/townofsurfcity](http://www.youtube.com/townofsurfcity)  
4:30 PM**

- I. CALL TO ORDER - Douglas C. Medlin, Mayor
- II. INVOCATION - William J. (Buddy) Fowler, Mayor Pro-Tem
- III. PLEDGE OF ALLEGIANCE - Donald R. Helms
- IV. SPECIAL RECOGNITION- Fire Prevention Week
- V. BEAUTIFICATION & APPEARANCE COMMITTEE AWARDS -

Home of the Month: Surf Dog, 204 A N. New River Dr.

Business of the Month: Salasko Residence, 180 Atkinson Rd.

VI. MAYOR'S REMARKS -

*We ask that all in attendance please set your cell phones to silent or vibrate mode. The Council offers the public an opportunity to speak during the meeting. Comments should be limited to three minutes each and must be directly issue oriented with agenda items for this meeting, or an issue upon which the Council has control.*

*Citizen speakers will be acknowledged in the order in which they sign up to speak and will address all comments to the Board as a whole and not one individual Council member. Speakers will address the Council from the speaker's podium at the front of the room and will begin their remarks by stating their name and address. Discussions between Speakers and members of the audience will not be allowed. Groups of individuals seeking to speak on the same topic of concern will need to pick an individual speaker to represent the group as whole.*

*Public comment is not intended to require the Council to answer any impromptu questions. Speakers are expected to be civil in their language and presentation. Any comments where the primary purpose is to promote business or candidacy shall not be allowed.*

*In accordance with the Council's adopted Rules of Procedures, Councilmembers shall reserve responses, if any, for the Council Forum on the agenda.*

VII. ADOPTION OF THE AGENDA -

**Mayor:** With no other items being considered separately, a motion to adopt the Meeting Agenda is in order.

VIII. APPROVAL OF THE CONSENT AGENDA -

*\*Items under Consent are generally of a routine nature. The Board may take action to approve/disapprove all items in a single vote. Any item may be withheld from a general action, to be discussed and voted upon separately at the discretion of the Council.*

1. Sept. 7, 2021 Minutes Approval
2. Ordinance Amendment No. 16 – Sec. 10.238 Food Truck Revision
3. Site Plan Approval - Wellman Townhomes
4. BOA FD Sewer Damage
5. Resolution No. 2021-22 Royal Palm
6. Ordinance Amendment No. 17 Chap 10 Art II Business Registration

**Specific Action Requested:** It is requested that the Town Council approve the consent agenda as presented.

IX. PUBLIC HEARING –

7. Ordinance Amendment No. 15 – Sec. 4.1.18 Conditional Use Zoning

*Open Public Hearing*

*Public Comment*

*Close Public Hearing*

**Specific Action Requested:** It is requested that the Town Council approve the zoning amendment as presented.

8. PUBLIC COMMENT - Citizens have an opportunity to address the Council for no more than three minutes per speaker on topics which concern agenda items of this meeting.
9. MANAGER'S REPORT -
10. COUNCIL FORUM -
11. TOWN ATTORNEY REPORTS -
12. ADJOURNMENT -



# SURF CITY

*Office of the Mayor*

SURF CITY, NORTH CAROLINA

## PROCLAMATION

WHEREAS, the Town of Surf City, North Carolina is committed to ensuring the safety and security of all those living in and visiting Surf City and

WHEREAS, fire is a serious public safety concern both locally and nationally, and homes are the locations where people are at greatest risk from fire; and

WHEREAS, home fires killed more than 2,770 people in the United States in 2019, according to the National Fire Protection Association® (NFPA®), and fire departments in the United States responded to 361,000 home fires; and

WHEREAS, cooking is the leading cause of home fires in the United States where fire departments responded to more than 172,900 annually between 2014 and 2018; and

WHEREAS, two of every five home fires start in the kitchen with 31% of these fires resulting from unattended cooking; and

WHEREAS, children under five face a higher risk of non-fire burns associated with cooking than being burned in a cooking fire

