

STAFF REPORT

Amendments to the Unified Development Ordinance

August 26, 2025 Town Council Meeting



Requested by Planning Staff:

1. **Amendments to Secs. 2.3.2 Amendments to the Text of this Ordinance or Official Zoning District Map (Rezoning); 2.3.3 Conditional Zoning Districts; 2.3.4 Planned Development Districts; 2.3.5 Special Use Permit; 2.3.6 Site Plan; 4.4.2 Public and Civic Uses; 4.4.3 Utilities; 4.4.5 Commercial Uses; 4.5.1 Accessory Uses and Structures; 7.2.1 Design Standards, Streets; 7.5.4 Required Improvements, Streets; 7.5.7 Storm Drainage; 8.1.2 Resource Conservation Area; 8.3.9 Off-Street Parking Alternatives; 8.3.10 Parking Structures; 8.6.1 Exterior Lighting, Purpose and Intent; and 12.2 Terms Defined, in order to provide greater clarity regarding the UDO's requirements as they relate to surrounding uses and properties.**

Background: Planning staff, in coordination with the Town's Legal Department, is proposing these amendments to align with recent case law requiring municipalities to include clear and specific language in UDO provisions related to surrounding uses and properties adjacent to a development site.

2.3.2 Amendments to the Text of this Ordinance or Official Zoning District Map (Rezoning)

...

E) Standards

...

- 1) *Compatible with all surrounding uses.* Whether and the extent to which the proposed amendment is compatible with all existing and all proposed uses surrounding the subject land.

...

2.3.3 Conditional Zoning Districts

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F) Legislative Considerations

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- 2) *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of all surrounding land uses.

...

- 4) *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on all surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.

2.3.4 Planned Development Districts

...

F) Standards

In return for greater flexibility in site design requirements, Planned Development (PD) Districts are expected to deliver exceptional quality community designs that preserve critical environmental resources; provide high quality community amenities; incorporate creative design in the layout of buildings, Resource Conservation Area and circulation; ensure compatibility with all surrounding land uses and neighborhood character; provide high quality architecture; and provide greater efficiency in the layout and provision of roads, utilities, and other infrastructure. The Planned Development (PD) Districts shall not be used as a means of circumventing the Town's adopted land development regulations for routine developments.

1) *Planned Unit Development (PUD-CZ) District*

...

a) *Development parameters*

...

(v) The design of development in the PD Plan for PUD-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation, and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in all the surrounding **areas of the proposed cul-de-sac** indicate that a through street is not essential in the location of the proposed cul-de-sac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.

(vi) The development proposed in the PD Plan for PUD-CZ is compatible with the character of all surrounding land uses and maintains and enhances the value of all surrounding properties.

...

...

d) Landscaping. The PD Plan for PUD-CZ shall demonstrate compliance with the standards of Sec. 8.2 *Landscaping, Buffering and Screening*, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on all surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area. In no case shall a buffer be less than one half of the width required by Sec. 8.2 or 10 feet in width, whichever is greater.

...

2) *Traditional Neighborhood District (TND-CZ)*

...

b) *Development Parameters*

...

(v) The design of development in the PD Plan for TND-CZ results in land use patterns that promote and expand opportunities for walkability, connectivity, public transportation, and an efficient compact network of streets. Cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in all the surrounding **areas of the proposed cul-de-sac**

indicate that a through street is not essential in the location of the proposed cul-de-sac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.

- (vi) The development proposed in the PD Plan for TND-CZ is compatible with the character of all surrounding land uses and maintains and enhances the value of all surrounding properties.

...

- (ix) Landscaping. The PD Plan for TND-CZ shall demonstrate compliance with the standards of Sec. 8.2 *Landscaping, Buffering and Screening*, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on all surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area. In no case shall a buffer be less than one half of the width required by Sec. 8.2 or 10 feet in width, whichever is greater.

...

3) *Major Employment Center (MEC-CZ) District*

...

a) *Development Parameters*

...

- (iii) The design of development in the PD Plan for MEC-CZ results in:

...

- (g) A design that is compatible with the character of all surrounding land uses and maintains and enhances the value of all surrounding properties.

...

