

§ 152.180 NOTES TO THE TABLE OF PERMITTED/SPECIAL USES.

(A) *Note 1. Conditional Zoning Districts .*

(1) Conditional zoning districts are zoning districts in which the development and use of the property is subject to site-specific conditions imposed as part of the legislative decision creating the zoning district.

(2) A conditional zoning district allows particular uses to be established only in accordance with specific standards and conditions pertaining to each individual development project. Some land uses are of such a nature or scale that they have significant impacts on both the immediately surrounding area and on the entire community. There are also circumstances in which a general district designation allowing such 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 these regulations, the adopted land use plan, adopted area plans and other long range plans. The review process established in this division provides for the accommodation of such uses by a reclassification of property into a conditional zoning district , subject to specific conditions which ensure compatibility of the use with the use and enjoyment of neighboring properties. A conditional zoning district is generally not intended for securing early zoning for a proposal, except when that proposal is consistent with an approved district or area plan or the proposal can demonstrate that public infrastructure needed to serve the development will be made available within a reasonable time period. A separate master plan approval process as described in this division may be utilized only when a proposal is a component of a development project that is the subject of a development agreement between Town of Swansboro and a developer pursuant to G.S. §§ 160D-1001 through 160D-1012.

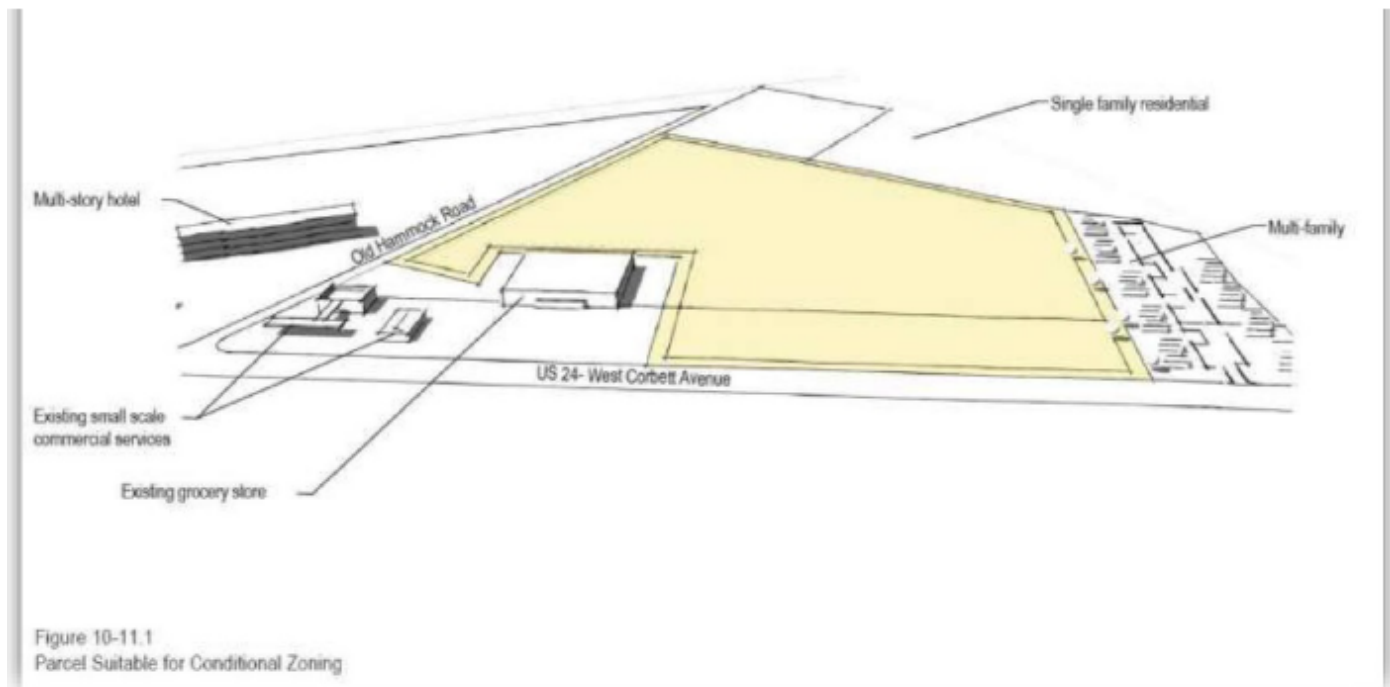


Figure 152.180.1 (Sample parcel suitable for Conditional Zoning)

(a) *Flexible lot development , requires rezoning to Conditional Zoning Districts (CZ).*

1. Flexible lot development is an area of land under unified control, to be developed as a single entity for a number and variety of dwelling and/or commercial units, according to a Master Plan which is approved at the time of the rezoning.

2. Flexible lot development developments such as mixed use requested within traditional commercial zoning districts such as B1, B2 and B3 shall incorporate a minimum of 25% of the total project area to commercial buildings or services. The development of neighborhood, community or regional commercial centers shall be in scale with surrounding market areas at locations recommended herein or the town's Land Use Plan. The development is intended to permit the establishment of the projects only where planned centers with carefully organized buildings, service areas, parking areas and landscaped open spaces will clearly serve demonstrated public need, reduce marginal traffic friction that would result from strip commercial development along highways, and protect property values in surrounding neighborhoods.

3. Flexible lot development is intended to allow flexibility (variety) in development and encourage the use of innovative design and layout that would not otherwise be permitted under the UDO because of strict application of the zoning district or general development standards. Flexible lot development encourages innovative land planning and design concepts by:

a. Reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards (e.g. height, setbacks , lot width) that were designed primarily for individual lots ;

b. Allowing greater freedom in selecting the means to provide access, light, open space and design amenities;

c. Allowing greater freedom in providing a mix of land uses in the same development , including mix of housing types, housing prices, lot sizes, densities and non-residential uses;

d. Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and

e. Encouraging quality urban design and environmentally sensitive development by allowing increases in base densities when the increases can be justified by superior design or the provision of additional amenities such as public and/or private open space .

4. In return for greater flexibility in site design requirements, flexible lot developments are expected to: deliver exceptional quality community designs that preserve critical environmental resources; provide above- average open space amenities, incorporate creative design in the layout of buildings, open and circulation; coordinate and unify design elements of the project, including building materials, signage and architectural compatibility; assure compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure. The Conditional Zoning District process shall not be used as a means of circumventing the town's adopted zoning and development regulations for routine developments .

5. *Uses allowed.* Flexible lot development may contain any or all of the uses specified in the approved Master Plan, provided the uses are consistent with the town's Land Use Plan. A wide range of uses is possible in flexible lot development , and the specific uses allowed may be different in each development approved through the Conditional Zoning District process. All uses that are set out in an approved Master Plan shall be treated as permitted uses within the development, except that uses which are prohibited shall not be permitted within the development.

6. *Certain mixed uses allowed.*

a. Mixed use developments are encouraged and allowed in flexible lot developments through the Conditional Zoning District process only as specified in this chapter. Mixed use development may occur by having retail or commercial uses located in the same building (e.g., retail or office space on ground floor , and residential above) or by having non-residential uses located in different buildings sited on the same lot or parcel (e.g., office building located on the same parcel as a freestanding residential structure).

b. Mixed use developments shall be designed, located and oriented on the site so that non-residential uses are directly accessible to residents of the development. For the purposes of this section, directly accessible shall mean pedestrian and vehicular access by way of improved sidewalks, paths, greenways and streets that do not involve leaving the development or using a major thoroughfare. Directly accessible does not necessarily mean that non-residential uses need to be located in a particular location, but that the siting of the uses considers the accessibility of the residential component of the development to the non-residential use.

7. Flexible lot development approved through a Conditional Zoning District shall be subject to all applicable overlay district regulations, all applicable environmental regulations, and all applicable general regulations, unless otherwise waived or modified by the town in the terms of the approved master plan. In case of any conflict between a specific regulation set forth in this chapter and the UDO and town code of ordinances, the regulation in this section shall apply unless otherwise expressly allowed.