WHEREAS, Surf City's residents should stay in the kitchen when frying food on the stovetop, keep a three-foot kid-free zone around cooking areas and keep anything that can catch fire away from stove tops; and

WHEREAS, residents who have planned and practiced a home fire escape plan are more prepared and will therefore be more likely to survive a fire; and

WHEREAS, working smoke alarms cut the risk of dying in reported home fires in half; and

WHEREAS, Surf City's first responders are dedicated to reducing the occurrence of home fires and home fire injuries through prevention and protection education; and

WHEREAS, Surf City's residents are responsive to public education measures and can take personal steps to increase their safety from fire, especially in their homes; and

WHEREAS, the 2021 Fire Prevention Week theme, "Learn the sounds of fire safety" effectively serves to remind us to stay alert and familiar with the sounds of our smoke and carbon monoxide alarms.

THEREFORE, I Douglas C. Medlin, Mayor of Surf City do hereby proclaim October 3-9, 2021, as Fire Prevention Week throughout Surf City, and I urge all the people of Surf City by checking their kitchens for fire hazards and using safe cooking practices during Fire Prevention Week 2021, and to support the many public safety activities and efforts of Surf City's fire and emergency services.

Attest: \_\_\_\_\_

Carla Citarelli, Town Clerk

\_\_\_\_\_  
Douglas C. Medlin, Mayor



# Town of Surf City

Douglas C. Medlin, Mayor  
William J. (Buddy) Fowler, Mayor Pro-Tem  
Dwight Torres, Councilman

Donald R. Helms, Councilman  
Teresa B. Batts, Councilwoman  
Jeremy Shugarts, Councilman

To: Council  
From: Amy Kimes  
Date: October 5, 2021  
Subject: Ordinance Amendment – Food Truck Section 10-238

## SUMMARY

In 2018 the Town discussed and passed an ordinance allowing Food Trucks to operate by permit within the Town of Surf City. This ordinance set the permit fee, required permit documents, and operational requirements. Since that time code enforcement has worked with individuals regarding initial permitting and enforcement of the ordinance. During this time staff realized that changes needed to be made in the ordinance to accommodate businesses that were not covered under the existing language. Also, staff realized that the current ordinance only allowed for a nonpermitted food truck to be shut down and fined fifty dollars (\$50).

After reviewing the ordinance and enforcement procedures staff has provided a revised ordinance for your review. The major changes found in the ordinance consist of:

1. Addition of a food cart. This included additional definitions which delineated between a food truck and food cart. By adding the food cart the ordinance can now be applied to all types of business governed by NC Department of Agriculture. Previously the ordinance only referenced the NC Department of Health & Human Services which limited the types of businesses allowed to operate within Town limits.
2. Clarification that an “ice cream truck” is covered under this ordinance and can operate on interior residential streets.
3. Added requirement that food truck/carts cannot occupy a required parking space.
4. Removed the fee amount from the ordinance and referenced schedule of fees. The fee was reduced from five hundred dollars (\$500) to two hundred fifty dollars (\$250) during the budget adoption process.
5. Enforcement. The new ordinance requires a nonpermitted business to cease operation until a permit is obtained and be required to pay a one hundred fifty dollar (\$150) fine. The property owner hosting the food truck/food cart will also be required to pay a one hundred fifty dollar (\$150) fine.

The above changes will provide more opportunity for a diverse food truck/food cart selection while clearly defining the Town’s expectation and enforcement.

## ACTION REQUESTED:

Approval of the revised ordinance as submitted.



Sec. 10-238. Food trucks.

(a) Findings and intent.

(1) Allowing food truck businesses to operate in Surf City promotes diversification of the town's economy and employment opportunities. Food trucks support the incubation and growth of entrepreneurial/start-up businesses.

(2) N.C.G.S. 160A-174 grants towns the power to define, prohibit, regulate, acts, omissions, or conditions, detrimental to the health, safety, or welfare of its citizens and the peace and dignity of the town through the creation of ordinances.