- c) *RCA and landscaping.* The PD Plan for MEC-CZ establishes a resource conservation area (RCA). The criteria used to establish the RCA shall comply with Sec. 8.1.2 *Resource Conservation Area*. Landscaping and illumination complies with the standards of Sec. 8.2 *Landscaping, Buffering and Screening*, and Sec. 8.6 *Exterior Lighting*, except that variations from these standards may be permitted where it is demonstrated that the proposed landscaping sufficiently buffers uses from each other, ensures compatibility with land uses on all surrounding properties, creates attractive streetscapes and parking areas and is consistent with the character of the area.

...

e) *Public Facilities*

...

- (iv) Detailed Design Guidelines are prepared for the PD Plan for MEC-CZ that shall control design guidelines for architecture, the development of open space, natural drainage areas, streets, utilities, and if appropriate, off-street parking and loading, landscaping and signage. The Detailed Design Guidelines shall ensure development proposed for the site is compatible with all

surrounding land uses, maintains Apex's small-town character, and encourages compact development and interconnectivity to the greatest extent possible through the use of interrelated and linked pedestrian ways, bike ways and other transportation systems

...
M) *Minor Deviations*

- ...
1) *Height.* An increase of building height by not more than 10%, as long as the height increase is consistent with the contextual height of all the surrounding buildings and structures, the PD Plan and Article 9: Design Standards, or a detailed design plan (if appropriate).

2.3.5 Special Use Permit

...
D) *Standards*

- ...
1) *Compatibility.* The proposed Special Use Permit shall be appropriate for its proposed location and compatible with the character of all surrounding land uses.
...
3) *Design avoids significant adverse impacts, avoids being a nuisance, and minimizes adverse impact.* The proposed Special Use Permit shall not have a significant adverse impact on all surrounding lands (including but not limited to) regarding trash, traffic service delivery, parking and loading, odors, noise, glare, visual impact, and vibration. The proposed Special Use Permit shall not create a nuisance. The proposed Special Use Permit shall be designed to minimize adverse effects of the proposed use on adjacent lands.

- ...
E) *Conditions and Restrictions*
The Board of Adjustment may impose, in approving the Special Use Permit, such restrictions and conditions on such approval, the proposed use, and the premises to be developed or used pursuant to such approval, it determines are required by the standards of this Section to prevent or minimize adverse effects from the proposed use and development on all surrounding land uses. All conditions imposed on any special use shall be expressly set forth in the Special Use Permit.
...

2.3.6 Site Plan

- A) *Purpose*
Site plan review is required by this Ordinance to ensure that the proposed layout and general design of proposed development complies with Article 8: General Development Standards, all other appropriate portions of this Ordinance, and the proposed development is compatible with all surrounding land uses.
...

4.4.2 Supplemental Standards, Public and Civic Uses

- ...
E) *Veterinary Clinic or Hospital*
...

- 2) Outdoor exercise and bathroom areas shall only be permitted according to the following conditions
 - ...
 - b) Such areas within the Small Town Character Overlay District shall be buffered to ensure compatibility with all surrounding land uses by complying with the buffer standards of Sec. 8.2.6 *Buffering*.
 - ...

4.4.3 Supplemental Standards, Utilities

A) *Chipping and Mulching*

- ...
- 5) *Buffered.* The operation shall be adequately buffered to ensure its compatibility with all surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6.
- ...

B) *Communication Towers*

- ...
- 2) *Stealth Communication Tower.*
 - ...
 - e) If co-location is impracticable, the new tower is designed:
 - ...
 - (iv) To be consistent with the general character of all the surrounding area and land uses, in terms of height, bulk, texture and color;
 - ...
- 3) *Camouflage Stealth Communication Tower.*
 - ...
 - b) The structure shall be compatible with the architectural style and character of buildings/structures of ~~the~~ all surrounding area. A determination of architectural compatibility shall include, but not be limited to color, materials, and architectural style
 - ...

C) *Electrical Power Facility*

An electrical power facility use shall comply with the following standards:

- ...
- 2) *Setback.* The proposed electrical power facility shall be setback a minimum of 100 feet from property lines and buffered to ensure it does not have an adverse impact on all surrounding land uses;
- 3) *Compatibility.* If deemed necessary to ensure land use compatibility with all surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed electrical power facility use shall be provided at the time the facility is constructed or when surrounding development occurs.