8. Notwithstanding division (A)(2)(b)7. of this section, in no case shall the Board of Commissioners waive or modify the following standards for a proposed flexible lot development :

a. All overlay district requirements and standards;

b. Ownership requirements for any open space, buffers or streetscapes unless otherwise permitted in the UDO; Stormwater control and erosion and sedimentation control requirements;

9. *Other applicable standards (minimum).*

a. *Emergency access.* Any building established as part of a flexible lot development which cannot properly be served by emergency or service vehicles from an abutting street shall be made accessible to the vehicles by a paved driveway having a roadbed width of not less than 20 feet, exclusive of parking spaces.

b. *Transportation and circulation system.* The development's Master Plan shall demonstrate a logical, adequate, safe and convenient on-site transportation system that addresses vehicular, bicycle, pedestrian and transit circulation that connects all residential areas with pedestrian destinations on and off-site, such as schools, churches, shopping areas and recreational areas. All elements of the on-site transportation system shall be integrated with all off-site transportation circulation systems, with particular attention to minimizing pedestrian/automobile contact.

c. *Off-street parking and loading.* The development's Master Plan shall comply with the off-street parking and loading requirements of §§ 152.290 through 152.296, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the development is submitted as part of the Master Plan that is suitable for the development and consistent with the intent and purpose of the off-street parking and loading standards of the UDO.

d. *Landscaping.* Landscaping shall comply with the standards of §§ 152.525 through 152.544, 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 surrounding properties, creates attractive streetscapes and parking areas, and is consistent with the urban design objectives and/or character of the area.

e. *Utilities.* Flexible lot development projects shall provide for underground installation of utilities, including telephone and power in both public and private rights-of-way, except when conditions not reasonably within the control of the developer make this requirement impractical.

f. *Areas to be preserved.* In all flexible lot development projects, efforts shall be made to preserve historic sites, scenic points, large trees and other desirable natural growths, watercourses and other water areas, and other features worthy of preservation, either as portions of public sites and open spaces, or in the other form as to provide amenities to the neighborhood. Trees or other desirable natural growth located in public or private rights-of-way or public or private easements shall not be

removed unless the removal is necessary for the installation of utilities or drainage structures or for other purposes in the public interest. The removal may be prohibited if the amenity of adjacent property, or the amenity of the general neighborhood, is adversely affected.

g. *Building form.* As provided for in §§ 152.555 through 152.561, Building Design and Compatibility, construction and reconstruction of buildings in a manner that achieves a visually desirable environment is essential in achieving innovative land planning and design concepts. In addition to provided herein are additional requirements for any modification in height, setbacks and lot dimensions as required in the underlying zoning district:

h. *Height.* Consideration for height modification shall be reviewed using the techniques as provided in (A)(2)(b)9.ii. through iv below. In no case shall the mean height exceed 40 feet.

i. *Stepback.* Stepbacks can provide mitigation to views along the corridor by providing relief of the vertical mass. Stepbacks provide a vertical transition between adjacent properties visually reducing the perceived scale of a building in comparison to its surrounding context. An additional building setback of one foot for every requested one foot of height shall be required above the town's 35 foot requirement. (e.g., if the developer request is for 40 feet, an additional five foot setback would be required). See Figure 152.180.2.

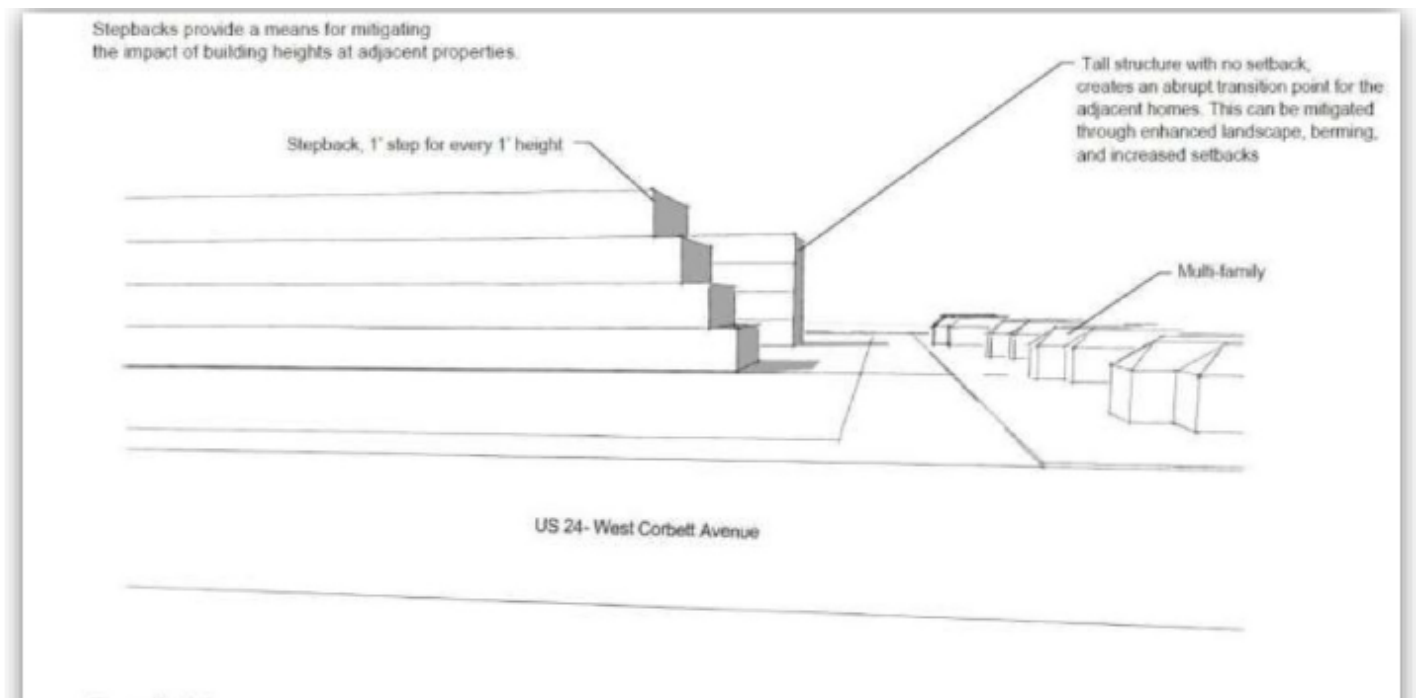


Figure 152.180.2 (Use of Stepbacks for Height Modification)

ii. *Corridor setback.* In requesting the use of Flexible lot development along the Highway 24/Corbett Street corridor, no structure within 200 feet from the corridor right-of-way shall exceed the 35 foot town-wide height requirement. See Figures 152.180.3 and 152.180.4.

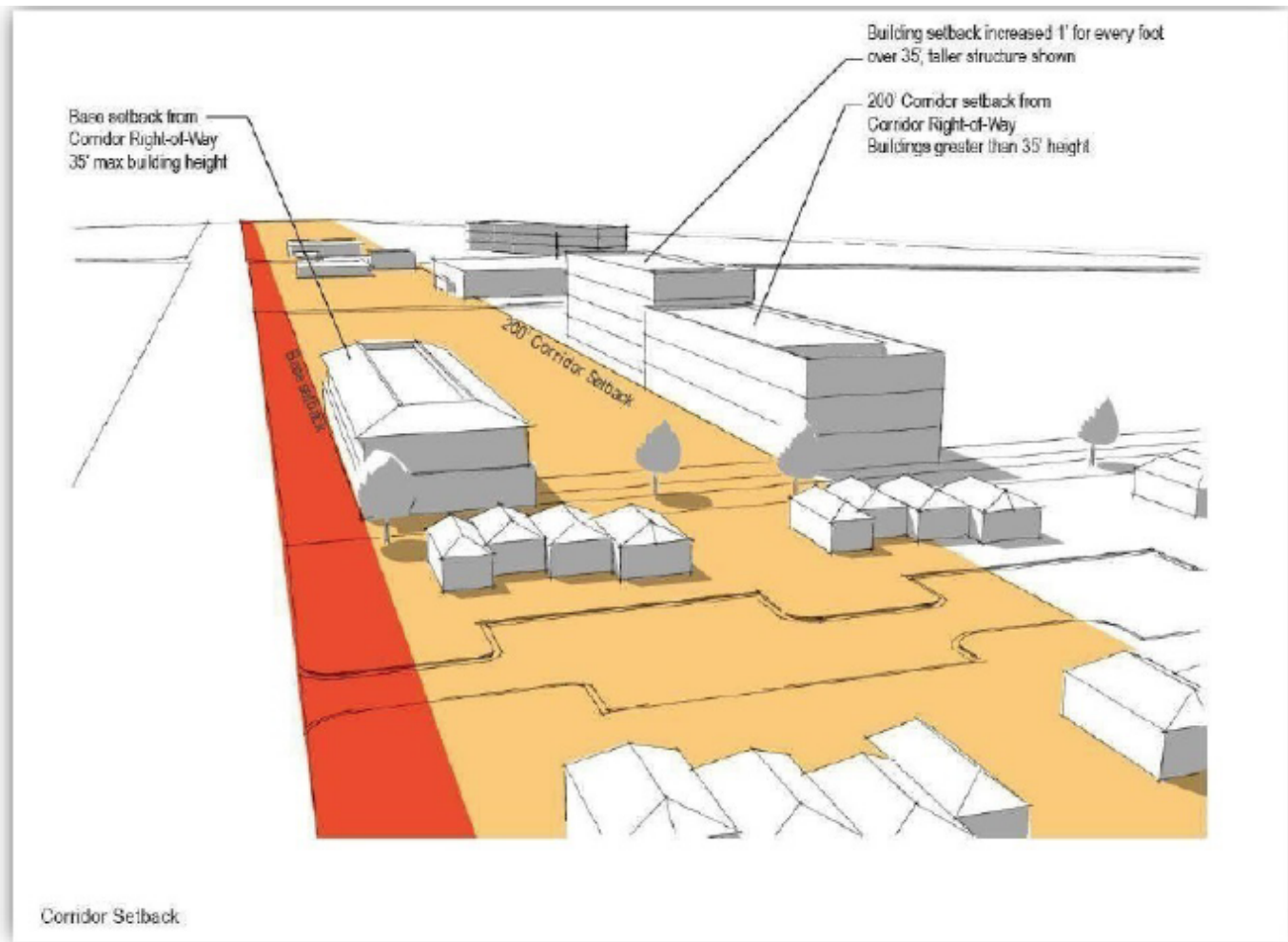


Figure 152.180.3 (Use of Corridor Setback for Height Modification)

Setbacks along Corridor reflect 200' setback for structures greater than 35'
Side and rear setbacks will adjust based on height and proposed and existing uses