(b) Definitions. The following definitions apply to this article:

Food truck means a readily movable trailer or motorized wheeled vehicle, currently registered with the N.C. Division of Motor Vehicles, designed and equipped to serve food is governed by the N.C. Department of Health & Human Services, is subject to the regulations of the 15A NCAC 18A.2600, as amended.

Food cart means a readily moveable trailer or motorized wheeled vehicle, currently registered with the N.C. Department of Motor Vehicles designed and equipped to serve food, is governed by the N.C. Department of Motor Vehicles and is subject to the regulations of the 21 CFR 117 Subpart B, as amended.

Regulatory fee means fee assessed to cover the cost of regulating a particular business activity that is assessed to the particular business being regulated.

(c) Permitting.

(1) A valid permit shall be required to operate a food truck or food cart within the corporate limits. A regulatory fee as adopted in the schedule of fees shall be assessed to cover the costs associated with regulation of food trucks and food carts. All food truck or cart operators shall obtain an annual permit from the town manager or their designee.

(2) A food truck permit shall be valid one year from the date the permit is issued. This permit shall be produced upon request by any Town representative.

(3) Food truck or food cart operators shall have written approval of the hosting business owner or operator at any location at which the food truck operates. This approval shall be produced upon request by any Town representative.

(4) Food trucks shall provide documentation of approval from the North Carolina Department of Health or North Carolina Department of Agriculture and Consumer Services, a valid NC registration for all vehicles used in the operation of the truck or cart. A copy of their valid driver's license and proof of insurance. A valid health permit or most recent Notice of Inspection must be maintained for the duration of the food truck permit and shall be placed in a conspicuous location for public inspection.

(5) A food truck or food cart permit does not include peddler, solicitor, or transient vendor as defined by the Town Code.

(6) No permit issued shall authorize a food truck or food cart to operate on or from a public street.

(d) Regulations. Food trucks and food carts shall be allowed to operate on the premise of a business or commercially zoned property. Ice cream/shaved ice retail from motor vehicle shall be allowed on interior subdivision streets only. No vendor shall operate on Highway 210, Highway 50, North Shore Drive, South Shore Drive, or North Topsail Drive. Audible music cannot be played while on the above streets within the Corporate Limits.

(1) The food truck or food cart shall be positioned at least one hundred (100) feet from the customer entrance of an existing restaurant during its hours of operation, unless the food truck or food cart operator provides documentation that the restaurant owner supports a closer proximity.

(2) A trash receptacle shall be provided for customers. All associated equipment, including trash receptacles, must be within three (3) feet of the food truck or cart.

(3) Temporary connections to municipal sewer and water are prohibited. All electrical connections shall be in accordance with the State Building Code.

(4) Food trucks and food carts shall only operate on private property, unless they are part of a town approved special event.

(5) No food truck or food cart shall conduct business on any public right-of-way, sidewalk, upon any public road in the town, or any property owned by the town; except for town approved special events.

(6) No food truck or food cart shall occupy parking spaces required to fulfill the minimum requirements of the principal use, unless the hours of operation of the principal use do not coincide with those of the food truck or cart.

(7) No liquid, grease or solid wastes may be discharged from the food truck or food cart. Absolutely no waste may be disposed of in tree pits, storm drains, the sanitary sewer system or public streets.

(8) Food trucks must have the following fire extinguisher on board during hours of operation: minimum Class 2A, 10B, and C rated extinguisher. A food cart is at minimum of Class 2A fire extinguisher on board during its hours of operation. If food preparation involves deep frying, a Class K fire extinguisher must also be on the truck. All National Fire Protection Association (NFPA) standards shall be met to include fire extinguishers and fire suppression hood systems shall be maintained. This provision shall be enforced by the town fire marshal or his/her designee.

(9) A food truck or food cart vendor shall not operate the food truck or cart as a drive-thru window.

(10) Lighting shall be such that minimizes the glare on roadways and surrounding properties.

(11) No signage shall be allowed other than signs permanently attached to the motor vehicle and one temporary sign may be permitted in accordance with the temporary sign standards in Section 6.7, Appendix A Zoning.

