

# **RIVER BEND PLANNING BOARD**

**September 1<sup>st</sup>, 2022 at 6:00pm**  
**River Bend Municipal Building**  
**51 Shoreline Drive, River Bend, NC**

## **AGENDA**

- I. CALL TO ORDER – Egon Lippert**  
We welcome our visitors. A copy of the meeting package is available. If you want to address the board with general comments or priority issues, you have the opportunity to do so at this time. For comments or questions regarding a specific agenda item, please address the board as the item comes up.
- II. GENERAL VISITOR COMMENTS – All**
- III. APPROVAL OF LAST MEETING MINUTES – Allison McCollum**
- IV. REPORTS**
  - A. Summary of permits issued – Allison McCollum
  - B. Town Council Update – Buddy Sheffield
- V. OLD BUSINESS – All**
  - A. Updates/revisions to current ordinance regarding short-term-rentals
- VI. NEW BUSINESS – All**
  - A. Application for construction of Rowe Rental facility on US Hwy 17.
  - B. Application for Special Use Permit for automotive service station at Rowe Rental facility.
  - C. Discussion of Conditional Rezoning.
- VII. OTHER – All**
  - A. Next meeting is scheduled for **October 6<sup>th</sup>, 2022 at 6:00pm**
- VIII. CALL FOR ADJOURNMENT - All**

# Town of River Bend Planning Board

Minutes for Regular Meeting – 4 August 2022 – River Bend Municipal Building

**Board Members present:** Chairman Egon Lippert, Vice Chair Bob Kohn, Linda Cummings, Kathleen Fleming, Kelly Forrest, Kelly Latimer

**Board Members absent:** Keith Boulware

**Others present:** Councilman Buddy Sheffield, Councilwoman Barbara Maurer, Assistant Zoning Administrator Allison McCollum, and five members of the public

## 1. Call to Order

The regularly scheduled Planning Board meeting was called to Order at 6:00 PM on Thursday, 4 August 2022, in the River Bend Municipal Building meeting room with a quorum present.

## 2. General Visitor Comments

Chairman Egon Lippert asked if anyone wished to speak now, or preferred to wait until their issue came up on the agenda. All present opted to wait to speak during the short-term-rental discussion.

## 3. Approval of 2 June 2022 Regular Meeting Minutes

The Board reviewed the Minutes of the 2 June 2022 Regular Meeting. **Motion** was made by Vice Chair Bob Kohn to accept the Minutes as presented. Motion was **seconded** by Board Member Kelly Latimer. **Motion carried unanimously.**

## 4. Reports

### a. Zoning Report

AZA Allison McCollum presented the Board with a typed report summarizing the number of permits issued, the type of permit issued, and the total of all permit fees for the months of June and July 2022. The members of the Board reviewed the report and asked questions as needed.

### b. Council Report

Councilman Buddy Sheffield addressed the Board and verbally reviewed the most recent actions of the Town Council. The members of the Planning Board asked questions as needed.

## 5. Old Business

### a. Updates/revisions to current sign ordinance

AZA Allison McCollum presented the Board with proposed changes to the Town's existing sign ordinance, as prepared by Town Manager Delane Jackson, Town Attorney David Baxter, and AZA Allison McCollum. As discussed in previous meetings, the revisions are intended to align the Town of River Bend's sign ordinance with rulings from the United States Supreme Court regarding sign enforcement. The Board asked questions as needed. **Motion** was made by Vice Chair Bob Kohn to propose the revised ordinance to the Town Council. Motion was **seconded** by Board Member Linda Cummings. Motion carried unanimously.

**Motion** was made by Vice Chair Bob Kohn to approve the Resolution – Advising that the proposed amendments to the Code of Ordinances are in accordance with all officially adopted plans, including the Comprehensive Land Use Plan; are reasonable; and are in the public interest. Motion was **seconded** by Board Member Kathleen Fleming. **Motion carried unanimously.** The consistency statement was signed by Chairman Egon Lippert and witnessed by Secretary Allison McCollum.

**b. Updates/revisions to current ordinance regarding short-term-rentals**

Chairman Egon Lippert called on the members of the public present to speak in turn. All persons present spoke to the Board, some in favor of allowing short-term-rentals, some opposed. After much discussion, AZA Allison McCollum presented the Planning Board with proposed changes to the Town's existing ordinance that would clarify the prohibition of short-term-rentals within the Town, as specifically requested by the Planning Board at a previous meeting.

**Motion** was made by Board Member Kelly Latimer to propose the revised ordinance to the Town Council. Motion was **seconded** by Vice Chair Bob Kohn. All other present members voted in opposition. With a vote of **2 in favor, 4 opposed, the motion failed.**

The Planning Board directed Town staff to prepare additional options for a revisions at the next meeting.

**6. New Business**

**a. Election of Board Chair, Vice Chair, and Secretary.**

Councilman Buddy Sheffield took over the proceedings so that the Planning Board could elect a Chair, Vice Chair, and Secretary as required by ordinance. He asked for a volunteer or a nomination from the Board Members for Chair. Board Member Linda Cummings **motioned** to name Egon Lippert as Chairman. Board Member Kathleen Fleming **seconded** the motion. **Motion carried unanimously.** Chairman Egon Lippert accepted the position.

Councilman Sheffield asked for a volunteer or a nomination from the Board Members for Vice Chair. Board Member Kathleen Fleming **motioned** to name Bob Kohn as Vice Chair. Chairman Egon Lippert **seconded** the motion. **Motion carried unanimously.** Vice Chair Bob Kohn accepted the position.

Councilman Sheffield asked for a volunteer or a nomination from the Board Members for Secretary. Board Member Kelly Forrest **motioned** to name AZA Allison McCollum as Secretary. Board Member Kathleen Fleming **seconded** the motion. **Motion carried unanimously.** Secretary Allison McCollum accepted the position.

7. **Other**

The next regular meeting is scheduled for Thursday, 1 September 2022 at 6pm.

8. **Adjournment**

**Motion** was made by Vice Chair Bob Kohn to adjourn the meeting. Motion was **seconded** by Board Member Kathleen Fleming. **Motion carried unanimously** and the meeting adjourned at 7:02 PM.

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Allison McCollum, Secretary



## TOWN OF RIVER BEND

45 Shoreline Drive  
River Bend, NC 28562

T 252.638.3870  
F 252.638.2580

[www.riverbendnc.org](http://www.riverbendnc.org)

### August 2022

Permit Type	Total Issued	Total Project Cost
Flood	2	\$529,000.00
Residential Zoning	8	\$869,158.00
Residential Flood	1	\$20,735.00
Sign	1	N/A

The total amount of permit fees collected for August 2022 is **\$1,721.60**

**BUILDING, ACCESSORY.** A subordinate building on the same lot as the principal building, consisting of walls or supporting members and a roof, the use of which is customarily incidental to the use of a principal building on the same lot.

**BUILDING, PRINCIPAL/MAIN.** A building in which is conducted the principal or main use of the lot on which it is located. Principal and main are synonymous here and in all other usage throughout the code.

**BUILDING SETBACK LINE.** A line parallel to the front property line in front of which no structure shall be erected.

**CHILD DAY CARE CENTERS AND NURSERIES.** Child day care centers or nurseries shall comply with the G.S. § 110, Article 7, which governs the licensing of day care facilities.

**COMMERCIAL USE.** Any use permitted by this chapter in a commercial district.

**COMMERCIAL VEHICLE.** A vehicle:

- (1) With lettering or signage indicating use for commercial purposes; or
- (2) In excess of ½ ton load capacity of a type customarily used for commercial purposes.

**CONDITIONAL ZONING.** A legislative zoning map amendment with site-specific conditions incorporated into the zoning map amendment.

**COUNTY.** Craven County, North Carolina.

**DIMENSIONAL NON-CONFORMITY.** A non-conforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

**DWELLING.** A building or portion thereof designed, arranged or used for permanent living quarters for 1 or more families. The term *DWELLING* shall not be deemed to include a motel, hotel, tourist home or any structures designed for transient residence.

**DWELLING, MULTIPLE.** A building, including an apartment house, or portion of 1 used or designed as a residence for 3 or more families living independently of each other and doing their own cooking therein.

**DWELLING, SINGLE-FAMILY.** A building used or designated as a residence for a single family.

**DWELLING, 2-FAMILY.** A building or portion thereof used or designed as a residence for 2 families living independently of each other and doing their own cooking therein.

**ELEVATION.** In relation to mean sea level, new construction shall have the minimum elevation no less than 10.5 feet to the floor joist or no less than 11 feet to the lowest habitable floor, whichever is more restrictive.