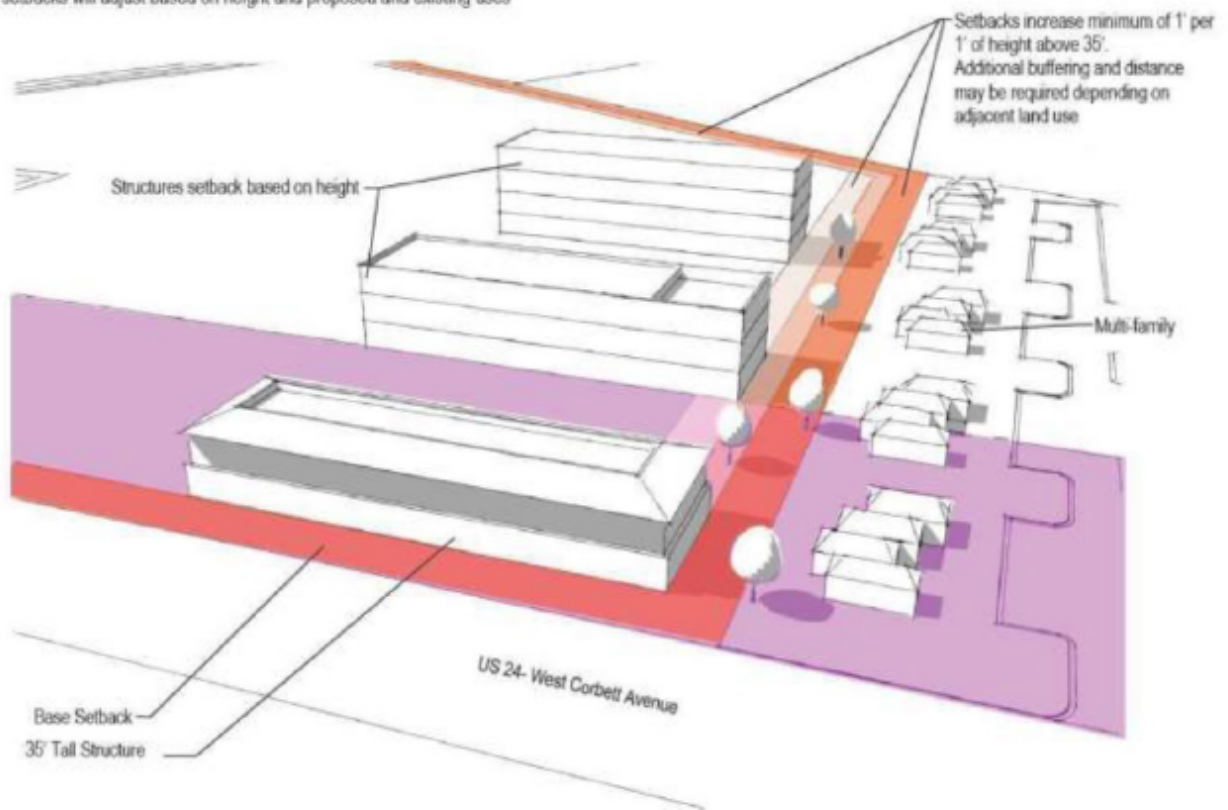


Figure 152.180.4 (Use of Corridor Setback for Height Modification)

iii. *Transition zones.* The following standards shall be applied between existing and proposed flexible lot developments . See Figure 152.180.5.

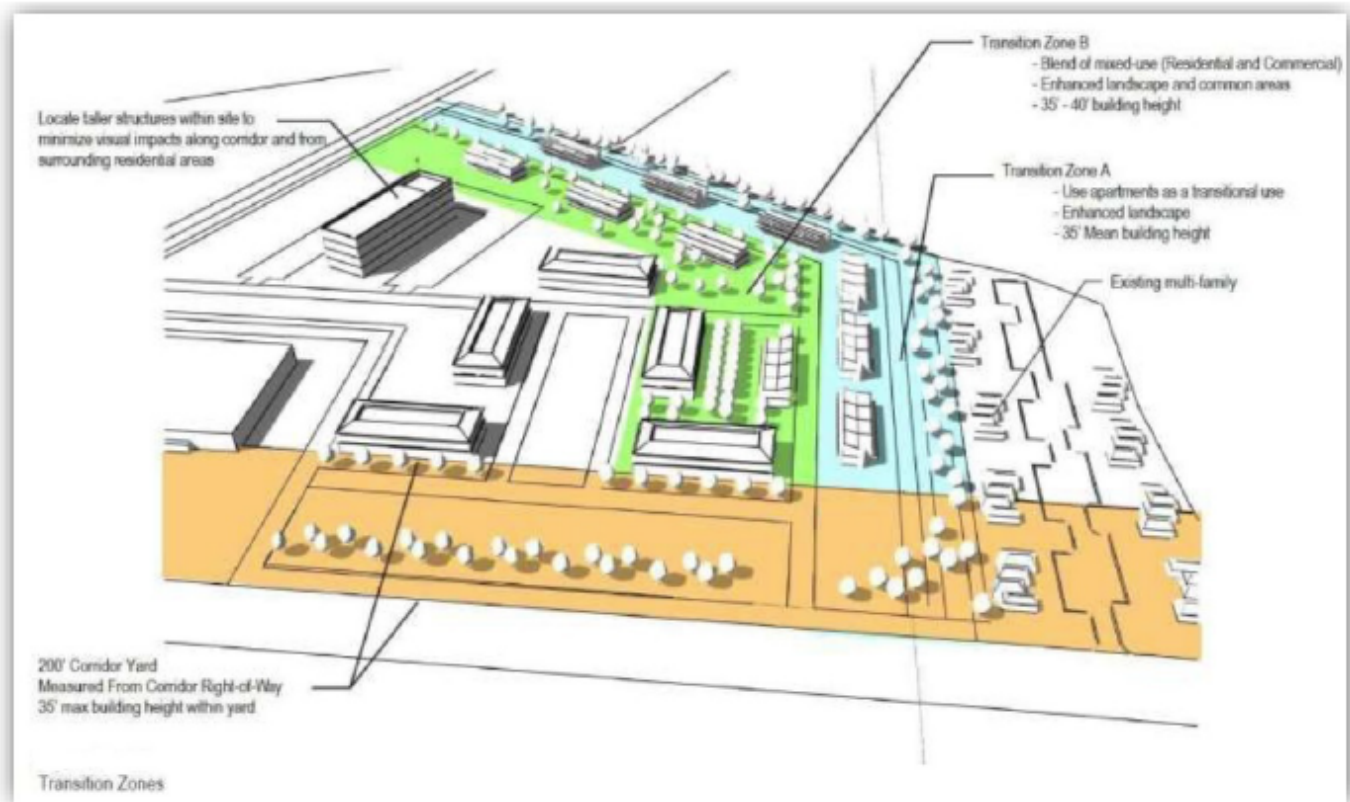


Figure 152.180.5 (Use of Transition Zones for Height Modification)

iv. *Massing*. A single, large, dominant building mass shall be avoided. Where large structures are required, mass should be broken up through the use of setbacks, projecting and recessed elements, and similar design techniques. See Figure 152.180.6.