(12) The noise level from the food truck or food cart shall comply with the municipality's noise ordinance.

(13) No vendor shall remain on site at one property for more than twelve (12) hours in a 24-hour period, unless the property is owned by the food truck or food cart operator and is the site of a brick-and-mortar restaurant owned by the same individual(s) who utilize the location as the truck or cart's commissary kitchen.

(14) Food trucks or food carts shall be positioned at least fifteen (15) feet away from any fire hydrants, any fire department connection, utility box or vault. The food truck or food cart shall not be located within any area of the lot that impedes, endangers, or interferes with pedestrian or vehicular traffic. A food truck shall not impede ingress and egress from driveway entrances, handicapped parking spaces and ramps, building entrances and exits.

(e) Suspension and revocation of permit.

(1) The permit issued for the food truck business may be revoked if the vendor violates any of the provisions contained in this article.

(2) The town manager or their designee may revoke a permit if he or she determines that the food truck vendor's operations are causing parking, traffic congestion, or litter problems either on or off the property where the use is located or that such use is otherwise creating a danger to the public health or safety.

(3) The town manager reserves the right to temporarily suspend food truck permits during times of special events.

(f) Unpermitted food trucks

(1) Food truck or food cart owner and or operator found to be operating without a permit shall be assessed a fine of one hundred fifty dollars (\$150) and shall immediately cease operations until a valid permit is obtained.

(2) The business operator or owner hosting the food truck shall be assessed a fine of one hundred fifty dollars (\$150) per non permitted food truck.

(3) Any food truck with an outstanding fine will be ineligible to obtain a food truck permit until the fine is paid.

(4) Any business with an outstanding fine will be ineligible to host food trucks until the fine is paid. Any additional food trucks hosted prior to the payment of the fine will result in an additional one hundred and fifty dollars (\$150) fine per incident.

(Ord. No. 2018-19, 12-4-18)



**Town of Surf City**

**ORDINANCE NO. 2021-16**

**AN ORDINANCE AMENDING APPENDIX A SECTION 10.238**

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SURF CITY, NORTH CAROLINA, THAT:

SECTION I. The Code of Ordinances, Section 10.238 Food Trucks is to read as stated below:

**Replace the below ordinance with this language**

SECTION II. SEVERABILITY CLAUSE. If any section, part of this Ordinance is declared unconstitutional or invalid by a court of competent jurisdiction, then it is expressly provided and it is the intention of the Town Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

SECTION III. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and publication according to law.

READ, CONSIDERED, PASSED AND APPROVED at a regular meeting of the Town Council of Surf City, North Carolina, at which a quorum was present, and which was held on the 5th day of October 2021.

**Adopted** this the 5<sup>th</sup> day of October 2021.

ATTEST:

\_\_\_\_\_  
Doug Medlin, Mayor

\_\_\_\_\_  
Carla P. Citarelli, Town Clerk

(Seal)

APPROVED AS TO FORM:

Crossley, McIntosh, Collier, Hanley & Edes, PLLC

\_\_\_\_\_  
Brian Edes



# Town of Surf City

Douglas C. Medlin, Mayor  
William J. (Buddy) Fowler, Mayor Pro-Tem  
Dwight Torres, Councilman

Donald R. Helms, Councilman  
Teresa B. Batts, Councilwoman  
Jeremy Shugarts, Councilman

To: Town Council  
From: Amy Kimes  
Date: October 5, 2021  
Subject: Site Plan approval Wellman's Townhomes

## Summary

In your packet today is a request for site plan approval for a townhome development located on the west side of North New River Drive in the 800 block. The property is identified on Pender County GIS as 4245-22-3801-000 and 4245-22-4930-0000 as well as the right-of-way area shown between the two properties. This project has completed the TRC review process.

## Site Information

Owner: Wellman Construction  
Agent: Charles F. Riggs & Associates, INC  
Acreage: 2.18 acres  
Project: Wellman Townhomes  
Proposed Use: Townhomes  
Current Zoning: MU  
Location: 800 block of North New River  
Stormwater: To be designed by Engineer as part of the building permit process

## Staff Comments

The proposed project will provide 8 new townhomes on the west side of North New River Drive. Each building will contain 2 residential units. The development of the property will be located on the uplands area of the property with no impact to wetlands.