**FAMILY.** One or more persons occupying a single family dwelling unit, provided that, unless all members are related by blood or marriage, no family shall contain more than 5 persons.

**FRONT LOT LINE.** The line of a lot contiguous with the street right-of-way.

**STRUCTURE.** Includes but not limited to a building, deck, swimming pool, bulkhead, dock, wall or fence, storage shed, tennis court, gazebo, and satellite antenna, but excluding specifically satellite antennas with dishes of 24 inches or less in diameter.

**TIMBER HARVESTING.** Timber Harvesting shall be defined as the cutting and removal of a quantity of timber: (i) for delivery of merchantable timber to market, or (ii) pursuant to a practice that reduces tree density and competition to concentrate growth on fewer, high-quality trees (sometimes referred to as thinning); or (iii) otherwise resulting in the removal of more than twenty (20) regulated trees per acre.

*Added 09/17/2007, Amended 04/16/2009*

**TOURIST HOME.** A ~~dwelling~~ residential or commercial structure wherein rooms or the entire structure are rented to provide overnight accommodations or rental terms of less than thirty (30) days for transient guests.

**TOWN.** The Town of River Bend.

**TOWN COUNCIL.** The Town Council of the Town of River Bend.

**WATERWAYS.** The system of canals, ponds ( including private bodies of water) rivers or other natural or manmade water features that stormwater drains to, through and from and that are expected to act as a reservoir, conduit or collection point for storm water or areas classified as wet lands.

**YARD.**

- (1) The space on the same lot with the main building between the main building and the front lot line(s) (front yard), between the main building and the side lot line(s) (side yard), and between the main building and the rear lot line (rear yard).

1. A buffer shall be provided along all property lines of the uses which abut a residential district or lot which is occupied by a residential use;
2. All gasoline pumps and other stationary equipment shall be at least 24 feet off the edge of pavement and 12 feet off the edge of right of way; and
3. All areas subject to daily or frequent use of vehicles shall be paved.

G. *Janitorial supplies.* Due to the nature of the materials handled which could be a safety hazard, the business owner must demonstrate strict control of chemical supplies by showing capability to comply with all federal and state regulations.

Penalty, see § 1.01.999

§ 15.02.124 DISTRICT USE REGULATIONS.

For convenience in the administration of this chapter, there hereby is established and made a part of this chapter the following schedule of district use regulations.

SCHEDULE OF DISTRICT USE REGULATIONS									
KEY: P – Use permitted by right SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board Blank/Unlisted – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Accessory Building	P	P	P	P	SU	SU	SU	P	
Adult Day Care					P	P	P		G
Bakery, Retail						P	P		G
Financial Services						P	P		G
Barber Shop/Beauty Shop						P	P		G
Boats and Trailer Sales						SU	SU		G
Cabinet, Woodworking or Upholstery Shops						P	P		G
Child Day Care						SU			
Churches	SU	SU	SU	SU	P	SU	SU		E



SCHEDULE OF DISTRICT USE REGULATIONS									
KEY: P – Use permitted by right SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board Blank/Unlisted – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Clubs and Lounges, Private					P	SU	SU		F
Clothing Store						P	P		G
Computer Sales and Service						P	P		G
Dairy Bar and Ice Cream Parlors						P	P		G
Drug Store						P	P		F
Dry Cleaners/Drop Off/Pick Up Only						P	P		G
Dwellings, Single- Family	P	P	P	P		SU			A
Dwellings, 2-Family				P		SU			A
Dwellings, Multi- Family				P		SU			A
Fire Department Buildings	SU	SU	SU	SU	SU	SU	SU		F
Fitness Center						P	P		G
Florists/Gift Shop						P	P		G
Furniture Store						P	P		G
Golf Course	SU	SU	SU	SU	P	SU	SU		F
Grocery Store						P	P		G
Hardware Sales						P	P		G
Home Occupations	P	P	P		P				G
<u>Tourist Home***</u>	<u>P</u>	<u>P</u>			<u>P</u>	<u>P</u>	<u>P</u>		<u>G</u>

SCHEDULE OF DISTRICT USE REGULATIONS									
<p>KEY:  P – Use permitted by right  SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board  Blank/Unlisted – Prohibited use</p>									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Jewelry and Watch Repair						P	P		G
Libraries	SU	SU	SU	SU		P	P		G
Marina						P			G
Nursing Home and Rest Home					P				G
Office for Business, Professional and Personal Services						P	P		G
Pet Shops (excluding Veterinary Services)						P	P		G
Pharmacy						P	P		G
Photo Shop/Supply						P	P		G
Police Station	SU	SU	SU	SU	SU	SU	SU		F
Public Enterprise**	SU	SU	SU	SU		SU	SU		F
Public Utility	SU	SU	SU	SU	SU	SU	SU		F
Restaurants					P	P	P		F
Schools	SU	SU	SU	SU	SU				F
Service Station						SU	SU		J
Shoe Sales and Repair						P	P		G
Sporting Goods Sales						P	P		G

SCHEDULE OF DISTRICT USE REGULATIONS									
KEY: P – Use permitted by right SU – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board Blank/Unlisted – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Storage Rental Units/Areas						P	P		G
Travel Agency						P	P		G
Utility Tanks, Pumps, Electrical Substations & Related Services	SU	SU	SU	SU	SU	SU	SU	SU	
Wholesale and/or Retail Janitorial Sales & Services						SU	SU		F
Youth Center					P	P	P		G
*Parking code described in §15.02.080 ** As defined by G.S. § 160A-311 <a href="#">*** Non-conforming uses of tourist home at the time of its addition to this ordinance shall be amortized for a period of 12 months from [DATE]. After that date, the use must terminate if not permitted in the corresponding zone or a special use permit has not been obtained, as applicable.</a>									

Penalty, see § 1.01.999

*Amended 11/18/10*



**Town of River Bend**

**Zoning Permit Application  
Permit No. \_\_\_\_\_**

1. Applicant's Name <b>Rowe Investments LLC</b>		Phone No. <b>(252) 658-2090</b>
2. Street Address <b>502 Deerfield Rd</b>	Mailing Address, if different: <b>New Bern, NC 28562</b>	
3. Property Owner's Name <b>James L. Hoffman Jr.</b>		Phone No. <b>(252) 658-2036</b>
4. Contact Name <b>Kelsey Rowe</b>		Phone No. <b>(252) 658-2090</b>
5. Site Location (Street, Road, etc.) <b>5530 US Hwy 17S</b>	<b>New Bern 28562</b>	Lot No. <b>BD</b>
6. Plat Plan <u>Required</u> (must include proposed changes and show distance between structures and distance to property lines) See Instructions on Reverse		
7. Storm Water Drainage Plan <u>Required</u> – Certified by a Licensed, Professional Engineer (See instructions on reverse)		
8. Building Site in Flood Plain <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		
9. Proposed Structure: <input type="checkbox"/> Residential Construction <input type="checkbox"/> Renovation <input type="checkbox"/> Excavation <input type="checkbox"/> Fill <input type="checkbox"/> Attached Garage <input type="checkbox"/> Grading <input type="checkbox"/> Utility Construction <input type="checkbox"/> Road Construction <input type="checkbox"/> Driveway paving/tiling <input checked="" type="checkbox"/> Nonresidential Construction (specify) <b>Individual Storage Rental Units to include rental to one automotive service station that will meet minimum standards listed in chapter 15.02 (low volume non-routine service)</b> <input type="checkbox"/> Additional Accessory Structure (please briefly describe structure and purpose being sure to include square footage and height) _____  If addition is a garage, will it be used for any purpose other than parking vehicles, building access or storage? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Does Not Apply (not a garage) (If yes, please briefly describe structure and purpose being sure to include square footage and height. See Reverse for instructions) _____  <input type="checkbox"/> Other (specify and briefly describe; i.e. fence, pool, irrigation system, etc.) (If irrigation system, will the system use well water or Town Water?) _____		
10. Restrictive Covenants (We encourage you to review your copy of the restrictive covenants governing your property, if applicable) <b>NONE</b>		
11. Property Served by the Town's Municipal Sewer System: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (See reverse for instructions)		
12. Estimated Cost of Project: <b>\$ 300,000</b>		13. Estimated Date of Completion of Project: <b>10/01/2022</b>
<u>Required Attachments:</u> ( See reverse for instructions) Plat Plan Storm Water Drainage Plan		
Applicant's Signature <b>Kelsey Rowe</b>		Date <b>6/23/22</b>
Signature of Zoning Administrator Indicating Project Approval		Date
Permit Fee: \$		

See Instructions on Reverse



### Permits Required

A permit is required for proposed building, construction, alterations, etc., located within the jurisdictional area of the Town of River Bend to assure conformity with the requirements of the Town's Zoning Ordinance. The Zoning Ordinance and all other Town ordinances are available for inspection or purchase at the River Bend Town Hall.