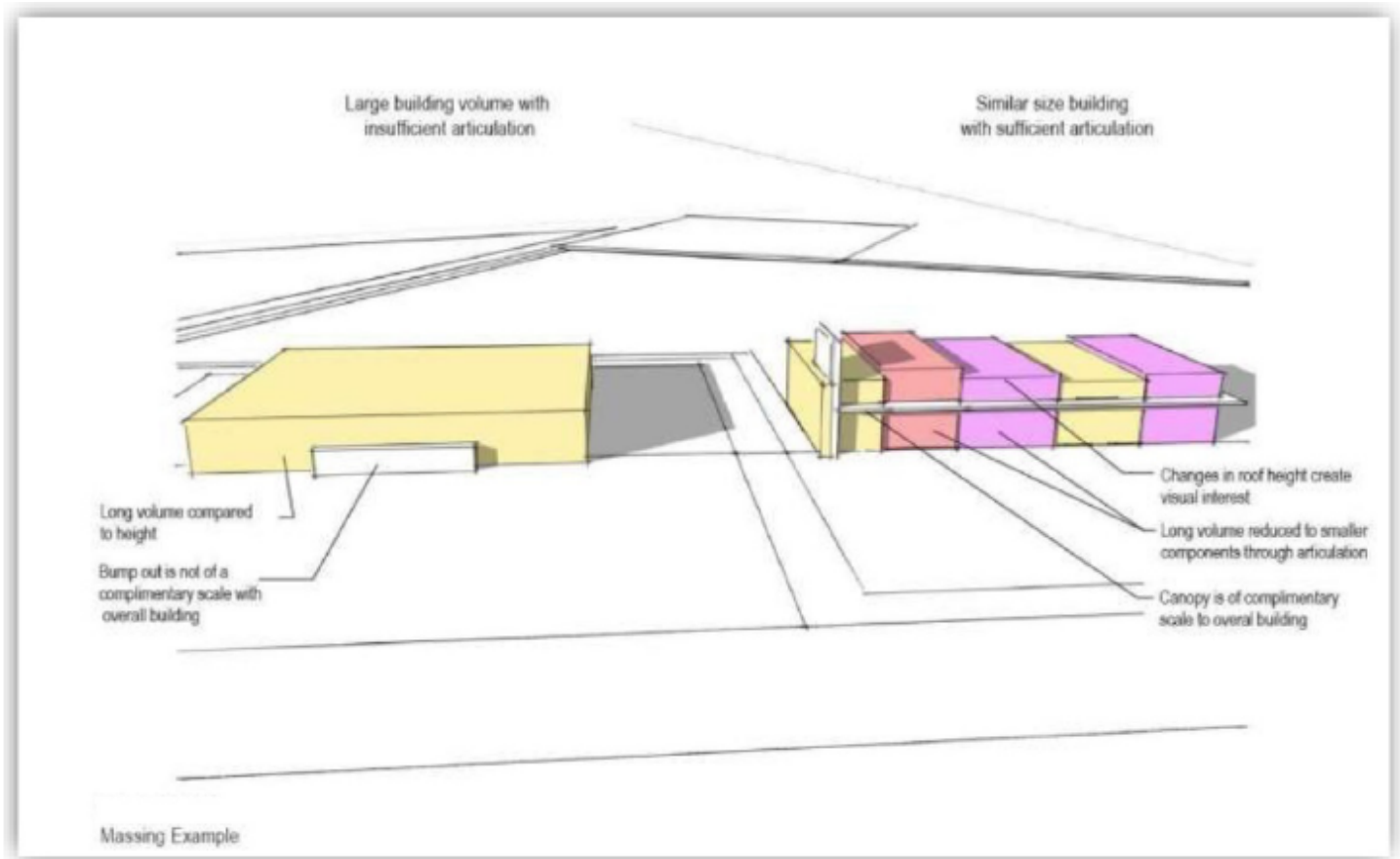


Figure 152.180.6 (Use of Massing for Height Modification)

(c) *Plans and other information to accompany petition.*

1. Property may be rezoned to a conditional zoning district only in response to a petition submitted by all owners of the property to be included in the district. Specific conditions may be proposed by the petitioner or the town or its agencies, but only those conditions mutually approved by the town and the petitioner may be incorporated into the zoning regulations. Conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to the town ordinances, plans adopted pursuant to G.S. § 160D-501, or the impacts reasonably expected to be generated by the development or use of the site. A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that specifies the actual use or uses intended for the property and any rules, regulations, and conditions that, in addition to all predetermined ordinance requirements, will govern the development and use of the property. The following information must be provided:

- a. A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets, railroads, and/or waterways, the date, and north arrow;
- b. All existing easements, reservations, and rights-of-way;
- c. Approximate dimensions, including height of proposed buildings and other structures;

d. Proposed use of all land and structures, including the number of residential units and the total square footage of any nonresidential development .

e. All yards, buffers, screening, and landscaping required by this article or proposed by the petitioner;

f. All existing and proposed points of access to public and/or private streets ;

g. Delineation of areas within the regulatory floodplain as shown on the official flood hazard boundary maps for the Town of Swansboro;

h. Proposed phasing (if applicable);

l. The location of existing and proposed storm drainage patterns and facilities intended to serve the proposed development ;

j. Approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads and pedestrian walkways;

k. Generalized traffic, parking, and circulation plans;

l. Tree survey (if applicable);

m. Site inventory as required by this subchapter.

2. For a proposed conditional zoning district constituting a component of a development project that is the subject of a Development Agreement , the applicant shall submit a master plan in lieu of a detailed site plan. Board of Commissioners approval of the master plan shall be required. Conditions from any adopted district, corridor, or area plan, including the Town's Land Use Plan shall be adopted as part of the approval where appropriate. The site plan shall be reviewed and recommendations made for conditions by the Technical Review Committee .

3. *Submittal requirements - Master Plan.* The master plan shall consist of the following:

a. A boundary survey and vicinity map showing the property's total acreage, its zoning classification(s), the general location in relation to major streets , railroads, and/or waterways, the date, and north arrow.

b. A conceptual land area plan showing the location of all major land use types and the proposed maximum square footage for each use.

c. Maximum building heights shall be delineated on the conceptual land area plan.

d. The plan shall indicate all external access points.

e. The plan shall indicate proposed buffers.

f. Generalized open space areas and stormwater facilities shall be indicated.

g. The applicant shall submit a text narrative indicating how the proposed plan conforms to conditions of any adopted area plan, corridor plan, or other long-range plan, including town's adopted Land Use Plan.

h. A traffic impact analysis shall be submitted based on the generalized land uses proposed. Maximum trip generation impacts shall be established as part of the plan.

i. Conditions in the Master Plan. In some cases, the ability to implement or strictly follow the approved Master Plan conditions can be problematic (i.e., conditions requiring specimen trees to be preserved, but the trees have subsequently died due to natural causes following the approval). In those cases, the Town Manager shall implement the condition in a way that most closely meets its original intent.

4. *Submittal requirements - Site Plan.* Once the conditional zoning and master plan have been approved, the applicant may submit a site plan for approval in accordance with this article. The site plan shall be accompanied by the following information:

a. The applicant shall submit a text narrative indicating how the proposed site plan conforms to the adopted master plan.

b. For phased projects, the submitted site plan shall show the generalized location of vehicular and pedestrian accesses to additional phases.

5. The Town Manager has the authority to waive any application requirement where the type of use or scale of proposal makes providing that information unnecessary or impractical.

6. In the course of evaluating the application, the Town Manager, Planning Board or Board of Commissioners may request additional information from the applicant. This information may include the following:

a. Proposed screening, buffers and landscaping over and above that required in §§ 152.252 through 152.544, as well as proposed treatment of any existing natural features;

b. Existing and general proposed topography, at two foot contour intervals;

c. The location of significant trees on the subject property;

d. Scale of buildings relative to abutting property and/or general development area;

e. Building elevations and exterior features of proposed development ;

f. Proposed number and location of signs;

g. Any other information needed to demonstrate compliance with this subchapter;

7. The site plan and any supporting text shall constitute part of the petition for all purposes under this subchapter.

(d) *Required community meetings before public hearing.* Before a public hearing may be held on a petition for a conditional zoning district , the petitioner must file in the office of the Town Clerk a written report of at least two community meetings held by the petitioner. The community meeting shall be held prior to the planning board 's consideration of the petition. Written notice of such a meeting shall be given to the property owners and organizations entitled to notice as determined by policies approved by the Board of Commissioners . 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, the date, time and location of the meeting, a roster 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. In an effort to assist the applicant with meeting space, the Town may provide meeting space to accommodate the community meeting. 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.

(e) *Approval of Conditional Zoning District .*

1. Conditional zoning district decisions are a legislative process subject to the same procedures and standard of review applicable to general use district zoning decisions. In considering any petition for a conditional zoning district , the Board of Commissioners shall act in accordance with § 152.032 and § 152.072. Conditional zoning district decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, comprehensive plans, strategic plans, district plans, area plans, neighborhood plans, corridor plans, bicycle and pedestrian plans and other policy documents.

2. The Town Board of Commissioners may not vote to rezone property to a conditional zoning district during the time period beginning on the date of a municipal general election and concluding on the date immediately following the date on which the Town Board of Commissioners holds its organizational meeting following a municipal general election unless no person spoke against the rezoning at the public hearing and no comments were submitted under § 152.075. If comments were filed, a zoning petition which would otherwise have been scheduled for a public hearing during the period beginning on the first day of October prior to a municipal general election, but prior to the new Town Board of Commissioners taking office shall be postponed until after the new Town Board of Commissioners takes office.

(f) *Conditions to approval of petition.* In approving a petition for the reclassification of property to a conditional zoning district, the Planning Board may recommend, and the Board of Commissioners request, that reasonable and appropriate conditions be attached to approval of the petition. 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, and other matters that the Board of Commissioners may find appropriate or the petitioner may propose. Such conditions to approval of the petition may include dedication to the town, Onslow Water and Sewer Authority, county 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. The petitioner shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Board of Commissioners. 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 and proceedings shall be instituted to rezone the property to its previous zoning classification.

(g) *Effect of approval.*

1. 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 these regulations and to the zoning maps.

2. If a petition is approved, only those uses and structures indicated in the approved petition and site plan or land use area indicated on the master plan shall be allowed on the subject property. A change of location of the structures may be authorized pursuant to subsection division (A)(2)(h) of this section, Alterations to Approval. The changes to the site plan layout will not increase the number of structures.

3. Following the approval of the petition for a conditional zoning district, the subject property shall be identified on the zoning maps by the appropriate district designation. The zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example "B-2 (CZ)").

4. 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.

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

6. The Town Manager shall have the delegated authority to approve minor amendments to an approved plan that do not involve a change in the uses permitted or the density of the overall development. The Town Manager shall have no authority to amend the conditions of approval of a petition. The standard for approving or denying such a requested change shall be that the change does

not significantly alter the plan and that the change does not have a significant impact on abutting properties. Any decision must be in writing stating the grounds for approval or denial.

7. The Town Manager, 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 public hearing and Board of Commissioners consideration is deemed appropriate under the circumstances. If the Town Manager declines to exercise this authority, then the applicant can only file a rezoning petition for a public hearing and Board of Commissioners decision.

8. Any request for an 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 as deemed necessary by the Town Manager.

(h) *Alterations to approval.* Except as provided in division (A)(2)(I) of this section, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the zoning maps and shall be processed in accordance with the procedures in this article. Any changes that would be considered major changes herein shall be subject to this division.

(i) *Review of approval of a conditional zoning district.*

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 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.

