



TOWN OF YADKINVILLE

“A TOWN IN PROGRESS”

PLANNING BOARD MONDAY, NOVEMBER 16, 2020 5:30 P.M.

Yadkinville Town Hall
Commissioners Chambers
213 Van Buren Street, Yadkinville, NC 27055

DRAFT MINUTES

PLANNING BOARD MEMBERS

(PRESENT/ABSENT):

Anna Logan Howe – Chair - Present
Rhyne Dowell – Vice Chair - Present
Virgil Dodson - Present
Mary Reavis - Present
Tony Snow - Present
R.J. Speaks - Present
Danny Coe – Absent (excused)

TOWN OFFICIALS PRESENT:

Mike Koser, Town Manager
Shelia Weathers – Assistant Town
Manager
Abigaile Pittman, Planning Director

A quorum was met, and the meeting proceeded.

1. CALL MEETING TO ORDER

Ms. Anna Logan Howe, Chair called the meeting to order at 5:30 p.m.

2. APPROVAL OF MINUTES

- September 21, 2020 – Regular Meeting Minutes

Virgil Dodson moved to approve the September 21, 2020 Planning Board meeting Minutes. Rhyne Dowell seconded the motion and it passed unanimously by a vote of 6-0.

- June 20, 2020 – Training Session Minutes

Rhyne Dowell moved to approve the June 20, 2020 Planning Board meeting Minutes. Mary Reavis seconded the motion and it passed unanimously by a vote of 6-0.

3. NEW BUSINESS

- ZMA-2020-01
 - Applicant Mark A. Jarvis
 - Map Amendment: Request to rezone two (2) parcels from the Residential Medium Density District (RM) to the Residential High-Density Conditional Zoning District (CZRH). The property is identified as property identification numbers (PINs) 5807612017 and 580719611297 with approximately 6.725 acres and is located on W. Lee Ave. in Yadkinville.

Planning Director Abigaile Pittman reviewed the proposed zoning amendment, referencing the staff report in the agenda packets. Ms. Pittman reviewed the adjacent zoning and land uses, showing photos.

Ms. Pittman explained that the requested Conditional Zoning (CZ) District is intended to accommodate allow specific uses of the Residential High-Density (RH) District, to be established in accordance with prescribed conditions pertaining to an individual project. The regulations of the RH District are intended to provide areas of the community for those persons desiring small residences or multifamily structures. This specific proposed Residential High-Density Conditional Zoning District (CZ RH) and accompanying sketch plan would be specifically subject to additional restrictions/developmental conditions. Ms. Pittman directed the Board's attention to the Sketch Plan submitted by the applicant and reviewed additional restrictions/developmental conditions offered as part of the application:

1. As depicted on the accompanying Sketch Plan, the proposal is for eight (8) duplex style condominiums (total 16 units) served by two common driveways from W. Lee Ave. Each duplex will be sold individually with the remainder of the site in common area, to be maintained by the homeowners' association.

Staff comments: If the property were subdivided and developed under the RM district zoning, a maximum of 26 lots would be permitted. Of course, the lot yield would be impacted by the dimensions of the property, environmental features such as the stream and stream buffer at the rear of the site, and an interior road system. However, the minimum lot size in the existing RM District is 10,000 sq. ft. which could accommodate a number of these challenges.

2. Setback Requirements:
 - a. Front- 30' from W. Lee Ave.

- b. Side – 30’ from the western property boundary; 10’ from the eastern property boundary; and 10’ from interior eastern property line.
- c. Rear Property Line – Minimum 160’ as depicted on accompanying Sketch Plan
- d. Corner Sideline – Not Applicable

Staff comments: The minimum 30’ front setback along W. Lee Ave. is equivalent to the existing RM District setback requirement. The 10’ side setbacks from the eastern and interior eastern property lines are equivalent to the existing RM District setback. The 30’ side setback from the western property boundary exceeds the RM District setback and is equivalent to the RM District rear yard setback. The minimum 160’ rear property setback exceeds the RM District rear yard setback of 30’ and also serves to protect the stream and common area at the rear of the lot.

- 3. A 6-foot high vinyl or wooden fence shall be installed along the 10-foot side yard setbacks from the point where the 30-foot front setback ends to a point at least 15 feet past the adjacent rear of the nearest duplex.

Staff comments: the fence in these locations will enhance the buffer of the eastern side setbacks.

- 4. Common driveway locations and construction standards shall be per NCDOT requirements. A t-turnaround shall be provided at the terminus of the western driveway.

Staff comments: The proposed common driveways are appropriate for this condominium development. The three driveway cuts will be required to obtain NCDOT driveway permits. To enhance traffic safety, driveway cuts should either be aligned opposite roads/driveways or be adequately offset. The easternmost driveway aligns with Ford Rd. and the westernmost driveway is properly offset from the one across the road in order to enhance safety. Also, the number of potential driveway cuts was reduced.