### Form Instructions

**Applicant must complete all items. If an item does not apply to this application, write N/A.**

**All appropriate boxes must be checked.**

**All drawings must be accurate and attached to the application.**

**Application must be signed and dated by applicant.**

*Additional instructions are provided below for assistance in completing line items 6, 7, 10 and 12.*

#6. Each application for a zoning permit shall be accompanied with a plat signed and sealed by a licensed surveyor drawn to scale showing accurate dimensions of the lot, applicable easements, elevations of site including driveways and drainage features, relationship to adjoining lots and accurate dimensions of the building to be erected, constructed or altered, including its location on the lot.

#7. It shall be determined that the plan will be in compliance with the North Carolina Storm Water Site Planning Guidance Manual and will not adversely impact the flow of storm water in areas outside the new project. This plan shall be signed and sealed by a professional engineer, licensed to practice in North Carolina.

**PLEASE NOTE: If your site is located in the flood plain, you must contact the Zoning Administrator when foundation construction is complete so that it can be inspected.**

#10. Use of a garage for the purpose of locating a hot water heater, water softener, heating and air conditioning equipment and ductwork constitute usage "other than parking vehicles, building access or storage." The list provided here is not to be considered an all inclusive list.

#12. The Craven County Inspections Department issues Building Permits and performs required inspections for the Town of River Bend. Projects on lots that have septic tanks require a permit from the Craven County Health Department.

**Failure to complete form properly or to provide the required information and drawings will delay the processing of your application.**

**A COPY OF THIS ZONING PERMIT MUST BE POSTED IN A CONSPICUOUS PLACE ON PROPERTY DURING CONSTRUCTION.**

**HOLDER OF ZONING PERMIT MUST CONTACT ZONING ADMINISTRATOR UPON COMPLETION OF PROJECT. AN INSPECTION IS REQUIRED BY RIVER BEND OFFICIALS BEFORE THE COUNTY WILL ISSUE A CERTIFICATE OF OCCUPANCY.**

*Note: If the proposed construction requires a County Building Permit, a copy of this certificate must be delivered to the Craven County Inspection Department (2818 Neuse Blvd. 636-4987) prior to issuance of that permit.*

<b>Contact Us:</b> 45 Shoreline Drive, River Bend, NC 28562 Phone (252) 638-3870 ext. 216 Fax: (252) 638-2580 <a href="mailto:zoning@riverbendnc.org">zoning@riverbendnc.org</a> www.riverbendnc.org 8:00 a.m. to 4:00 p.m. weekdays	<b>Type of Structure</b>	<b>Requirements</b>
	Type 1 – Pre-FIRM Structure was built prior to 8/21/85	Advise vents will help flood insurance rates. Cannot allow any more non conformance
	Type 2 – Post FIRM Structure was built after 8/21/85 but before 7/18/01	Must meet code compliance at time of original construction
	Type 3 – Built Post FIRM but after 7/18/01 2 ft. freeboard	Must meet today's ordinance

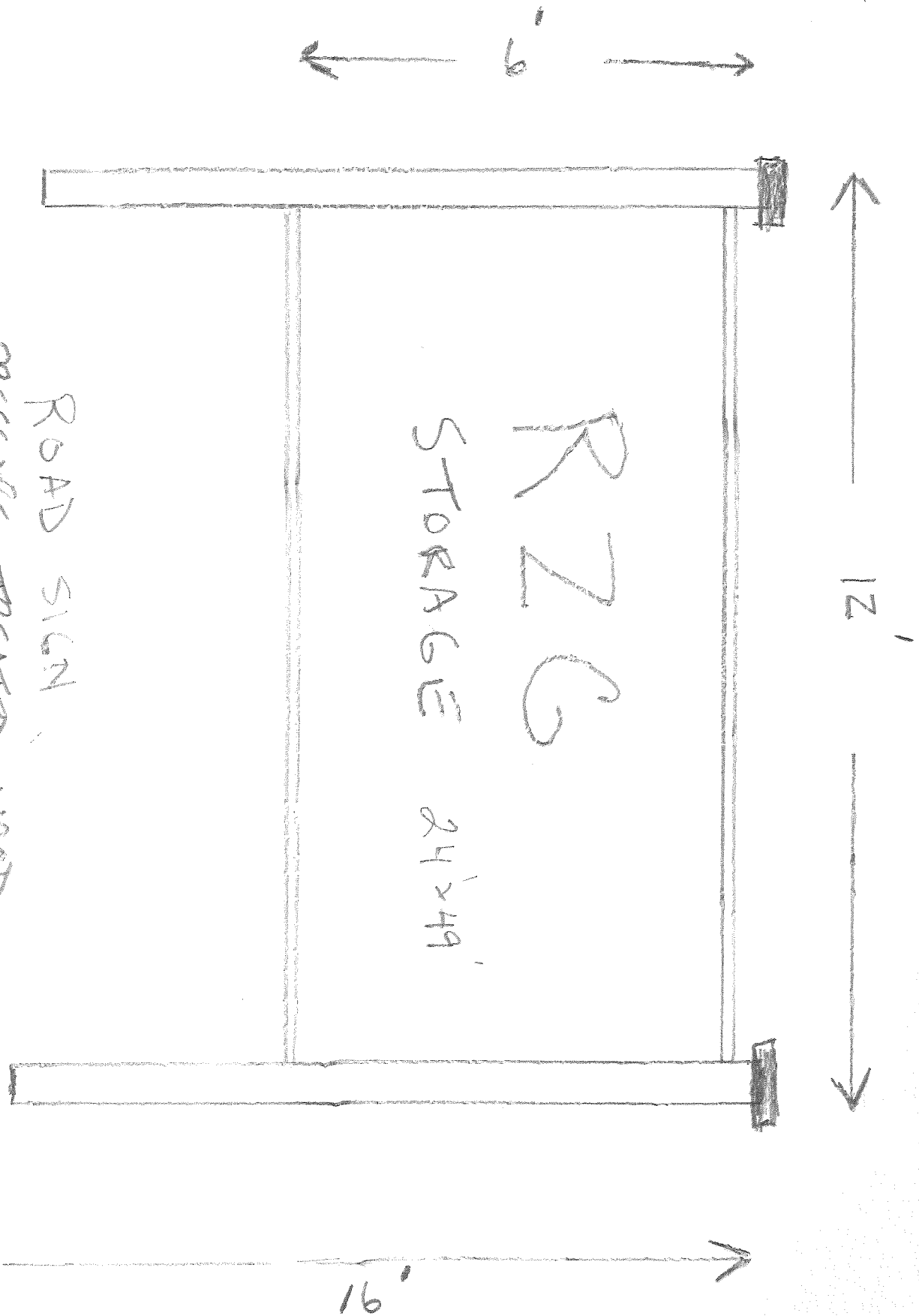


# Rowe Investments LLC

## Site Plan Submission Requirements

- A) See Pg 1
- B) Land owner - James L. Hoffman Jr Revocable Trust  
to be leased by Rowe Investments LLC
- C) See Pg 1
- D) See Pg 2
- E) None
- F) See Pg 2
- G) See 8 1/2 x 11 page for proposed sign attached
- H) See Pg 2 - no changes
- I) Property zoned commercial  
Vesta Enterprises - zoned commercial  
Lori Edwards 8-205-635 zoned residential  
Lori Edwards 8-205-012 zoned agricultural  
Hoff Revocable Trust 8-205-9001 zoned agricultural
- J) Traffic Flow - in and out on one  
driveway with circle turn around  
No curbing
- K) See Pg 2
- L) 4.44% of land covered by buildings
- M) Individual Storage Rental Units to include  
rental to one automotive low volume non-  
routine service station that will meet all  
minimum standards listed in Chapter 15.02
- N) See Superior Metal Structures invoice  
attached - Buildings 12' tall  
Hawailian Blue  
Light Gray Roof  
White Trim

(G)



RZG  
STORAGE 24'x49'

ROAD SIGN  
PRESSURE TREATED WOOD  
COVERED WITH VINYL SLEEVES

6'

12'

16'

(N)

# BUILDING SPECIFICS

Yoana  
1183 S NC 41 & 111 Hwy  
Beulaville, NC 28518  
Office (910) 298-3774  
sales@superiormsc.com