2. If the Planning Board determines that 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 district.

(B) *Note 2.* The Standard Industrial Classification Codes indicated in § 152.179 Table of Permitted Uses are for reference purposes only, and do not mean that all uses under a specified code heading as provided in the Standard Industrial Classification Manual are permitted or special uses in the applicable zone.

(C) *Note 3. Land use within the planned unit development.* All uses listed in the Table of Permitted Uses as a use-by-right in the PUD district shall be specified to be developed on certain sites within the PUD district at the time of the approval of the preliminary plan. Commercial activities shall be permitted only as a special use permit for uses allowed in the B-2 district.

(D) *Note 4. Mobile Home Subdivision Overlay.* In this district, all provisions of this chapter relating to Mobile Home Subdivisions including permitted and special uses apply with the following additional provisions and conditions.

(1) Any new or used mobile home newly placed within the jurisdiction of this UDO must be in full compliance with all current NC Code established by the North Carolina Department of Insurance (NCDOI), as well as any U.S. Department of Housing and Urban Development (HUD) building regulations concerning mobile homes which are applicable.

(2) All mobile homes in the district shall have at least 672 square feet of enclosed heated space

(3) All mobile homes in the district shall be:

(a) Set up in accordance with the standards set by the North Carolina Department of Insurance and a continuous, permanent masonry foundation or masonry curtain wall, unpierced except for

required ventilation and access shall be installed under the perimeter of the manufactured home ; or,

(b) Set up in accordance with the standards set by the North Carolina Department of Insurance and underpinning or skirting shall be installed and maintained along the perimeter of the manufactured home . Such underpinning or skirting shall be made of a material consistent with or complementary to the material covering the exterior of the mobile home and shall be installed prior to the issuance of a certificate of occupancy.

(E) *Note 5.* Any person , firm, or corporation hereafter engaging in any development of vacant commercial property shall construct or cause to be constructed upon said development sidewalks that comply with the specifications of the Town of Swansboro as maintained by the Administrator of the Town of Swansboro; provided that if the development involves razing, dismantling, or removal of all principal structures existing on a tract of land substantially to ground level, then that tract shall be considered vacant, and this section shall apply to such development. Such sidewalks shall run as nearly as practicable parallel with the adjacent public street(s) or highway(s) and shall extend for the entire length of such person 's, firm's, or corporation's frontage along any public street or highways.

(F) *Note 6. Itinerant merchants prohibited.*

(1) No itinerant merchant , as defined in this Unified Development Ordinance, shall be permitted to engage in any of the activities described in the definition of "itinerant merchant " in § 152.016, at any location within the Town of Swansboro or its extraterritorial zoning jurisdiction area.

(2) No peddler or itinerant salesman shall be permitted to engage in any of the activities described in the definition of "itinerant merchant " in § 152.016, upon any private property and the premises thereof, unless such peddler or itinerant salesman has been requested or invited to do so by the owner or occupant of such private property and premises, nor shall any such peddler or itinerant salesman be permitted to engage in any of the activities described in the definition of "itinerant merchant " in § 152.016, upon any public park , street , highway, alley , sidewalk, or other public way or upon any property owned or leased as lessee by the Town of Swansboro without the permission and approval of the town.

(G) *Note 7. Accessory uses and structures.*

(1) Accessory uses or structures is a use or a structure on the same lot with, but of a nature customarily incidental and subordinate to the principal use or structure and which contributes to the comfort, convenience, or necessity of occupants, business or industry in the principal building or use being served. No tent, mobile home, camper, travel trailer, nor any other temporary, portable, or removable trailer, container, vehicle, or structure of any kind may be considered an accessory use or accessory structure , whether or not the wheels, axles, and/or tongue have or has been removed and whether or not that any container, structure , or vehicle as described herein has been placed on a foundation, except as hereinafter described. Provided, however, that structures such as storage sheds, garden sheds, and similar structures shall be considered accessory buildings, even though they may be capable of being lifted or disassembled and removed from the property. Further provided, that a trailer, tent, or similar container, structure , or vehicle may be placed on property on a temporary basis for promotional or other business or charitable related purposes, but such use shall not continue for more than six months.

(2) No accessory building or use may be erected or installed on any lot where a principal building does not exist. No lot shall have in excess of two accessory buildings unless it is identified as a bona fide farm . No accessory structure or swimming pool is allowed in the front yard or on a double frontage lot unless authorized by special use permit .

(H) *Note 8. Adult establishments .* Shall be a permitted use in the MI district provided that the following conditions are met:

(1) No adult establishment shall be located within 1,000 feet of any other adult establishment .

(2) No adult establishment shall be located closer than 1,000 feet from the lot line of any school , church, public park , or from the lot line of any district zoned residential, mobile home park, or mobile home subdivision .

(3) All distance provided in this section shall be measured by following a straight line from the nearest point of the lot line of the lot on which the adult establishment is proposed to the nearest point of the lot line of the lot on which an adult establishment is located, or to the nearest point of the lot line of any school , church, public park , residential district, mobile home park district, or mobile home subdivision district.

(I) *Note 9. Automobile service stations .*

(1) Automobile service stations shall be a permitted use in B1 and MI districts provided the following conditions are met.

(a) The service station is limited in function to dispensing gasoline, oil, grease, antifreeze, tires, batteries, and automobile accessories directly related to motor vehicles; to washing, polishing and servicing motor vehicles, only to the extent of installation of the above-mentioned items; and to selling at retail the items customarily sold by service stations .

(b) The service station shall not overhaul motors, provide upholstery work, auto glass work, painting, welding, bodywork, tire recapping, or auto dismantling.

(c) The service station shall provide a screen planting and/or fence along the property lines that abut residential properties. Lighting facilities shall be arranged and of such nature that nearby residential properties are not disturbed.

(d) Service stations shall extinguish all floodlights at the close of daily operation or 11:00 p.m., whichever is earlier.

(2) Automobile service stations located within the town shall have no gasoline or oil pump located within 12 feet of any street right-of-way line. Outside the town, no such pump shall be located within 15 feet of any street right-of-way line.

(J) *Note 10. Storage of flammables.* The permitted use of bulk storage of bottled gas (distribution) or storage of flammables in the Town of Swansboro Fire District shall be regulated by the Town of Swansboro Fire Prevention Code. Refer to § 152.211, Table of Specific Criteria for Special Uses .

(K) *Note 11. Dry cleaning and laundry establishments.* Such establishments shall be permitted when only oil, gas, or electricity is used for heat. Screening and filtering devices shall be used to prevent the emission of smoke, dust, fumes, odors, or steam into the atmosphere.

(L) *Note 12. Skirting and curtain wall requirements for manufactured homes .* All manufactured homes to be placed within Swansboro's planning and zoning jurisdiction shall have skirting placed around the base prior to the issuance of a certificate of occupancy. The skirting shall be a continuous, uniform enclosure constructed of vinyl, masonry material, or metal fabricated for such purpose and that is unpierced except for required ventilation or access. For all manufactured homes, one row of ventilation ports, eight-inch by 16-inch, shall be provided every ten feet, and one access opening with a door that is between 18 inches and 42 inches in height and between 24 inches and 60 inches in width. All existing manufactured homes within Swansboro's planning and zoning jurisdiction prior to the effective date of this provision which have no skirting or curtain wall shall be required to have skirting installed within 18 months following adoption of this chapter. All existing manufactured homes within Swansboro's planning and zoning jurisdiction prior to the effective date of this provision having a continuous uniform enclosure around the base which serves as skirting shall be considered existing nonconforming, and will be exempt from the specific requirements of this note. All skirting performed after the effective date of this amendment will be done in accordance with Section 47.7 of the State of North Carolina Regulations for Manufactured/Mobile Homes 1995 edition. A certificate of occupancy will NOT be issued until manufactured home skirting is in place.

(M) *Note 13. Dwelling over a business.* Following the date of the adoption of this chapter, multi- and single-family residential when limited to the following conditions.

(1) All residential usage shall be second floor or higher levels of buildings.

(2) *Street frontage use requirements:* all ground floor space shall be developed for non-residential uses, as permitted in the B2HDO zone or other commercial zones as per the Table of Permitted Uses;

(3) *Preservation design:* in order to protect the architectural integrity of existing buildings within the B2HDO zone, and in so doing to preserve the continuity of scale and design within the area, the following requirements shall be met:

(a) All slip covers previously applied to the facade of existing buildings shall be removed;

(b) All canopies, except for those made of canvas, shall be removed from the facade ;

(c) Where evidence exists of original windows and door openings subsequently enclosed, such windows and doors shall be reopened in an operable manner and in a style in keeping with the building. Where other unique architectural features remain, including cornices, mid-cornices, and window surrounds, they shall be repaired and/or replaced with elements of like design; and

(d) Nothing in this subsection shall supersede applicable North Carolina State Building Code requirements;

(4) *Signage:* all signs shall be erected in accordance with §§ 152.265 through 152.277 of this chapter, but in no event shall they be mounted over existing windows, doors, or other architectural features described in division (M)(4) of this section. All signs on buildings designed and/or occupied for partial residential usage shall be flush mounted signs, not projecting more than 12 inches perpendicular to the building face; not extending any distance vertically above the building wall; or not extending any distance horizontally beyond the building sides.

(N) *Note 14. Golf course/golf driving range.* All greens and structures shall be setback at least 50 feet from any property line. Driving ranges must be located on a golf course and cannot be operated outside of golf course hours.