During discussions with Town staff the developer agreed to move the buildings away from the shared one-way drive to



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increase parking areas in front of the individual units. The site plan presented provides sidewalk along North New River Drive.

Sewer/water permits were secured for this tract of land during the permitting of the Sawgrass development. The developer will be moving forward with the current site plan which is a reduction in the number of units as well as a decrease in infrastructure. NCDOT will be requiring a driveway permit, but this should not affect the site plan layout as comments were made by NCDOT staff during TRC. Also, stormwater from each residential unit will be provided per the ordinance.

## Recommendations

Staff recommends approval of the site plan as submitted.



# Surf City Fire Department

Station 25, Headquarters, 100 Deer Run Rd, Hampstead, NC 28443

Station 23, Island, 200 Wilmington Ave, Surf City, NC 28445

(910) 329-1260, (910) 329-1466 fax



To: Town of Surf City Town Council

From: Allen Wilson, Fire Chief

Date: August 16, 2021

Subject: Budget Ordinance Amendment

The purpose of this letter is to request a budget ordinance amendment for the FY 21-22 Budget. As you are aware, the fire department suffered a catastrophic failure in its sewer lift station. The failure forced raw sewage in the building. This forced the department to gut the interior and dispose of all downstairs furniture and property.

The insurance company has agreed to supplemental payments based on extra expenses and cost estimates. Those payments are \$1,242.23, \$10,694.34, \$1,16.64, and \$24,848.50, which totals \$37,901.71.

The department is requesting the board to accept the funds and appropriate \$37,901.71 for the rebuild.

Please let me know if you have any additional questions.

Regards,

A handwritten signature in black ink that reads "Allen Wilson".

Allen Wilson, Fire Chief



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TOWN OF SURF CITY  
BUDGET ORDINANCE AMENDMENT  
October 5, 2021

**BE IT ORDAINED** by the Governing Board of the Town of Surf City, North Carolina, that the following amendments be made to the annual budget ordinance for the fiscal year ending June 30, 2022.

**Section 1.** To amend the **General Fund Revenues & Expenditures** to account for revenue received from insurance proceeds from water damage loss on May 28, 2021. The fire department has received a supplemental settlement from the insurance company in the amount of \$37,901.71. These funds will be used to pay for water mitigation, building rebuild, and property replacement. The appropriations are to be changed as follows:

**INCREASE BUDGETED REVENUE**

Account Number	Account Description	Amount
10-111-111-482200	Insurance Proceeds	\$37,901.71

**INCREASE BUDGETED EXPENDITURE**

Account Number	Account Description	Amount
10-530-442-573200	Capital Outlay – Building	\$37,901.71

**Section 2.** Copies of these Budget Amendments shall be furnished to the Clerk, to the Governing Board, to the Town Manager, and the Finance Officer for their direction.

**Adopted** this the 5<sup>th</sup> day of October 2021.

ATTEST:

\_\_\_\_\_  
Doug Medlin, Mayor

\_\_\_\_\_  
Carla P. Citarelli, Town Clerk

(Seal)



# SURF CITY

NORTH CAROLINA

RESOLUTION No. 2021- 22

**A RESOLUTION ACCEPTING A DONATION OF  
LAND FROM ROYAL PALM DEVELOPMENT  
CORPORATION**

**WHEREAS**, The Town of Surf City is generally authorized to accept donations of real and personal property for the benefit of its citizens, and is specifically authorized pursuant to North Carolina General Statutes 160A; and

**WHEREAS**, Royal Palm Development Corporation, desires to donate to the Town a lot or parcel of land more particularly described as follows:

All of Tract REMNANT TRACT PB 55/123. Being all of 3.57 Acres +/- Pender County Pin #4235-14-3274-0000 as recorded in the Pender County Registry as Book 2154 Page 297.