F) *Recycling Plant*

A recycling plant use shall comply with the following standards:

- 1) *Location and buffers.* The proposed recycling plant shall be properly located and buffered to ensure compatibility with all surrounding land uses. To ensure compatibility with all surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed recycling plant shall be required at the time the facility is constructed. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:
...

G) *Utility, Minor*

- ...
- 2) *Compatibility.* The proposed minor utility shall be properly located and buffered to ensure compatibility with all surrounding land uses. If deemed necessary to ensure compatibility with all surrounding uses, setbacks, screening and buffering around the perimeter of the utility shall be required at the time the facility is developed.

...

H) *Sanitary Landfill*

A sanitary landfill use shall comply with the following standards:

- 1) *Location and buffers.* The proposed sanitary landfill shall be properly located and buffered to ensure compatibility with all surrounding land uses. To ensure compatibility with all surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed sanitary landfill shall be required at the time the facility is constructed. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:

...

I) *Land Clearing and Inert Debris Landfill*

A land clearing and inert debris landfill use shall comply with the following standards:

- 1) *Location and buffers.* The proposed land clearing and inert debris landfill shall be properly located and buffered to ensure compatibility with all surrounding land uses. To ensure compatibility with all surrounding uses, adequate setbacks, screening and buffering around the perimeter of the proposed landfill shall be required at the time the facility is constructed. Required minimum lot size, setbacks, screening and buffering shall include, but not be limited to the following:

...

J) *Wireless Support Structures and Wireless Communication Facilities*

Wireless support structures and wireless communication facilities to be located in a public right-of-way shall comply with the following standards:

...

- 2) *Definitions applicable to this Sec. 4.4.3.J.*

...

Least Intrusive Means: The method of designing potential wireless support structures or wireless communication facilities to minimize visual and aesthetic impacts, including camouflage and/or stealth elements and techniques suitable for the location, visual environment and all surrounding uses/structures. The Least Intrusive Means addresses a significant gap in the applicant's service while doing the least harm or disservice to the Town's purpose and objectives provided in Sec. 4.4.3.J.1.

...

4.4.5 Supplemental Standards, Commercial Uses

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F) *Public Accommodation*

- 1) *Bed and breakfast.* A bed and breakfast use shall comply with the following standards:

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- g) One parking space shall be provided for each guest room. Parking shall not be permitted in the front yard. On-street parking shall be permitted on residential side streets. There shall be 20 feet of street frontage for every on-street parking space. On-site parking shall be screened with a landscaped buffer to reduce undue noise, odor or glare on all surrounding lands. Additional off-street parking for bed and breakfasts within a PUD-CZ Planned Unit Development District, a TND-CZ Traditional Neighborhood District, the SD-CZ Sustainable Development Conditional Zoning District, or a MORR Mixed-Office-Residential-Retail District shall be provided at the rate indicated for general restaurant uses if restaurant services are provided to non-guests.
- h) The bed and breakfast shall be adequately buffered to ensure its compatibility with all surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6; and

...

G) *Retail Sales and Service*

An establishment in the retail sales and service category may sell unfortified wine and malt beverages provided that the establishment meets all the requirements of an Alcoholic Beverage Control Commission permit.

...

- 3) *Farmer's market.* A farmer's market shall comply with the following standards:

...

- c) The boundaries of the farmer's market shall be adequately buffered to ensure its compatibility with all surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6.

...

6) *Kennel*

...

- b) Outdoor exercise and bathroom areas shall only be permitted according to the following conditions:

...

- (ii) Such areas within the Small Town Character Overlay District shall be buffered to ensure compatibility with all surrounding land uses by complying with the buffer standards of Sec. 8.2.6 Buffering.

...

...

- 9) *Laundromat.* A laundromat shall be designed to ensure that the windows and doors on the front and sides of the building shall be consistent and compatible in size and number with all surrounding land uses.

...

H) *Vehicle Repair and Service*

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- 2) *Automotive service station.* An automotive service station use shall comply with the following standards:

...

- b) The operation shall be adequately buffered to ensure its compatibility with all surrounding land uses, and shall at a minimum comply with the buffer standards of Sec. 8.2.6.

...

4.5.1 Accessory Uses and Structures, Purpose

This Section authorizes the establishment of accessory uses and structures that are necessary and clearly incidental and subordinate to permitted uses and approved special use permits. Additional performance criteria are set forth in this Section for particular uses and structures in order to reduce potentially adverse impacts on all surrounding properties.