(O) *Note 15. Home occupations .*

(1) Shall be permitted only as an incidental use and are limited to the following:

(a) Art gallery or the office or studio of a physician, artist, commercial photographer (film processing prohibited), general or trades contractor , musician, insurance agent, lawyer, real estate broker, instruction in music or dancing, tutoring of academic subjects, teacher or other like professional person residing on the premises;

(b) Workshops not conducted for profit;

(c) Customary home occupations such as millinery, dressmaking, laundering, or pressing and tailoring conducted by a person residing on the premises;

(d) Single operator beauty shop or barber shop.

(e) Pet grooming services without the boarding of animals or operation of kennels . The outside containment of animals is prohibited.

(2) And provided, furthermore, the home occupations listed above shall be permitted subject to the following limitations:

(a) No exterior display of products;

(b) No mechanical equipment shall be installed or used except such that is normally used for domestic or professional purposes and which does not cause noises or other interference in radio and television reception;

(c) No accessory buildings or outside storage shall be used in connection with the home occupation ; Not over 25% of the total floor area or 500 square feet, whichever is less, shall be used for a home occupation ;

(4) Only one employee may be employed by the home occupation who is not a resident of the dwelling .

(P) *Note 16. Jails* . Jails shall not be site within 200 feet of any existing church, school , or day care facility. The jail shall be fenced and screened as provided in the case of salvage operations and junkyards except that this requirement may be modified or waived by the Administrator upon the showing by the operator that a modification or waiver is needed for security reasons.

(Q) *Note 17. Mobile construction site office , temporary*. Shall be a permitted use and are limited to the following:

(1) *Minimum lot area* : none.

(2) *Parking*: one space for each person employed in the office at any given time during a 24 hour period.

(3) *Requirements*: a certificate of occupancy/compliance may be issued for a manufactured office building for use as a temporary field office for contractors by the Swansboro Building Inspector or his authorized agents if the manufactured office building :

(a) And the structure under construction are located on the same property;

(b) Is not moved to the site more than 30 days prior to construction and is not removed later than 30 days after construction has been completed;

(c) Is not used for any other purpose other than that connected with on-site construction;

(d) Is justified by the size and nature of the construction project;

(e) Is to be used for a period not to exceed 18 months;

(f) Is utilized only incidental to on-site construction during daylight hours and not for residential living quarters;

(g) Is parked in a location approved in advance by the supervision of Building Inspector or his authorized agents;

(h) Sanitary facilities are connected with an approved sewer system;

(i) Electrical facilities are connected in compliance with regulations as set forth in the North Carolina Building Code.

(R) *Note 18. Recreational vehicles*. Recreational vehicles occupied for human habitation and intended for permanent residential use must be placed in an approved manufactured home or recreational vehicle park . However, temporary residential use may occur in cases where the recreational vehicle is secondary to a primary residential use, and when construction or repair of a single family home occurs. Two general restrictions for either temporary residential use shall apply, as well as specific restrictions and limitations for each. The general restrictions and limitations are as follows: (1) R6, R6SF, R8SF, R20SF, or O-I zoning is required; (2) Location of the recreational vehicle shall be in the rear yard, unless evidence can be provided to the Administrator that size constraints or other factors prevent rear yard location. The specific restrictions and limitations are as follows: (1) When secondary to a primary residential use, the period of human habitation shall not exceed 14 days,

and may not be re-established for a period of 90 days from the last day terminated; (2) When construction or repair of a single family home occurs, the homeowner and his family may occupy a recreational vehicle for a period of 180 days. An extension of 180 days may be granted by the Administrator upon presentation of evidence that construction cannot be completed within 180 days due to factors beyond their control. All recreational vehicles shall maintain an adequate disposal system and a source of potable water. Emptying of wastewater disposal systems shall be done in accordance with Section 4.1 of the Town of Swansboro Sewer Use Ordinance. Recreational vehicles which are not occupied may be stored in accordance with the provisions of this chapter, provided that such storage is not relating to manufactured home/recreational vehicle sales and further provided that such storage is not upon the right-of-way of any public street or public land.

(S) *Note 19. Fence and screen required for salvage and recovery yards.*

(1) The salvage and recovery yards shall be entirely surrounded by a screened security fence , or by a nonscreened security fence , and vegetation screen. In the event that a salvage operation or junkyard shall be surrounded by a nonscreened security fence , a vegetation screen shall be planted on at least one side and contiguous to the security fence . The vegetation shall be of a type that will reach a minimum height of six feet within five years and shall be planted at intervals evenly spaced and in close proximity to each other so that a continuous, unbroken hedgerow will exist along the length of the security fence surrounding the salvage operation or junkyard . Each owner , operator, or maintainer of a salvage operation or junkyard to which this chapter applies and who chooses to surround said salvage operation or junkyard with a security fence and vegetation screen shall utilize good husbandry techniques with respect to said vegetation , including, but not limited to, proper pruning, proper fertilizer and mulching so that the vegetation will reach maturity as soon as possible and will have maximum density and foliage. Dead or diseased vegetation shall be replaced at the next appropriate planting time.

(2) The security fence shall be maintained in good order and shall not be allowed to deteriorate.

(3) All gates shall be closed and securely locked at all times, except during business hours.

(4) The Administrator or his authorized agents shall have discretion to determine whether screened fence or security fence and vegetation screen is in compliance with this section. The Administrator shall be available to assist an owner or operator, or maintainer of a salvage operation or junkyard , upon request of the said owner or operator, in the formulation of plans for said fencing and vegetation screen.

All salvage operations existing at the time of adoption of this chapter must comply with the fencing and screening requirements within 24 months following the date of adoption of this chapter.

(T) *Note 20. Swimming pools .* All outdoor swimming pools located within the town shall be completely enclosed by a fence. All fence openings or points of entry into the pool area enclosure shall be equipped with gates with self-latching devices designed for and capable of keeping such gate securely closed. The fence and gates shall be at least four feet in height above the grade level and shall be constructed of a minimum number 11 gauge corrosion resistant woven wire mesh and shall be set in a concrete base. Other equivalent fence materials may be approved upon application to the Code Enforcement Official .

(U) *Note 21. Manufactured home park.*

(V) *Note 22. Dwelling , multi-family and condominiums .*

(W) *Note 23. Campgrounds and travel trailer parks.*

(X) *Note 24. Service establishments.* Including but not limited to:

(1) Aerobic/dance/martial arts schools ;

(2) Alteration services including tailoring shops, shoe repair, jewelry repair, bicycle repair, optical repair of glasses, and other similar services;

(3) Bars and taverns;

(4) Barber and beauty shops;

(5) Bus terminal;

(6) Clinic services, medical and dental;

(7) Funeral homes and mortuaries;

(8) Opticians and optical supply sales;

(9) Restaurants including outdoor dining facilities so long as the seating is located on the principal property with the restaurant;

(10) Amusement , indoor and outdoor; and

(11) Bakeries, candy stores, ice cream, coffee shops, and the like.

(12) Service establishment stores are limited to a building footprint of 5,000 square feet in size.

(Y) *Note 25. Clubs/lodges.* Including but not limited to meeting places of fraternal organizations such as Masons, Rotary, Night of Columbus, Elks, and others.

(Z) *Note 26. Parks and playgrounds, semi-public.* Site plans are required and must be submitted to the Administrator .

(1) *Minimum lot area* . See § 152.195, Table of Yard , Area, and Height Requirements.

(2) *Buffering.* As specified in §§ 152.525 through 152.544, buffering shall be required by the Board of Commissioners .

(3) Plans are required and must show:

(a) *Structures:* location of buildings and sign, and size of sign.

(b) *Circulation:* proposed points of ingress and egress, and pattern of internal circulation.

(c) *Parking: layout of parking spaces.* Space shall be equivalent to one percent of the total land area. Parking area available along park roads or private drives may be used to fulfill requirement.

(d) *Lighting:* lighting plan, inclusive of wattage and illumination. Refer to §§ 152.500 through 152.512.

(e) *Drainage:* if required by the Administrator , proposed provision for storm drainage (including retention pond facilities, when applicable).

(f) *Proposed use areas:* including playgrounds, playing fields, dog parks, swimming pools /swimming areas, fishing areas, walking/biking trails, and the like.

(4) *Other requirements.* The Planning Board and Board of Commissioners may provide additional requirements as it deems necessary in order to make the proposed project more compatible with adjacent areas and existing or proposed traffic patterns. The following additional conditions shall apply:

(a) *Public facilities.* All public facilities must meet the NC Accessibility Code, all ADA Standards, and OSHA Standards.

(b) *Restrooms.* Two buildings with male/female facilities per three acres or portion thereof permitted; number of stalls shall be per the NC Building Code.

(c) *Picnic shelters*. Maximum of four per acre or portion thereof. This does not include uncovered stand-alone picnic tables.

(d) *Concession stands*. Maximum of one per acre or portion thereof.

(e) *Gazebos*. Maximum of one per acre or portion thereof.

(f) *Baseball/softball field dugouts*. Maximum of two per playing field.

(g) *Additional accessory structures* . Must be approved by the administrator .

(h) *Scoreboards*. One lit or non-lit scoreboard per playing field. Scoreboard lighting must be pre-approved.

(i) *Maintenance/equipment storage sheds*. Maximum of one 600 square foot building per three acres or portion thereof.