**WHEREAS**, The Town Council finds that it is appropriate to accept said donation upon the terms and conditions offered.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF SURF CITY** as follows:

1. The gift of real property by Royal Palm Development Company is accepted thereon as allowed by law.

2. The Town Clerk is hereby directed to issue a receipt to the Donor acknowledging the Town's receipt of the donation.

**Adopted** this the 5<sup>th</sup> day of October 2021.

ATTEST:

\_\_\_\_\_  
Doug Medlin, Mayor

\_\_\_\_\_  
Carla P. Citarelli, Town Clerk

(Seal)



## Chapter 10 License and Business Regulations

### Article II: Business Registration

#### 10-21 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly indicates or requires a different meaning:

**BUSINESS.** Any trade, occupation, profession or organization regardless of whether it is for-profit or non-profit.

**PERSON.** Any individual, trustee, executor, other fiduciary, corporation, unincorporated association, partnership, sole proprietorship, company, firm or other legal entity.

#### 10-22 CONSTRUCTION OF THIS CHAPTER.

This chapter is enacted for registration purposes only.

#### 10-23 REGISTRATION OF BUSINESS REQUIRED.

Any business conducted within the corporate limits shall be registered with the town on an annual basis from July 1 to June 30 of the following year. Such registration shall be accomplished pursuant to this chapter.

#### 10-24 REQUIREMENTS OF REGISTRATION.

All registrants shall provide their incorporated information, local agent name, local service address, local telephone number, as well as corporate contact information if applicable. Should the business have a building open to the public within the corporate limits of the town, then proof of a current fire inspection and valid certificate of occupancy shall be provided at the time of registration.

#### 10-25 CENSUS OF BUSINESS ACTIVITIES.

All registrants shall provide a NAICS code of primary business activity at the time of registration covered under 10-24

#### 10-26 REGISTRATION FEE.

A registration fee as set in our fee schedule shall be paid to the town at the time of registration. Fees for first time registrants shall be prorated based on the number of calendar days from the first day of operation until the next June 30 date. Registration fees shall be waived for non-profit operations.

#### 10-27 REGISTRATION ENFORCEMENT.

The Code Enforcement Officer or designee of the town shall enforce the provisions of this chapter.

10-28 FAILURE TO PAY REGISTRATION FEE.

A penalty of \$500 shall be imposed on any business that fails to register pursuant to this chapter.

10-29 LATE REGISTRATION.

Pursuant to 10-23 registration shall occur annually, if on the thirty-first date following the expiration of registration a late registration fee of \$100 in addition to the registration fee contained in 10-26 shall be imposed.

(Ord. 14-6, passed 10-9-2014)

10-30 COPY OF REGISTRATION ON PERSON OR AGENT, AVAILABILITY OF REGISTRATION FOR INSPECTION.

Pursuant to this chapter a copy of proof of registration shall be located on the person or persons conducting business on behalf of the registrant and shall be readily produced if requested by any public officer or member of the public at large at any time while conducting business within the corporate limits of the town.



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To: Council  
From: Amy Kimes  
Date: October 5, 2021  
Subject: Ordinance Amendment – Conditional Rezoning

## SUMMARY

As the Town of Surf City continues to grow, development opportunities that are not clearly defined in the Town's Ordinances arise. This often leads to staff, Planning Board, and Council working to determine the best fit in an existing set of parameters. In recent years, municipalities across the state have begun using conditional rezoning as a tool to help allow unique development while continuing to uphold the spirit of the Town Ordinances. This tool allows the Planning Board and Council to approve a rezoning based on a site plan. Though the site plan is not a final engineered plan it has enough general information to create the outline for the proposed project. If this project does not move forward in a set amount of time, the Town will then revert to the original zoning or change to a more appropriate zoning.

In our business-oriented zonings such as C1, C3, MU, NB, and O & I, all allowed uses may not be best suited for the surrounding area. C3 allows for gas stations and big box stores as well as salons/barber shops. Though it may not be appropriate to place a gas station adjacent to a residential district a standalone beauty salon may be appropriate. This tool would allow the Town to permit the salon without opening the opportunity for more intense uses in the future. This tool also allows the Town and the developer to work together to eliminate potential areas of concern by discussing the site plan as a part of the approval.