Installer: \_\_\_\_\_ Date: \_\_\_\_\_

**BUILDING CONTRACT**  
2021.05

Date: \_\_\_\_\_

Customer Name: Kelsey Rowe  
Address: 5530 S US 17 Hwy  
City: New Bern State: NC Zip Code: 28562  
Phone Number: #1 252-658-2090 #2 \_\_\_\_\_

Note:

Email:

**STRUCTURE SIZE:**

Width 30 Length 61 Height 12 \$ \_\_\_\_\_

A-Frame  Rounded Building  Carport  Combo  Barn  Other \_\_\_\_\_ \$ \_\_\_\_\_

Roof Lean-To: \_\_\_\_\_ Drop Down Lean-To: \_\_\_\_\_

Basic  Dressed:  Yes  No  Opening:  Yes  No Qty/Size \_\_\_\_\_

**CARPORT ONLY:**

Gable \_\_\_\_\_ Closed Sides \_\_\_\_\_ Closed Ends \_\_\_\_\_

**COLORS:**

Roof/Soffit: Light Gray Walls: Hawaiian Blue Trim: Bright White

Color Screws:  Yes  No Two-Tone \_\_\_\_\_ Height \_\_\_\_\_

**STRUCTURE OPTIONS:**

Roof: Vertical  Horizontal \_\_\_\_\_ Walls: Vertical \_\_\_\_\_ Horizontal

Roll-Up Doors: Qty/Size (3) 10x8 wind load \_\_\_\_\_ Insulated  Yes  No

Walk-In Door: Basic 1 Cottage \_\_\_\_\_ Other \_\_\_\_\_ \$ \_\_\_\_\_

Windows: Basic 2 Metal Grid \_\_\_\_\_ Insulated \_\_\_\_\_ Side Entry: (3) 10x8 \$ \_\_\_\_\_

Insulation:  Roof Full R4 \_\_\_\_\_ R9  R10 \_\_\_\_\_ CLOSURE STRIPS:  ROOF  WALL \$ \_\_\_\_\_

Building Zone: 3' OC \_\_\_\_\_ 4' OC  5' OC \_\_\_\_\_ Other \_\_\_\_\_ (May Change by County) \$ \_\_\_\_\_

Engineered-Certified (Plans)  Basic Certified  Non-Certified

MISC. Options: \_\_\_\_\_ \$ \_\_\_\_\_

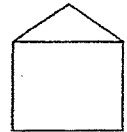
**CONCRETE:** Customer Pouring own

Pad Size: Concrete 30x60x4" Footers: Yes No Lean-To: \_\_\_\_\_ Footers: Yes No \$ \_\_\_\_\_

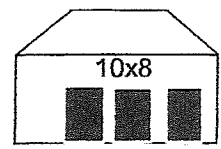
Fiber: Yes No PSI-  3,500 Other \_\_\_\_\_ Grading (\$75.00 an hr.) Yes No

Initials \_\_\_\_\_

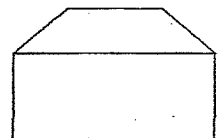
**DOORS & WINDOWS**



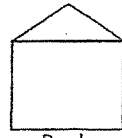
Front



Right Side



Left Side



Back

CUSTOMER IS RESPONSIBLE FOR THE COST OF ANY GRADING DONE BY SMS&C, LLC. CUSTOMER IS TO PROVIDE ANY FILL DIRT NEEDED. IF CUSTOMER COMPLETES GRADING CUSTOMER IS RESPONSIBLE FOR ADDITIONAL CONCRETE AT \$275 PER YARD. IF CUSTOMER FAILS TO PAY FOR GRADING SUPERIOR MS&C, LLC RESERVES THE RIGHT TO TERMINATE THE CONTRACT AND COLLECT ALL UNPAID DEBTS. IF THERE IS NO ACCESS TO THE SITE CUSTOMER IS RESPONSIBLE FOR ALL EXPENSES TO ACCESS THE SITE (EX. CONCRETE BUGGY/PUMP). THERE IS A \$500 TRIP FEE FOR ANY UNNECESSARY TRIPS TO YOUR PROJECT. CUSTOMER IS RESPONSIBLE FOR TOW BILL IF CONCRETE BUGGY GETS STUCK



**§ 15.02.048 APPLICATION REQUIREMENTS FOR BUSINESS DISTRICT AREAS ZONED BD AND BD-PD IN HEAVILY TRAFFICKED AREAS.**

*A. General provisions.*

1. The purpose of this section is to visually enhance and provide for the orderly development of business and commercial areas along the Highway 17 corridor that is adjacent to or within the town and its extraterritorial jurisdiction, and along Shoreline Drive from Highway 17 to the first intersection with Plantation Drive. A site plan review process regulates the development of structures and sites in a manner that considers the following concerns, and where necessary, requires modification of development proposals to eliminate or minimize potential problems and nuisances, and to encourage architecturally and aesthetically integrated development in accordance with adopted architectural and site design guidelines. In addition, this section is designed to complement Article XXII of the City of New Bern's Code which outlines the architectural and aesthetic development of entrance corridors to the City of New Bern.
2. The principal areas of interest are:
  - a) Protection of property values;
  - b) The balancing of the landowner's rights to use his land, with the corresponding right of abutting and neighboring landowners to live without nuisances such as noise, smoke, fumes, odors, and glare of lights, visual pollution and the like;
  - c) The convenience and safety of vehicular and pedestrian movement within the site, and in relation to adjacent areas or roads;
  - d) Applicant's efforts to integrate the proposed development into the existing landscape, or to create a new "image" streetscape through design features such as vegetative buffers, berms, roadside plantings and the retention of open space; and
  - e) The building setbacks, area and location of parking, architectural compatibility, and how these features harmonize with the surrounding developments and the natural landscape.

*B. Projects site plan review.*

1. Site plan review shall be required for all developmental projects involving the construction, exterior alteration, relocation, occupancy, or change in use of any building in the area zoned business or planned development business whose property lies adjacent to Highway 17 in the Town of River Bend or its extraterritorial jurisdiction area, or whose property is the result of the subdivision of those areas zoned business planned development business that would have been adjacent to Highway 17 had they not been subdivided. It also applies to the areas zoned business planned development business along Shoreline Drive from Highway 17 to Plantation Drive. Should there be any question of the areas to which this section applies, the overlay prepared by the Town of River Bend defining these areas shall be the determining document.
2. The site plan shall be reviewed by the Planning Board and Zoning Administrator.
3. Site plan review shall be required for the resumption of any use discontinued for more than 6 months that involves an exterior change, or for the expansion of any use. Expansion shall

include any activity that requires an increase in square footage of at least 15%, or a change in occupancy that requires a new certificate of occupancy. Required approval includes proposals for commercial, office, institutional, utility, multiple dwelling residential developments or recreational uses.

- a) It is the responsibility of the owner to notify the Zoning Administrator of any change of occupancy or usage on their property, in writing.
- b) The Zoning Administrator will determine if a site plan review or a new zoning permit is required.

*C. Application procedures.*

1. An application for site plan review in the overlay areas shall be submitted to the Zoning Administrator in accordance with the procedure set forth in § 15.02.166, by filing 3 copies of the site plan documents drawn to a scale not to exceed one inch equals 100 feet on standard 24 inch by 36 inch sheets. The town shall acknowledge receipt of these plans by endorsing them with a signature and date.
2. The Zoning Administrator shall review the site plan and supporting documents, taking into consideration the reasonable fulfillment of the objectives listed in this section and shall render a decision which shall consist of either:
  - a) Approval of the site plan based upon a determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this section;
  - b) Approval of the site plan subject to any conditions, modifications, and restrictions as required by the Zoning Administrator which will insure that the project meets the listed principal areas of interest; or
  - c) Disapproval of the site plan based upon a determination that the proposed project does not meet the standards for review set forth in this section.