(j) *Press boxes*. Maximum of one per playing field.

(k) *Playing field signage*. No maximum set. Signage must be located on a perimeter fence, dugout, press box, or other pre-approved structure. All signage must be uniform in size.

(l) *Fencing*. All fencing must be pre-approved. Pools must be fenced and meet all NC Building Code Standards (3109.3) and all standards set forth in § 152.180, Note 20. Dog Parks are required to have perimeter fencing.

(m) *Lighting*. Any and all lighting must be approved prior to installation. Lighting shall be uniform and accommodating to surrounding residential areas and meet all requirements set forth in §§ 152.500 through 152.512. In the B-2HDO district, lighting shall be prohibited except for minimum lighting that may be required for security purposes.

(n) *Hours of operation*. Hours of operation for all facilities will be from 6:00 am to no later than 11:00 pm.

(o) *Sidewalks*. All facilities shall have sidewalks along adjacent streets or rights-of-way . Additional sidewalks may be required by the Administrator .

(p) *Landscaping*. Will be required at all facilities.

(q) *Swimming*. Only permitted in designated areas. Public pools will have a designated life guard on duty at all times during operational hours.

(r) *Dogs*. Dogs will be allowed in designated areas. Leashes must be worn at all times except in designated dog parks. Clean-up/watering stations shall be installed and maintained in these areas.

(s) *Statement of facility maintenance*. A statement of facility maintenance must accompany all permit applications. This statement should include contact information for the organization in charge of maintaining fields, mowing grass, maintain structures on the property, and the like. This statement should be updated as needed.

(t) *Appeals*. The Town Board of Commissioners shall be the reviewing authority for all appeals under the provisions of this section. Notice of intent to appeal an administrative decision and request for a hearing shall be addressed to the Town Manager in writing and shall detail the nature of the appeal . A date for the hearing shall be set by the Town Board of Commissioners and the appellant promptly notified in writing and letter sent by certified mail. The decision of the Town Board of Commissioners after the hearing shall be final and inclusive and shall be conveyed to the appellant in writing and sent by certified mail.

(AA) *Note 27. Public and private utility facilities*. Including but not limited to: Pump stations, power sub-stations, telephone exchange buildings , and other similar land uses subject to other requirements of this chapter and provided the following conditions are met:

(1) No open storage allowed.

(2) The boundaries of the entire site shall be buffered in accordance with this chapter

(3) Lighting shall be prohibited except for minimum lighting that may be required for security purposes.

(BB) *Note 28.* Electronic gaming operations may be permitted as special uses in designated districts, provided that the operation complies with the following conditions:

(1) All electronic gaming operations shall be located at least 1,500 feet from any church or other religious institution, day care center, public or private elementary or secondary school, public park or playground, library, theatre, arcade, tattoo parlor, adult or sexually-oriented business, or other electronic gaming operations, and must be located at least 300 feet from any residential zoning district;

(2) No more than ten electronic gaming machines shall be operated at any location, the machines must not be prohibited by state or federal law, and must have all applicable permits or licenses required under law;

(3) The electronic gaming operation does not operate outside the hours of 8:00 a.m. to 10:00p.m.;

(4) There shall be 1.5 parking spaces for every two electronic gaming machines, plus one space for every employee on the maximum shift.

(CC) *Note 29. Bed and breakfast accommodations, and inns.* Bed and breakfast accommodations, and inns include only legitimate lodging businesses available for public reservation and use, although there may be an owner or manager room or living quarters on the premises. Such businesses must:

(1) Possess a current privilege license for a bed and breakfast accommodation or inn;

(2) Possess any health department licenses or permits that may be applicable;

(3) Provide, if requested by the town, evidence that lodging is being offered and advertised for public use and is available for same;

(4) Provide evidence, if requested by the town and subject to an audit of documents, that the premises are in actual use for paid short term lodging of guests.

(DD) *Note 30. Food sales, push cart/food truck.* A zoning permit is required prior to the establishment of a push cart or food truck on any property within the jurisdiction of the town. The permit application must include the following information, documentation and acknowledgments by the vendor, and must be submitted at least three business days prior to the vendor occupying the property:

(1) List of the proposed location(s) of the cart/truck and duration for each location proposed. Vendors will be allowed in the zoning districts shown in the Table of Uses when the property is identified as being within the Traditional Town Center, Suburban Town Center, or Employment/Light Industrial land use designation as identified within the 2019 CAMA Land Use Plan on the Future Land Use Map;

(2) The appropriate fee as established by the town schedule of fees;

(3) Push carts and food trucks may operate under an annual permit or may obtain a permit for a one-day event when not subject to the exemptions found in Chapter 112;

(4) Push carts and food trucks must be located on private property and not within any street right-of-way. Evidence of property ownership or written permission from the property owner for the proposed location(s) must be submitted;

(5) Push carts and food trucks must be set back at least 50 feet from the right-of-way of NC Highway 24;

(6) Any push cart or food truck must be located at least 100 feet from the main customer entrance of any restaurant or outdoor dining area, and at least 50 feet from any other permitted push cart or truck;

(7) Food trucks and push carts may not occupy any handicap parking space;

(8) Hours of operation are limited to 7:00 a.m. to 10:00 p.m. daily;

(9) Any food truck or trailer must display a valid license plate;

(10) A copy of a Health Department inspection/score or a certificate issued by the Department of Agriculture must be provided;

(11) Proof of insurance must be submitted;

(12) Compliance with any applicable Building Code requirements must be demonstrated, such as inspection of electrical power connections;

(13) No signage, to include banners or flags, external to the cart or truck is permitted other than one two foot x three foot sandwich board (portable) sign;

(14) Vendors are responsible for maintaining their service areas to include trash removal;

(15) A certificate of registration with the North Carolina Department of Revenue must be provided;

(16) No music or other amplified sound is permitted to emanate from the push cart or food truck;

(17) Flashing or moving lights are prohibited whether attached to or external of the push cart or food truck;

(18) The Town Manager reserves the right to temporarily suspend food sales permits during special events; and

(19) Violations of this section will result in the permit being revoked, and the vendor will be subject to the penalties as established by § 152.133.

(EE) *Note 31. Docks and piers.* All docks and piers constructed in the B-1, B-2 or B-2 HDO zoning districts, whether intended for commercial or residential use, must be engineered and constructed to meet the NC Commercial Building Code.

(FF) *Note 32. Portable storage containers or structures .* Portable storage containers are permitted if the following conditions are met:

(1) Portable storage containers shall not be permitted as principal structures;

(2) Two portable storage containers per site shall be permitted on lots less than one acre in size. On lots greater than one acre, one additional container per acre will be permitted;

(3) Portable storage containers shall be used for storage purposes only;

(4) No signage or lettering, other than the name and/or logo of the company supplying the portable storage containers , shall be permitted on the containers;

(5) Portable storage containers must be located in the side or rear yard of the principal building and must meet all setback requirements. In addition, the containers cannot project further than the front or side of any building facing an adjoining street ;

(6) Portable storage containers must be screened from view from any residential use or district within 75 feet by a solid fence (excluding chain-link) or hedge of dense plant material at least six feet in height;

(7) Portable storage containers and the area surrounding them shall be maintained by the owner , lessee, or other possessor thereof in a safe and sanitary condition;

(8) Portable storage containers must not occupy required parking spaces and must not interfere with vehicle or pedestrian mobility;

(9) Portable storage containers are not permitted to be rented or leased to a use not located on the same lot ;

(10) Portable storage containers cannot exceed a length of 40 feet, width of eight feet or height of ten feet with an overall height of 14 feet from the ground;

(11) No stacking of containers is allowed;

(12) A permit is required and must be obtained prior to the installation of any portable storage container . A site plan is required to show the location of the container and how the container will meet all of the specified requirements;

(13) These regulations shall not apply to construction trailers, dumpsters or recycling equipment.

(GG) *Note 33. Temporary residential storage units* . Residential storage units are permitted if the following conditions are met:

(1) Storage units will be permitted for a period up to 30 days unless a 30 day extension is granted by the Administrator ;

(2) A maximum of two storage units are allowed per site;

(3) Units may be located in the driveway or yard outside of the front yard setback of the property;

(4) A permit is required and must be obtained prior to the installation of any storage unit. A site plan is required to show the location of the unit;

(5) Units shall not exceed a width of eight feet, height of eight feet, or length of 16 feet;

(6) These regulations shall not apply to construction trailers or dumpsters.

(HH) *Note 34. Mobile construction site containers*. Temporary construction site containers are allowed on the premises for which there is an active building permit if the following conditions are met:

(1) Containers must be used for storage purposes only;

(2) Containers located in residential districts must be located in the driveway or side or rear yard within the required setbacks of the property. Containers located in commercial or other zoning districts must be located in the side or rear yard and must meet all setback requirements;

(3) Containers must be removed once the construction activity has concluded or if the building permit has expired or otherwise become void.

(II) *Note 35. Manufactured home sales*. A certificate of occupancy/compliance may be issued for a manufactured office building for use as a manufactured home sales office if the manufactured building meets the following criteria:

(1) Sanitary facilities are connected with an approved sewer system;

(2) Electrical facilities are connected in compliance with regulations as set forth in the North Carolina Building Code;

(3) Provisions pertaining to a manufactured home foundation and anchorage of the manufactured building to the foundation are met as required by the North Carolina Building Code ; and

(4) All skirting and curtain wall requirements must be met per Note 12.