Provided in your packet is a text amendment to allow for conditional rezoning.

## ACTION REQUESTED:

Approval of the revised ordinance as submitted.



4.1.18 Conditional Rezoning. A conditional zoning district (aka “CZ”) is intended for a development that has a high level of certainty of being constructed and the most commonly expected application will contain a specified use or uses, permitted by right or special use, accompanied by a plan showing proof of concept and typically including the spatial relation of uses and site elements.

1) Application requirements

a) Except as provided herein, all applications to establish a conditional zoning district shall adhere to the regulations and procedures prescribed in this subsection in addition to the standard general use district rezoning process as described in this Section.

b) Contents of Application – at a minimum, the following (and a description) shall be required for a conditional zoning district to be considered:

i) A list of all uses proposed for the district, which shall be of equal descriptiveness and in the same format and description as listed in the Table of Permitted Uses from this Ordinance.

ii) A list of all setbacks and dimensional standards for every proposed use, which shall be of equal descriptiveness and in the same format and description as listed in the Zoning District Dimensional Requirements, from this Ordinance.

iii) A sketch plan drawn to a suitable scale, with supporting information and text which specifies the location of the use or uses intended for the property and any development or dimensional standards to be approved as part of the establishment of the conditional rezoning district.

iv) The sketch plan shall include the following items:

a. Delineation of all Areas of Environmental Concern including but not limited to federal and/or state jurisdictional Wetlands and floodplains.

b. For residential uses, the number of units, heights and a generalized location.

c. For non-residential uses, the height, approximate footprint and location of all structures.

d. Traffic generation calculations and/or Traffic Impact Analysis if required by this Ordinance, parking and circulation plans illustrating dimensions, intersections, and typical cross sections

e. All proposed setbacks, buffers, screening and landscaping

f. Phasing

g. Signage

h. Outdoor lighting

i. Current zoning district designation and current land use status

j. Other information deemed necessary by the Administrator, Planning Board, or Town Council, including but not limited to additional technical reports

c) Public Input Meeting

i) Prior to scheduling a public hearing on the rezoning application, the applicant must conduct one public input meeting and file a report of the results with the Administrator

3) Review Approval Criteria for Conditional Rezoning

a) When evaluating an application for the establishment of a conditional zoning district, the reviewing bodies shall consider the following:

i) That the application meets the intent of a conditional rezoning, per this subsection.

ii) That the contents of the application are complete, sufficient, and recorded appropriately either as conditions of approval or on the associated site plan or preliminary plat, and that the appropriate procedures have been followed.

iii) The potential impacts and/or benefits on the surrounding area and adjoining properties.

iv) The report of results from the public input meeting.

v) That sufficient guarantee is in place or can be made that any off-site impacts generated by the proposed project shall be mitigated appropriately at the time the need for the mitigating action is generated.

4) Conditions to Approval of Petition

a) In approving a petition for the reclassification of property to a conditional zoning district, the Administrator or the Planning Board may recommend, and the Town Council request that the applicant add reasonable and appropriate conditions to the approval of the petition. If the applicant and the Town Council do not both explicitly accept these conditions, then the Town Council shall deny the conditional rezoning request.

b) Any such conditions should relate to the relationship of the proposed use(s) and design to the impact on Town services and capital plans adopted, surrounding properties and population, proposed support or accessory facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of or access to open space, and other matters that the participants in the public input meeting, staff, Planning Board, and Town Council find appropriate, or that the petitioner may

propose. Such conditions to approval of the petition may include, but are not necessarily limited to, right-of-way dedication to the state or Town, as appropriate, of any rights-of-way or easements for streets, water, sewer, or other public utilities necessary to serve the proposed development.