*D. Site plan submission requirements.*

1. Site plans shall be prepared by a registered professional surveyor, landscape architect, architect, engineer or other professional with demonstrated skills to complete the site plan at a scale of 1 inch equals 100 feet, on standard 24 inch by 36 inch sheets, with continuation sheets on 8-1/2 inch by 11 inch sheets as necessary for written information.
2. The site plan shall include the following data, details and supporting plans. All of the requirements must be met in each plan with notations explaining the reasons for any omissions. Items required for submission include:
  - a) Name of project, boundaries, north arrow, scale, square footage or acreage in tract, and site plan vicinity map;
  - b) Name and address of owner, developer, and seal of architect or similar professional, if applicable;
  - c) Names and addresses of all abutting property owners;
  - d) All existing and proposed lot lines, easements and rights-of-way;
  - e) Location of all existing buildings and structures;

- f) Location of all existing and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences and walls. Location, type and screening details for waste disposal;
  - g) Locations, dimensions and sketches of all proposed signage;
  - h) A planting and berm plan showing all existing natural features, trees and water resources, and all proposed changes to those features including size and type of plant material;
  - i) Zoning district classifications of subject site and abutting properties;
  - j) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, and curbing on the site;
  - k) Elevation plans to a minimum scale of 1/8 inch equals 1 foot for all exterior facades of proposed or existing structures and additions;
  - l) Approximate percentage of land to be covered by buildings;
  - m) Proposed uses;
  - n) Anticipated architectural style(s).
- E. *Enforcement.*
1. The Zoning Administrator may revoke any zoning, special use, or conditional zoning permit to insure compliance with the plan and stated conditions of approval.
  2. The Zoning Administrator may also suspend any permit or license when work is not performed within 1 year of approval of the site plan.
  3. The permit issuing authority may extend the 1 year prior for good cause.
  4. Appeals to the decisions of the permit issuing authority may be made to the Board of Adjustment through procedures outlined in §§ 15.02.173 et seq. of this chapter.
- F. *Design guidelines and performance standards.*
1. The following are the design guidelines and performance standards.
  2. Exceptions to these guidelines may be granted by the Board of Adjustment after reviewing the petition of the developer along with the recommendations of the Zoning Administrator.
    - a) Required standards.
      - (1) For those developments abutting Highway 17, entrance shall be from Pirates Road or Efird Boulevard. An exception may be granted for any single property not directly connected to Pirates Road or Efird Boulevard.
      - (2)
        - (a) For all developments, each development under single ownership shall be limited generally to 1 driveway access to provide both ingress and egress.
        - (b) In cases where it is determined by the Zoning Administrator that more than 1 driveway access would provide a more efficient circulation pattern within the development and would promote improved traffic safety, 1 additional driveway access may be permitted.
      - (3)
        - (a) Shared driveway access between 2 neighboring developments shall also be recommended as a suitable alternative to the above mentioned requirement.

- (b) In these cases, it is recommended that the driveway midpoint be the property line between the 2 parcels.
- (c) The driveway must meet standard specifications, and the estimated driveway volume will be the sum of the trip generation rate of both land uses in question.
- (4) Those portions of the principal building visible from any street right-of-way shall be sheathed in materials such as wood siding, stone, stucco (drivet), brick or other masonry materials (excluding cinder block or regular concrete block). Metal facades may be used only with special permission of the Board of Adjustment upon recommendation of the Zoning Administrator.

*Amended 06/20/2007*

- (5) All utilities leading to the buildings shall be underground.
- (6) State and county rules shall apply to the construction of holding ponds and other drainage issues and all drainage plans shall be in conformity with the North Carolina Stormwater Site Planning Guidance Manual to show how the land will be used. The proposed specifications and drawings defining the stormwater drainage plans for the new project and for any changes to existing drainage features outside the new area necessary to accommodate the plan, will be submitted. The use of LID design approaches is preferred and should be implemented to the maximum extent practical given the site's soil characteristics, slope, and other relevant factors. If LID design approaches are not proposed in the stormwater management plan, the applicant shall provide a full justification and demonstrate why the use of LID approaches is not possible before proposing to use conventional structural stormwater management measures which channel stormwater away from the development site. The proposed drainage plan shall be in conformity with the North Carolina Stormwater Site Planning Guidance Manual to show how the land will be used. It shall be signed and sealed by a Registered Professional Engineer, licensed to practice in North Carolina.

*Amended 06/18/2009*

- (7) All buffering shall meet the town's standard requirements as outlined in the town's Zoning Chapter, §§ 15.02.220 et seq.
- (8) All signs should be compatible with the building in terms of design, scale and materials, and meet the town's size and standard requirements as outlined in the town's Zoning Chapter.
- b) Recommended standards. In addition to the previous requirements, the following standards are recommended:
  - (1) No more than 60% of the facade of any principal building facing the highway corridor should be of glass or other reflective material; and
  - (2) Whenever possible, a planting area measuring an average of 5 feet in width should be provided around the periphery of all principal buildings in a development.

Penalty, see § 1.01.999



TOWN OF RIVER BEND

45 Shoreline Drive
River Bend, NC 28562
T 252.638.3870
F 252.638.2580
www.riverbendnc.org

APPLICATION FOR SPECIAL USE PERMIT

Applicant Information

Full Name: Kelsey Rowe A Date: 8/17/22
Address: 502 Deerfield Dr New Bern NC 28562
Phone: 252.658.2090 Email: hoffmankelsey91@gmail.com

Request

I/We request a Special Use Permit to allow: Rowe Investments LLC to lease 1 unit for the use of Automotive Service Station

- 1. Legal description of land: 48-205-27000 - 5530 S US 17 Hwy
2. Is map/plat plan/drawing enclosed? YES [checked] NO [ ]
3. Land described is currently zoned: (R15, BD, etc.) BD
4. Intended use of land: Storage Unit Facility
5. Will the proposed use adversely affect the health and safety of residents and/or workers in the zoned area? YES [ ] NO [checked]
6. Will the proposed use be detrimental to the use or development of adjacent properties? YES [ ] NO [checked]
7. Is the lot sufficient size to accommodate the proposed use? YES [checked] NO [ ]
8. Will the intended use create a nuisance or hazard for the adjacent property owners? YES [ ] NO [checked]
9. Will the proposed use adversely affect the value of adjacent properties? YES [ ] NO [checked]
10. Is a site plan enclosed? YES [checked] NO [ ]
11. Are architectural drawings enclosed? YES [checked] NO [ ]

12. Is an off-street parking plan enclosed?

YES  NO   
YES  NO

13. Is the fee for Special Use Permits enclosed? \$2600.00

**Additional Information**

Please list any additional relevant information or further justification for the request.

The proposed "automotive service station" will be a low traffic business that primarily performs computer diagnostics on foreign vehicles, engine computer tuning, online sales of parts that are drop shipped directly to customers, and sales of custom-made Nissan components. This will not be an automotive service station that performs routine "same day" maintenance services.

**Signature**

I certify that my answers are true and complete to the best of my knowledge.

Signature: 

Date: 8/17/22

## **SPECIAL USE REGULATION**

### **§ 15.02.120 GENERAL REGULATIONS.**

- A. Permission may be granted by the Board of Adjustment for the establishment of uses listed as special uses (SU) in the district use regulation tables in this subchapter, after Planning Board review and recommendations and after a public hearing held by the Board of Adjustment. And further, that the Board of Adjustment finds that:
1. The proposed use does not affect adversely the general plans for the physical development of the town as embodied in these regulations or in any plan or portion thereof adopted by the Planning Board and/or the Town Council;
  2. The proposed use will not be contrary to the purposes stated in these regulations;
  3. The proposed use will not affect adversely the health and safety of residents and workers in the zoned area;
  4. The proposed use will not be detrimental to the use or development of adjacent properties or other neighborhood uses;
  5. The proposed use will not be affected adversely by the existing uses;
  6. The proposed use will be placed on a lot of sufficient size to satisfy the space requirements of the use;
  7. The proposed use will not constitute a nuisance or hazard because of number of persons who will attend or use these facilities, vehicular movement, noise or fume generation or type of physical activity;
  8. The standards set forth for each particular use for which a permit may be granted have been or will be met;
  9. The proposed use shall be subject to the minimum area, setback and other dimensional requirements of the zoning district in which it will be located; and
  10. The proposed use shall be subject to the off-street parking and service requirements of these regulations.
- B. The Board of Adjustment shall impose or require any additional restrictions and standards as may be necessary to protect the health and safety of workers and residents of the community, and to protect the value and use of property in the general neighborhood.
- C. Whenever the Board of Adjustment shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions or restrictions upon which the permit was granted are not being complied with, the Board shall rescind and revoke the permit after giving due notice to all parties concerned.
- D. If construction of a use authorized by a special use permit does not begin within 6 months of the time the permit is issued, the permit shall be revoked.

Penalty, see § 1.01.999

### **§ 15.02.121 APPLICATION FOR SPECIAL USE PERMITS.**

- A.
  - 1. An application for special use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator.
  - 2. If rezoning is to be requested in connection with the request for a special use, the request shall be made concurrent with the application for the special use.
- B. A fee shall be paid the Town of River Bend for each application for a special use permit. In addition, costs for retaining legal, planning, engineering and other technical or professional services in connection with the review of special use permit applications may be charged to the applicant.