(JJ) *Note 36. School , elementary or secondary and related uses.* A certificate of occupancy/compliance may be issued for a manufactured office building for use as a classroom by a public or private school or for a school administrative office if the manufactured building meets the following criteria:

- (1) Sanitary facilities are connected with an approved sewer system;
- (2) Electrical facilities are connected in compliance with regulations as set forth in the North Carolina Building Code;
- (3) Provisions pertaining to a manufactured home foundation and anchorage of the manufactured building to the foundation are met as required by the North Carolina Building Code; and
- (4) All skirting and curtain wall requirements must be met per Note 12.

(KK) *Note 37. B-3 Traditional Business District.* In the B-3 Traditional Business zoning district, the uses “dwelling , multi-family and condominium”, and “dwelling, townhouses ” shall be limited to 20% of the first floor area . There shall be no limits placed on the use, “Dwelling Located Over a Business”, other than those specified in Note 13.

(LL) *Note 38. MI Light Industrial Development Standards.* Flexible Lot Development in the MI Zoning District.

(1) Flexible lot development is an area of land under unified control, to be developed as a single entity for a number and variety uses developed with a master plan.

(2) Flexible lot development s such as an industrial park or mixed business park shall be in scale with surrounding areas and follow the intent of the Employment/Light Industrial (ELI) Land Use Designation as outlined in the CAMA Land Use Updated adopted January 22, 2019 at locations recommended herein or the town's land use plan.

(3) Flexible lot development is intended to allow flexibility (variety) in development and encourage the use of innovative design and layout that would not otherwise be permitted under the UDO because of strict application of the zoning district or general development standards. Flexible lot development encourages innovative land planning and design concepts by:

(a) Reducing or eliminating the inflexibility that sometimes results from strict application of zoning and development standards (e.g. height, setbacks, lot width) that were designed primarily for individual lots;

(b) Promoting quality urban design and environmentally sensitive development by allowing development to take advantage of special site characteristics, locations and land uses; and

(c) Encouraging quality urban design and environmentally sensitive development by allowing increases in base densities when the increases can be justified by superior design or the provision of additional amenities such as public and/or private open space.

(4) In return for greater flexibility in site design requirements, flexible lot developments are expected to: deliver exceptional quality community designs that preserve critical environmental resources; provide above-average open space amenities, incorporate creative design in the layout of buildings, open and circulation; coordinate and unify design elements of the project, including building materials, signage and architectural compatibility; assure compatibility with surrounding land uses and neighborhood character; and provide greater efficiency in the layout and provision of roads, utilities and other infrastructure. Zoning District process shall not be used as a means of circumventing the town's adopted zoning and development regulation s for routine developments.

(5) *Uses allowed.* Flexible lot development may contain any or all of the uses specified in the approved Master Plan and allowed in the M1 Zoning District, provided the uses are consistent with the

town's Land Use Plan. A wide range of uses is possible in flexible lot development, and the specific uses allowed may be different in each development approved.

(6) *Other applicable standards (minimum).*

(a) *Emergency access.* Any building established as part of a flexible lot development which cannot properly be served by emergency or service vehicles from an abutting street shall be made accessible to the vehicles by a paved driveway having a roadbed width of not less than 20 feet, exclusive of parking spaces.

(b) *Off-street parking and loading.* The development's master plan shall comply with the off-street parking and loading requirements of § 152.290, except that variations from these standards may be permitted if a comprehensive parking and loading plan for the development is submitted as part of the master plan that is suitable for the development and consistent with the intent and purpose of the off-street parking and loading standards of the UDO.

(c) *Landscaping.* Landscaping shall comply with the standards of §§ 152.525 through 152.544 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 surrounding properties, creates attractive streetscapes and parking areas, and is consistent with the urban design objectives and/or character of the area. Where the property abuts in residential zoning district a double Type C buffer yard must apply (see Table 152.528-1.) Natural forests with heavy underbrush may be utilized instead of a type C planting when approved by the Town Planner.

(d) *Building form.* As provided for in §§ 152.555 through 152.561 building design and compatibility, construction and reconstruction of buildings in a manner that achieves a visually desirable environment is essential in achieving innovative land planning and design concepts. In addition to standards provided herein there are additional requirements for any modification in height, setbacks and lot dimensions as required in the underlying zoning district:

1. *Stepback.* Stepbacks can provide mitigation to views along the corridor by providing relief of the vertical mass. Stepbacks provide a vertical transition between adjacent properties visually reducing the perceived scale of a building in comparison to its surrounding context. An additional building setback of one foot for every requested one foot of height shall be required above the town's 35 feet requirement, (e.g., if the developer request is for 45 feet, an additional ten feet setback would be required). See Figure 152.180.3 titled (Use of Corridor Setback for Height Modification).

2. *Corridor setback.* In requesting the use of flexible lot development along the Highway 24/Corbett Avenue corridor, no part of any structure within 200 feet from the corridor right-of-way shall exceed the 35 feet town-wide requirement. See Figures 152.180.2 through 152.180.6

(e) *Height.* Consideration for height modification shall be reviewed using the techniques as provided in divisions 1. and 2. below. In no case shall any building height exceed 45 feet.

1. *Stepback.* Stepbacks can provide mitigation to views along the corridor by providing relief of the vertical mass. Stepbacks provide a vertical transition between adjacent properties visually reducing the perceived scale of a building in comparison to its surrounding context. An additional building setback of one foot for every requested one foot of height shall be required above the town's 35 feet requirement, (e.g., if the developer request is for 45 feet, an additional ten-foot setback would be required).

2. *Corridor setback.* In requesting the use of flexible lot development along the Highway 24/Corbett Avenue corridor, no part of any structure within 200 feet from the corridor right-of-way shall exceed the 35-foot town-wide requirement. See Figures 152.180.2 through 152.180.6.

(MM) *Note 39. Family care homes.*

(1) As provided by G.S. § 160D-907, family care homes shall be deemed a residential use of property for zoning purposes and shall be a permissible use in all residential districts. No family care

home, its owner, or operator shall be required to obtain, because of the use, a special use permit or variance from any such zoning regulation. Family care homes shall not be located within a one-half mile radius of any existing family care home.

(2) Family care homes shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by local governments or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and improvements.

(NN) *Note 40. Temporary family health care structures.* Temporary family health care structures are permitted as an accessory use in all single-family residential zoning districts on lots zoned for single-family detached dwellings subject to the following:

(1) The temporary family health care structure is placed on the property of the residence and is used to provide care for the mentally or physically impaired person as certified in writing by a physician licensed to practice in North Carolina;

(2) Only one temporary family health care structure shall be allowed per lot or parcel of land;

(3) Such temporary family health care structure shall be limited to no more than 300 gross square feet and comply with all setback requirements that apply to the primary structure;

(4) Any person proposing to install a temporary family health care structure shall first obtain a permit from the town;

(5) An annual inspection to validate compliance and renewal of the doctor's certification are required;

(6) Any temporary family health care structure installed under this section may be required to connect to water, sewer, and electric utilities serving the property and shall comply with all applicable state law. Town codes and ordinances, QNWASA rules or other requirements, as if the temporary family health care structure were permanent real property;

(7) No signage advertising or otherwise promoting the existence of the temporary health care structure shall be permitted either on the exterior of the structure or elsewhere on the property;

(8) Any temporary family health care structure installed pursuant to this section shall be removed within 60 days in which the mentally or physically impaired person is no longer receiving or is no longer in need of the assistance provided for in this section;

(9) If the temporary family health care structure is needed for another mentally or physically impaired person, the temporary family health care structure may continue to be used or may be reinstated on the property within 60 days of its removal, as applicable;

(10) The local government may revoke the permit granted if the permit holder violates any provision of this section; and

(11) Temporary family health care structures shall be treated as tangible personal property for purposes of taxation.

(OO) *Note 41. Wireless telecommunication facilities.* The installation of wireless antennas and equipment or small wireless facilities as a collocation shall be a use by right in all zoning districts as provided in G.S. §§ 160D-934 through 160D-938. Small wireless facilities to be collocated on a utility pole or wireless support structure must be activated for use by a wireless services provider no later than one year from the permit issuance date. The installation of new wireless support facilities must meet the standards as set forth in § 152.211.

(Ord. 2005-O3, passed 3-15-2005; Am. Ord. passed 9-20-2005; Am. Ord. passed 9-18-2007; Am. Ord. passed 2-15-2010; Am. Ord. 2010-O14, passed 5-18-2010; Am. Ord. passed 6-15-2010; Am. Ord. passed 11-16-2010; Am. Ord. passed 1-18-2011; Am. Ord. passed 7-19-2011; Am. Ord. 2011-O26,

passed 8-16-2011; Am. Ord. passed 2-21-2012; Am. Ord. passed 11-20-2012; Am. Ord. passed 3-22-2016; Am. Ord. passed 7-26-2016; Am. Ord. 2016-O11, passed 9-13-2016; Am. Ord. passed 11-22-2016; Am. Ord. passed 12-14-2016; Am. Ord. passed 2-28-2017; Am. Ord. 2018-01, passed 1-9-2018; Am. Ord. 2019-O3, passed 2-26-2019; Am. Ord. 2019-O4, passed 4-23-2019; Am. Ord. 2020-O6, passed 8-10-2020; Am. Ord. 2021-O3, passed 5-24-2021; Am. Ord. 2021-O7, passed 7-26-2021)