c) The petitioner shall consider and respond to any such conditions after the Planning Board meeting at least three (3) days prior to the staff report for the Town Council being published. If the applicant does not agree with the Planning Board or staff's recommendations of additional conditions, the applicant shall provide written evidence or opinion to support their objection.

d) If for any reason any condition for approval is found to be illegal or invalid or if the applicant or subsequent owner should fail to accept or fulfill any condition following approval, the approval of any site plan or preliminary plat for the district and the conditional rezoning shall be null and void and of no effect and proceedings shall be instituted by the Administrator to rezone the property to a context-appropriate general use district zoning classification. The administrator will use appropriate judgement when recommending which properties (developed, undeveloped, vacant, half-built, existing non-conformities, etc.) be reassigned to which general use zoning districts. The rezoning may result in the creation of nonconformities, which shall be the responsibility of the property owner to rectify at such time as required by Section 7, Nonconforming Situations

#### 5) Effect of Approval

a) Once a conditional rezoning is approved, the development and use of the property shall be governed by the established standards for the district, the approved sketch plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute the zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the zoning maps.

b) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the district designation "CZ" and a unique, consecutive numerical identifier (for example, the fifteenth conditional zoning district established in the town would be labeled "CZ15"). The unique identifier number will reference the approved ordinance and sketch plan that established the zoning district.

c) Since each CZ district represents a newly created zoning district, the approved sketch plan and district standards and conditions shall be maintained as an adopted appendix to this Ordinance.

d) The approved sketch plan, may substitute for an approved master development plan if it is explicitly reviewed and approved as such during the petition for the CZ district.

e) No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and site plan or preliminary plat (as appropriate) for the district.

f) Any violation of the approved site plan or any rules, regulations and conditions for the district shall be treated the same as any other violation of this Section and shall be subject to the same remedies and penalties as any such violation.

#### 6) Alterations to Approval

a) Changes to an approved conditional zoning district or to the standards, uses, requirements, or conditions attached to the approved conditional zoning district shall be treated the same as amendments to this Ordinance or to the zoning maps and shall be processed as a Conditional Rezoning, unless possible to modify as an Administrative Adjustment. Minor changes may be modified as an Administrative Adjustment. The below list represents examples of both minor and major changes.

i) Minor Changes such as those listed below would require staff level approval.

1. Modifications in building placement, provided the placement complies with the setbacks of the corresponding base zoning, and does not decrease the setbacks agreed to and approved during the conditional rezoning process by more than 10 percent;
2. Increases to building size and height not to exceed 10 percent provided all other applicable standards of this Ordinance are met;
3. Modifications to structure floor plans;
4. Modifications to the driveway locations not exceeding 10 percent of the length of the subject property line, or as required by the North Carolina Department of Transportation; and
5. Modifications to the proportion of housing type not to exceed 10 percent

ii) Major Changes such as those listed below will require reapproval by Council.

1. Land area being added or removed from the Conditional District;
2. Modification of special performance criteria, design standards, or other requirements specified by the original approval;
3. A change in land use or development type;
4. When there is introduction of a new vehicular access point to an existing street, road or thoroughfare not previously designated for access;
5. When there is an increase in the total number of residential dwelling units greater than 5%. This includes both single family homes and multi family homes;
6. When the total floor area of a development is increased more than 10% beyond the total floor area last approved by Town Council. Changes of less than 10 percent may be approved by the Administrator.

## 7) Review of Approval of a Conditional Zoning District

a) It is intended that property shall be reclassified to a conditional zoning district only in the event of firm plans to develop the property. Therefore, no sooner than three (3) years after the date of approval of the petition, the Administrator shall examine the progress made toward developing the property in accordance with the approved conditional zoning district and any standards, uses, requirements, or conditions attached to the approval.

b) If the Administrator determines that progress has not been made in accordance with the approved petition and conditions, the Administrator shall begin proceedings to rezone the property(ies) to its previous zoning classification or to another district(s), as appropriate.

c) The Administrator shall continue to monitor conditional zoning districts in this manner at least every 2 years, until they are determined to be substantially builtout (90% or more of units, square feet, or land built out)