Penalty, see § 1.01.999



**§ 15.02.122 REVIEW AND APPROVAL OF SPECIAL USES.**

- A.
  - 1. The application forms for a special use permit shall be transferred along with required plans, plats and the like to the Planning Board by the Zoning Administrator 7 days before a regularly scheduled Planning Board meeting so that the application can be placed on the Board's agenda.
  - 2. At this meeting, the owner of the property for which the special use is sought or his agent shall appear.
- B. The Planning Board shall review the application for details, where applicable, of the site, situation, existing and proposed structures, architectural plans, neighboring land and water uses, proposed parking areas, driveway locations, highway access, traffic generation and circulation potential, drainage, waste disposal, water supply systems and the effects of the proposed use, structure, operation and potential changes in water quality, shoreland cover, natural beauty and wildlife habitat.
- C.
  - 1. The Planning Board shall consider recommending conditions that may be placed in the granting of the special use permit by the Board of Adjustment.
  - 2. These conditions may include items such as landscaping, architectural design, type of construction, construction commencement and proposed completion dates, sureties, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, performance standards, street dedication, certified survey maps, floodproofing, ground cover, sedimentation control from the project construction, terraces, stream bank protection, planting of buffer screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, yard sizes or additional parking.
- D. In addition, the Planning Board shall check for compliance of the requested special use with all other relevant provisions of this subchapter, such as lot dimensional requirements, building heights, parking and loading standards.
- E. The Planning Board shall consider the application at the first regular meeting of the Planning Board after receiving the completed application. Within 45 days after the meeting at which the application is considered, the Planning Board shall make its written recommendations and pass them on to the Board of Adjustment.
- F. The Zoning Administrator shall set a date and advertise for Board of Adjustment public hearing. The Board of Adjustment shall review the application and all recommendations from the Planning Board.
- G. The Board of Adjustment shall approve or deny the application following a public hearing provided for in division (F) above.
- H. After approval or conditional approval of the special use by the Board of Adjustment, the Board shall notify the Zoning Administrator of the approval. Notification shall be by a written letter signed by the Chairperson of the Board of Adjustment, and a copy of the approval letter shall be forwarded to the special use permit applicant and the Planning Board Chairperson.

Applicant/landowner must give written consent to conditions related to the special use permit to ensure enforceability.

I.

1. Rejection of an application for a special use permit shall be recorded in the minutes of the Board of Adjustment meeting during which the decision was made.
2. Notification of the rejection or denial of an application for a special use permit shall be a letter signed by the Chairperson of the Board of Adjustment.
3. The letter shall state reasons for denial and reference the specific sections or paragraphs in this chapter that would be violated if the special use were granted.
4. The denial letter shall be forwarded to the applicant by certified or registered mail and copies of the letter shall be forwarded to the Chairperson of the Planning Board and the Zoning Administrator.
5. One copy shall be retained in the files of the Board of Adjustment.

Penalty, see § 1.01.999

SCHEDULE OF DISTRICT USE REGULATIONS									
<b>KEY:</b> <b>P</b> – Use permitted by right <b>SU</b> – Special use permitted upon approval by Board of Adjustment after recommendation of the Planning Board <b>Blank/Unlisted</b> – Prohibited use									
Use	R20/ R20A	R15	PDR- SF	PDR- MF	ID	BD	BD- PD	AGR	Parking Code*
Jewelry and Watch Repair						P	P		G
Libraries	SU	SU	SU	SU		P	P		G
Marina						P			G
Nursing Home and Rest Home					P				G
Office for Business, Professional and Personal Services						P	P		G
Pet Shops (excluding Veterinary Services)						P	P		G
Pharmacy						P	P		G
Photo Shop/Supply						P	P		G
Police Station	SU	SU	SU	SU	SU	SU	SU		F
Public Enterprise**	SU	SU	SU	SU		SU	SU		F
Public Utility	SU	SU	SU	SU	SU	SU	SU		F
Restaurants					P	P	P		F
Schools	SU	SU	SU	SU	SU				F
Service Station						SU	SU		J
Shoe Sales and Repair						P	P		G
Sporting Goods Sales						P	P		G

## § 160.12 CONDITIONAL ZONING DISTRICTS.

### (A) *Purpose.*

(1) Conditional zoning districts are applicable if the regulations and restrictions of a general use zoning district are inadequate to ensure the compatibility of the proposed development with the immediately surrounding neighborhood in accordance with the principles of the City's Comprehensive Land Use Plan and the UDO. In these circumstances, a general zoning district designation allowing a use by right would not be appropriate for a particular property even though the use itself could, if properly planned, be appropriate for the property consistent with the objectives of the UDO and adopted land development plan, comprehensive plan, transportation and corridor plans, small area plans and other land use and transportation policy documents.

(2) The rezoning process established in this section provides for the accommodation of the uses by a reclassification of property into a conditional zoning district, subject to additional conditions which ensure compatibility of the proposed use with the use and enjoyment of neighboring properties. A conditional zoning district bears the same designation as a general use zoning district but is a conditional zoning district subject to additional conditions in which limited uses are permitted and that are contained in the ordinance approving the conditional zoning district. A conditional zoning district allows a particular use or uses to be established only in accordance with specified standards and conditions tailored to each individual development project. The districts also can be used to implement environmental mitigation measures to avoid or minimize the impacts of the project, as determined through the analysis required in § 160.02(A). This is a voluntary rezoning procedure that is intended for firm development proposals. It is not intended or suited for securing early zoning for tentative proposals that may not be undertaken for some time.

(3) Conditional zoning districts parallel general use zoning districts. Only those land uses (including uses by right, special uses and those uses identified as CD in Table 155-8 Table of Permitted Uses) permitted in a general use zoning district to which a conditional zoning district corresponds shall be allowed. All requirements of any corresponding general use district and all other requirements of the UDO apply to a conditional zoning district except to the extent that the approved rules, regulations and conditions included in the petition for rezoning are more restrictive than the general use district requirements.

### (B) *Process required.*

(1) A person petitioning for rezoning of a tract of land may elect to request a conditional zoning district for that tract. The conditional zoning district application must specify the actual use or uses, and all other development regulations authorized by state law, which are intended for the property specified in the petition. The intended use or uses and development regulations must be permitted in the corresponding general use district.

(2) The Board of Commissioners is to approve or disapprove the application on the basis of the specific use or uses and development regulations requested. Development in a conditional zoning district requires approval of a single application similar to a general use district rezoning application.

(3) Property may be placed in a conditional zoning district only in response to a petition signed by the owners of all the property to be included or by an agent authorized by all of the owners to file the application. A petition for conditional zoning shall include:

- (a) A master site plan prepared in accordance with Appendix A;
- (b) Written supporting documentation that specifies the actual use or uses proposed for the property;
- (c) Proposed rules, regulations, and conditions that, in addition to all predetermined requirements of this UDO, will govern the development and use of the property; and
- (d) A statement analyzing the reasonableness of the proposed rezoning.

(4) During its initial review of a conditional zoning petition, the Planning Board shall consider whether or not a community informational meeting, to be organized and conducted by the petitioner, would be beneficial to making project information available to those most likely to be impacted by the proposed zoning change. If the Planning Board concludes that a community informational meeting should be held, the petitioner shall conduct such meeting in accordance with the following provisions.

(a) The community informational meeting shall be held prior to the date of the next Planning Board meeting at which the petition will be reviewed.

(b) Written notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by policies established by the city.

(c) The petitioner shall file a written report of the community informational meeting with the Zoning Administrator. The petitioner's report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact; the date; time and location of the meeting; a roster of the names, mailing addresses, and telephone numbers of the persons in attendance at the meeting; a summary of issues discussed at the meeting; and a description of any changes to the rezoning petition made by the petitioner as a result of the meeting.

(d) The purpose of the community informational meeting is to:

1. Provide specific information regarding the proposed development including but not limited to a description of the

proposed use(s) of the property, the proposed density and intensity of land uses, the location and arrangement of the proposed land use(s) on the property, the proposed development schedule, and proposed regulations or conditions, in addition to those required by this Ordinance, that will govern the development and use of the property; and

2. To receive comments and input from citizens likely to be impacted by the proposed zoning change and subsequent development of the property.

(e) In the event the petitioner has not held at least one meeting pursuant to this section, the petitioner shall file a report with the Zoning Administrator documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held.

(f) The adequacy of a meeting held or report filed pursuant to this section shall be considered by the Board of Commissioners but shall not be subject to judicial review.

(5) *Review and approval process.* The review and approval process for conditional zoning district petitions involves a legislative hearing and legislative decision by the Board of Commissioners. The review of conditional zoning district petitions shall be undertaken in accordance with the provisions of §§ 160.02 through 160.10, as modified by this section.