7.2.1 Design Standards, Streets

A) *Interconnectivity*

- 1) *Conformity with Advance Apex: The 2045 Transportation Plan.* The subdivision's street system shall conform to the Advance Apex: The 2045 Transportation Plan. In areas where no thoroughfares or collector streets are represented thereon, streets shall be designed and located in proper relation to existing and proposed streets, to the topography of the area, and to natural features such as streams, hills, and stands of trees. Residential streets should further be laid out in such manner as to encourage the flow of through-traffic at slow speeds, except upon major and minor thoroughfares. All proposed street designs shall provide for the appropriate projection of principal streets in all surrounding areas to permit reasonable access for all surrounding properties, both for current use and future subdivision. No private streets shall be allowed to be built within developments or subdivisions approved on or after October 15, 2002.

...

...

G) *Cul-de-sacs*

- 1) In general, cul-de-sacs shall be avoided unless the design of the subdivision and the existing or proposed street system in all the surrounding areas of the proposed cul-de-sac indicate that a through street is not essential in the

location of the proposed cul-de-sac, or where sensitive environmental areas such as streams, floodplains, and wetlands would be substantially disturbed by making road connections.

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7.5.4 Required Improvements, Streets

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C) *Sidewalks*

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2) ...

...

- b) Where street interconnectivity is not provided (such as but not limited to cul-de-sacs) within the development plan, pedestrian connections shall be constructed. The pedestrian connection requirement does not apply when a connection between two (2) cul-de-sacs would not improve connectivity within the subdivision or to surrounding areas adjacent to the subdivision as determined by the Planning Director. The pedestrian connection shall be constructed according to the following:

...

7.5.7 Required Improvements, Storm Drainage

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C) *Design of System Not Connected to Town System*

Where the municipal storm drainage system cannot feasibly be extended to the subdivision, a surface drainage system shall be designed to complement surface drainage systems on all surrounding properties.

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8.1.2 Resource Conservation Area

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F) *Development Activity Inside of the RCA*

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- 3) Disturbance or construction activity may occur inside the RCA when construction is done in such a way as to protect significant resources with approval of the Planning Director for the following limited purposes:

...

- b) The portion of stormwater wetlands and wet detention basins that include the constructed and planted wetland, basin area, vegetated, littoral shelf, and all of the surrounding interior embankments up to the top of dam elevation;

...

...

8.3.9 Off-Street Parking Alternatives

The Planning Director shall be authorized to approve alternatives to providing the number of off-street parking spaces required by the Off-Street Parking Schedules in accordance with this subsection.

...

E) *Other Eligible Alternatives*

For Minor and Major Site Plans and Master Subdivision Plans, the Planning Director may approve any other alternative to providing the requisite number of off-street parking spaces on the site of the subject development (including, but not limited to, a decrease in the number of proposed off-street parking spaces by not more than 10% from the minimum number of spaces otherwise required under Sec. 8.3) if the applicant demonstrates to the satisfaction of the Planning Director that the proposed plan will do at least as good of a job of protecting all surrounding neighborhoods, maintaining traffic circulation patterns, and promoting quality urban design as would strict compliance with the otherwise applicable off-street parking standards.

...

8.3.10 Parking Structures

A) *Design Requirements*

1) Parking Structures shall provide:

- a) Adequate and uniform interior lighting without glare to all surrounding areas.

...

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8.6.1 Exterior Lighting, Purpose and Intent

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Lighting should be provided in areas of heavy vehicle and pedestrian use, and areas that are dangerous if unlit such as stairs, intersections, or changes in grade. Outdoor lighting should adequately serve the site while minimizing negative impacts on all surrounding properties.

12.2 Terms Defined

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Downtown Festival District

The purpose and intent of the Downtown Festival District is to celebrate the Salem Street corridor and vicinity and encourage a diversity of activities and programming by allowing more outdoor entertainment options on public and private properties than in other areas of Town while being cognizant of all the surrounding residential neighborhood.

...

PLANNING STAFF RECOMMENDATION:

Planning staff recommend approval of the proposed amendments.

PLANNING BOARD RECOMMENDATION:

The Planning Board reviewed these amendments at their August 11, 2025, meeting and unanimously recommended approval.