(a) In the course of evaluating the proposed use, the Board of Commissioners may request additional information deemed appropriate to provide a complete analysis of the proposal.

(b) Conditional zoning district decisions are subject to judicial review using the same procedures and standard of review applicable to general use district zoning decisions.

(c) Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, land development plans, comprehensive plans, strategic plans, district plans, small area plans, transportation and corridor plans and other land development policy documents.

(d) If the conditional zoning district application is approved, the Board of Commissioners shall authorize the requested use with reasonable conditions as mutually agreed to in writing by the applicant and Board of Commissioners and determined to be desirable in promoting public health, safety and general welfare.

(6) *Conditions to approval.* Specific conditions applicable to the conditional zoning districts may be proposed by the petitioner or the city or its agencies, but only those conditions mutually agreed to in writing by the city and the petitioner may be incorporated into the zoning regulations or permit requirements.

(a) The conditional district rezoning application shall specify the use or uses that are intended for the property, as well as any additional conditions on the use of the property that the applicant may propose be conditions of the rezoning. Conditions and site-specific standards imposed in a conditional zoning district shall be limited to:

1. Those that address conformance of the development and use of the site to ordinances and officially adopted plans and

2. Those that address the impacts reasonably expected to be generated by the development or use of the site.

(b) Any such conditions should relate to the relationship of the proposed use to surrounding property, proposed support 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 open space, the mitigation of environmental impacts, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose.

(c) Such conditions to approval of the petition may include dedication to the city or state, as appropriate, of any rights-of-way or easements for streets, water, sewer or other public utilities necessary to serve the proposed development.

(d) No condition shall be less restrictive than the standards of the general use district or the standards of any overlay district that applies to the property.

(e) No condition shall be made part of the application, or shall be attached to approval of the conditional zoning district, which specifies the ownership status, race, religion or character of the occupants of housing units, the minimum value of improvements, or any illegal exclusionary device; or which states that the use of the property will not be subject to regulations or restrictions set forth in the UDO which would apply to the property in any event, such as the regulations for an overlay district which covers the property.

(f) If for any reason any condition for approval is found to be illegal or invalid or if the petitioner should fail to carry out any condition in the written and signed agreement, the approval of the site plan for the district shall be null and void and of no effect and proceedings shall be instituted by the city to rezone the property to its previous zoning classification or to another zoning district.

(g) The conditions shall be agreed upon, put in writing, and signed by both the petitioner and City upon final approval of the rezoning by the Board of Commissioners.

(h) After the city has delivered to the newspaper the notice of public hearing for the application, the applicant shall make no changes in the conditions that are less restrictive than those stated in the application, including, but not limited to, smaller setbacks; more dwelling or rooming units; greater height; more access points; new uses; and fewer improvements. However, more restrictive conditions or additional conditions may be added to the application if the conditions are received

by the Planning and Inspections Department in writing and signed by all owners of the property at least ten working days before the date scheduled for final Board of Commissioners action on the application.

(7) *Effect of approval.* If a petition for conditional zoning is approved, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, the approved site plan or master 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 this Ordinance and to the zoning map.

(a) If a petition is approved, only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to division (B)(8) below provided that the change in building layout does not result in an increase in the number of structures.

(b) Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning map by the appropriate district designation. A conditional zoning district shall be identified by the same designation as the underlying general district followed by the letters "CD" (for example, "R-20 (CD)").

(c) No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved petition and site plan for the district.

(d) 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 the UDO and shall be subject to the same remedies and penalties as any such violation.

(8) *Alterations to approval.* Except as provided in division (B)(8)(a) below, changes to an approved petition or to the conditions attached to the approved petition shall be considered a change to the conditional zoning district and shall be processed as a new conditional zoning application in accordance with the procedures set forth in this section.

(a) The Zoning Administrator shall have the delegated authority to approve administrative minor modifications to an approved site plan. The Zoning Administrator shall have no authority to amend the conditions of approval of a petition. Any decision by the Zoning Administrator must be in writing stating the grounds for approval or denial. Minor modifications shall be limited to changes that the Zoning Administrator determines would not:

1. Change the gross square footage of nonresidential development by more than 5%;
2. Change the lot coverage by more than 5%;
3. Change any use or density;
4. Adjust the landscaping requirements by more than 10%; or
5. Adjust the required parking more than 5%.

(b) The Zoning Administrator, however, shall always have the discretion to decline to exercise the delegated authority either because he or she is uncertain about approval of the change pursuant to the standard or because a rezoning petition for a legislative hearing and Board of Commissioners consideration is deemed appropriate under the circumstances. If the Zoning Administrator declines to exercise this authority, the applicant may file a rezoning petition for a legislative hearing and Board of Commissioners decision in accordance with the provisions delineated in §§ 160.02 through 160.10.

(c) Any request for an administrative modification shall be pursuant to a written letter, signed by the owners of all of the property affected by the proposed change, detailing the requested change. Upon request, the applicant shall provide any additional information as deemed necessary by the Zoning Administrator. Upon an approval of an administrative modification, the applicant shall file a sufficient number of copies of the revised site plan as deemed necessary by the Zoning Administrator.

(d) If the Zoning Administrator denies approval of the requested administrative modification, the applicant may file a rezoning petition for a legislative hearing and Board of Commissioners decision in accordance with the provisions delineated in §§ 160.02 through 160.10.

(9) *Review of approved Conditional Zoning Districts.* 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 two years after the date of approval of the petition, the Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval.

(a) If the Planning Board determines that substantial progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Board of Commissioners a report which may recommend that the property be rezoned to its previous zoning classification or to another zoning district. If the Board of Commissioners concurs with the Planning Board's recommendation, the Board of Commissioners may initiate the rezoning of the property in accordance with the procedures delineated in §§ 160.02 through 160.10.

(b) If the Planning Board determines that substantial progress has been made to develop the property, the Planning Board may recommend that an extension of time be granted. The Board of Commissioners, after reviewing the recommendation of the Planning Board, may approve an extension of time not to exceed an additional 12 months. Approval of such a time extension by the Board of Commissioners may be made without conducting a formal public hearing.

(c) If, after the expiration of the extended time period, the Planning Board determines that no substantial progress

has been made and the Board of Commissioners concurs with that determination, the Board of Commissioners shall proceed to: conduct a legislative hearing on the matter to evaluate whether or not another extension of time is warranted; or initiate the rezoning of the property to its previous zoning classification or to another zoning classification using the procedures delineated in §§ 160.02 through 160.10.

(d) For purposes of this section, examples of substantial progress may include: the approval of construction plans for streets, utilities and other infrastructure; the initiation of land preparation activities such as clearing and grading; the initiation of the construction of the principal building(s); and the initiation of the construction of streets, utilities, other infrastructure or required site amenities.

(Ord. passed 7-25-2011; Ord. 21-O-04, passed 6-28-2021)

## ARTICLE 10. - CONDITIONAL ZONING DISTRICT

### 10-1 - Purpose

10-1.1 Conditional zoning is established to provide flexibility in the development of property while ensuring that a development is compatible with neighboring uses. Conditional zoning affords a degree of certainty in land use decisions not typically possible in conventional zoning. Conditional zoning is available only in response to a petition from all owners of property to be included in a conditional zoning district.

### 10-2 - Conditional Zoning District Designation

10-2.1 Each conditional zoning district shall be designated on Zoning Map and other official documents by combining the designation of its parallel zoning district with the suffix, "-CZ". For example, the conditional zoning district with a parallel zoning district of Commercial Neighborhood would be identified as "CN-CZ" on the Zoning Map.

### 10-3 - Relationship to Parallel Base Zoning District

10-3.1 *Parallel Base Zoning District(s)*. Development in a conditional zoning district shall be subject to all the use and development standard requirements that apply to development in the parallel base zoning district, plus the conditions imposed as part of the conditional rezoning approval, which may not be less restrictive than the regulations for the parallel base zoning district with the exemption of modifications to landscape plans as permissible under Article 15 and the allowance for increased height in the CD and DB districts as permissible under Section 12-2 and 13-1.

10-3.2 *Uses permitted*. In order for a use to be allowed in a conditional zoning district, the use must be listed as either Permitted or Special Use in the associated district under Article 11 of this development regulation.

### 10-4 - Application of Conditional Zoning to Entire Lot Required

10-4.1 No application for a conditional zoning district may split an existing lot into a conditional zoning district and a conventional zoning district.

10-4.2 Nothing in this subsection shall limit a conditional rezoning that splits a lot or site into two or more different conditional zoning district designations.

### 10-5 - Submittal Requirements

10-5.1 Following are general submittal requirements for requesting to rezone to a conditional zoning district:

- (A) Property may be placed in a conditional zoning district only in response to a petition by all owners of the property to be included in the conditional district.
- (B) The applicant must clearly include in the application any uses proposed to be permitted on the subject property. No uses will be permitted except those enumerated in the enacting ordinance establishing the conditional district.

10-5.2 In addition to meeting the requirements of Subsection 10-5.1, staff, the Planning Board, or City Council may request that an application for a request to rezone property to conditional district include a site



plan, drawn to scale, with any necessary supporting documentation. In addition, the following may be requested by staff, the Planning Board, or City Council in order to evaluate the proposed conditional zoning district:

- (A) A boundary survey and vicinity map showing the property's total acreage, the present zoning classification(s), the general location and orientation of the property in relation to adjacent properties, streets, railroads, and/or waterways, the date, and a north arrow;
- (B) The owners' names, addresses, and tax parcel numbers of all abutting properties as shown on the tax records;
- (C) Existing easements, reservations, and rights-of-way and setbacks as required based upon the corresponding parallel zoning district;
- (D) Approximate location on the site of existing and proposed buildings, structures and other improvements;
- (E) Approximate dimensions, including the height of proposed buildings, structures and other improvements;
- (F) Proposed use of all land and structures, including the proposed number and square footage of all units, residential and nonresidential;
- (G) Proposed type and location of signs;
- (H) All existing and proposed points of access to public streets;
  - (I) Delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary map;
  - (J) Proposed phasing, if any;
- (K) Approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, pedestrian walkways or multimodal paths and open space;
- (L) Existing and general proposed topography, if available, at five-foot contour intervals or less;
- (M) A written report of a community meeting conducted pursuant to Section 10-6;
- (N) A traffic impact study of the proposed development prepared by a qualified transportation or traffic engineer or planner. If requested, the traffic impact study should include information such as: 1) existing traffic conditions within the study area boundary; 2) traffic volumes generated by the existing and proposed development, including morning peak, afternoon or evening peak, and average annual traffic levels; 3) the distribution of existing and proposed trips through the street network; 4) analysis of capabilities of intersections located within the study area boundary; 5) recommendations for improvements designed to mitigate traffic impacts of the proposed development and to enhance pedestrian access to the development from the public right-of-way; and/or other pertinent information, including but not limited to, accidents, noise, and impacts on air quality and natural resources;
- (O) A landscaping plan prepared in accordance with the requirements contained in Article 15 or to show plantings and/or screening proposed over and above those required by Article 15;
- (P) Description and/or copies of proposed deed restrictions to be placed on the property; and/or
- (Q) Any other information needed to demonstrate compliance with these regulations or compatibility with

the area surrounding the property proposed to be rezoned.

10-5.3 A site plan and/or any supporting text shall constitute part of the request for all purposes under this Article.

10-5.4 The Planning Director may require the applicant to submit as many copies of the application and site plan in paper and/or electronic format as needed to circulate to the Planning Board and City Council and to government departments and agencies for review and comment.

#### 10-6 - Community Meeting Prior to Public Meeting Held Before Planning Board

10-6.1 If after staff review of the initial application submitted by the property owner, a determination is made that a community meeting is required, the applicant must hold the meeting as provided in subsection 10-6 and file in the office of Planning and Inspections a written report before the application will be submitted to the Planning Board for review.

10-6.2 Notice of such a meeting shall be given to property owners and tenants adjacent to the proposed project and within 300 feet of the proposed project parcel boundaries. Notice of the meeting shall be the responsibility of the applicant and shall be given two weeks in advance. The report shall include, among other things, a listing of those persons and organizations contacted about the meeting and the manner and date of contact, a summary of issues discussed at the meeting, and a description of any changes to the rezoning documenting efforts that were made to arrange such a meeting and stating the reasons such a meeting was not held, if after good faith efforts by the applicant, that should occur. The adequacy of a meeting held or report filed pursuant to this section may be considered by the City Council in the rezoning request, but shall not be subject to judicial review.

#### 10-7 - Fair and Reasonable Conditions

10-7.1 Specific conditions may be proposed by the petitioner or the Town or its agencies, but only those conditions approved by the City Council and consented to by the petitioner in writing may be incorporated into the zoning regulations.

10-7.2 Conditions and site-specific standards imposed in a conditional zoning district shall be limited to those that address conformance of the development and use of the site to local ordinances, plans adopted pursuant to N.C.G.S. § 160D-501, or the impacts reasonably expected to be generated by the development or use of the site.

10-7.3 Such conditions to approval of the request may include, but are not limited to, dedication to the Town, county or state, as appropriate, of any land, rights-of-way or easements for streets, water, sewer, drainage, recreational uses or other public utilities necessary to serve the proposed development. Conditions may relate to the relationship of the proposed use to surrounding property, size, scale, location and design of structures, proposed support facilities such as parking areas and driveways, pedestrian and vehicular circulation systems, screening and buffer areas, preservation of protected trees, the timing of development, street and right-of-way improvements, water and sewer improvements, stormwater drainage, the provision of open space, and other matters that the City Council may find appropriate or the applicant may propose.

10-7.4 If for any reason any condition for approval is found to be illegal or invalid or if the applicant should fail

to accept any condition following approval, the approval of the site plan for the district shall be null and void and of no effect. Proceedings shall be instituted to rezone the property to its previous zoning classification.

#### 10-8 - Effect of Approval

- 10.8.1 If a request for conditional zoning is approved by the City Council, the development and use of the property shall be governed by the predetermined ordinance requirements applicable to the district's classification, any approved site plan for the district, and any additional approved conditions, if applicable, 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 Map.
- 10-8.2 If a request is approved, only those uses and structures indicated in the enacting ordinance or indicated on a site plan referenced by the enacting ordinance shall be allowed on the subject property.
- 10-8.3 Following the approval of the request for a conditional zoning district, the subject property shall be identified on the Zoning Map by the appropriate district designation. A parallel conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example, Commercial Neighborhood Conditional Zoning District would be designated as "CN-CZ").
- 10-8.4 No permit shall be issued for any development activity within a conditional zoning district except in accordance with the approved request and, if applicable, a site plan for the district.
- 10-8.5 Any violation of the approved conditional zoning district or associated conditions for the district shall be treated the same as any other violation of this development regulation and shall be subject to the same remedies and penalties as any such violation.

#### 10-9 - Modifications to Approved Plan

- 10.9.1 Major changes to approved plans and conditions of development may be authorized only by the City Council after review and recommendation by the Planning Board in the same manner as applicable to Zoning Map amendments. Major changes include, but are not limited to:
- (A) Change in use(s);
  - (B) Increase in intensity of the development; such as, increase in density of units, whether residential, office, commercial or industrial;
  - (C) An increase of 10% or greater of overall ground coverage by structures;
  - (D) A reduction in approved open space or screening;
  - (E) A change in vehicular access; or
  - (F) A variation from an imposed condition.
- 10-9.2 Minor changes, which are not deemed as major changes by the Planning Director or as set forth under Subsection 10-9.1, may, at his or her discretion, be authorized by the Planning Director in accordance with the following:
- (A) The Planning Director shall have the delegated authority to approve an administrative amendment to an approved site plan.
  - (B) The standard for approving or denying such a requested change shall be that the change does not

significantly alter the site plan and that the change does not have a significant impact upon abutting properties and does not qualify as a major change as set forth in Subsection 10-9.1.

- (C) Any decision must be in writing stating the grounds for approval or denial.
- (D) If the Planning Director declines to exercise the authority to approve an administrative amendment to an approved site plan, then the applicant must file a rezoning request for a public hearing and Council decision.
- (E) Any request for a minor change/administrative amendment shall be pursuant to a written letter, signed by the property owner, detailing the requested change. Upon request, the applicant must provide any additional information that is requested. Upon an approval of an administrative amendment, the applicant must file a sufficient number of copies of a revised site plan (if applicable) as deemed necessary by the Planning Director.

#### 10-10 - Review of Approval of a Conditional Zoning District

10-10.1 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 years after the date of approval of the request, the Planning Board may examine the progress made toward developing the property in accordance with the approved request and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved request and conditions, the Planning Board shall forward to the City Council a report which may recommend that the property be rezoned to its previous zoning classification or to another district.

#### 10-11 - Conditional-Use Zoning Districts, Conditional-Use Permits in Effect as of January 1, 2021

10-11.1 Any conditional-use district approvals that were valid and in effect as of January 1, 2021, are converted automatically to conditional zoning districts. Any conditional use permits issued concurrently with the establishment of those conditional-use districts are converted automatically to special-use permits.