W. Lee Ave. (SR 1146) is classified as a minor collector street. NCDOT traffic counts for W. Lee Avenue indicate that there are approximately 3,500 average vehicles per day (2019 AADT) just west of the site near the intersection with Billy Reynolds Rd. The speed limit is 35 mph. Per NCOT trip generation information, the proposed sixteen (16) condo units would generate approximately 6.5 trips/day, total of 104 daily trips. This trip generation is less than approximately 10 trips per day generated by single family development. NCDOT does not require a traffic study for this size development; the NCDOT threshold for requiring a traffic study is 3,000 trips/day. The level of service on the road is good and NCDOT has not identified any needed road improvements.

5. The stream with its state environmental buffer at the rear of the property will remain undisturbed in the site's common area.

Staff comments: The perennial stream at the rear of the property has a 50-foot riparian buffer mandated by the NC Department of Environmental Quality. A riparian buffer is a vegetated area bordering a body of water, such as a stream. Riparian buffers filter stormwater runoff before it enters the stream. The vegetation within the buffer absorbs excess nutrients and sediment, controls erosion, moderates water temperature and provides habitat for wildlife. They also provide flood control and protect property. There is no 100-year flood plain associated with the stream.

6. The larger healthy trees on the site will be retained outside of building footprints, and necessary removal of any larger tree will be subject to the review and approval of the Planning Director. Builder's insight is highly advised and considered when discussing impending trees on building footprint.

Staff comments: There are approximately 29 very large trees that the developer/builder will attempt to save, based on an evaluation of tree root system tree health, and interference with the building site. Staff will coordinate in a review capacity in this process and provide final approval.

7. Frontage landscaping along W. Lee Avenue shall be provided in accordance with the Street Yard standards of Section 4.4.4 of the Development Ordinance.

Staff comments: The Development Ordinance requires a 10-foot wide street yard along W. Lee Avenue planted with a combination of trees and shrubs, as stipulated in the Ordinance. Existing healthy trees and shrubs in the street yard are encouraged to be saved.

8. In accordance with Section 6.4.2.1, Table 6-4 of the Development Ordinance, one development entrance sign shall be permitted for the western property entrance, and one shall be permitted for the eastern property entrance.

Staff comments: The Development Ordinance allows a maximum 16 square foot, 6-foot high, monument or arm style development entrance sign at the western property entrance, and at the eastern property entrance. The signs may be externally illuminated.

Ms. Pittman added that the property can be served with public water and sewer by the Town of Yadkinville. There is a moderate topographical slope at the rear of the site, towards the stream which would have required pumping for sewer

connectivity if developed. As laid out on the sketch plan all the proposed condominiums can have gravity flow sewer service.

Planning Director Pittman reviewed the ways that the Residential High-Density Conditional Zoning District (CZ RH) rezoning request is consistent with the Goals and Strategies of the adopted Comprehensive Plan.

Planning Director Pittman recommended approval of ZMA-2020-01, a request to rezone the subject two (2) parcels (PINs 5807612017 and 580719611297) from the Residential Medium Density District (RM) to the Residential High-Density Conditional Zoning District (CZ RH). This recommendation is based on the request being consistent with the Medium Intensity land use classification of the Future Land Use Map; the Land Use & Growth Management Goal, and Land Use Strategies 1, 2, 4 and 6 of the Comprehensive Plan; the intent of a Conditional Zoning (CZ) District; and the intent of the Residential High-Intensity (RH) District.

The petitioner, Mark Jarvis was present and briefly spoke in support of the staff's evaluation of the rezoning request and recommendation of approval. He was accompanied by Eli Kennedy and the Land Planner, Scott Miller, MLA Design Group, Inc. They responded to questions regarding the binding conditions and sketch plan, the common area, proposed development style, and fencing and landscaping.

Adjacent property owners Debra and Rick Gough, and Terry Wilkins were in attendance and asked questions about the use and the zoning conditions, and these questions were answered by the applicant and the Planning Director. There was a specific question about how far back the fence on the eastern side would be extended down the property line, and Debra Gough asked if it could be along the entire eastern property boundary. The Planning Director and the applicant explained that the fence would be required to be extended to a point behind the nearest condo unit on the east and would screen the development on the site. The remaining property behind the condo unit would remain undeveloped and in common area (with no development to be screened. The adjacent property owners expressed no opposition to the proposed rezoning and development of the property.

Virgil Dodson made a motion to recommend approval of ZMA-2020-01, a request to rezone the subject two (2) parcels, from the Residential Medium Density District (RM) to the Residential High-Density Conditional Zoning District (CZ RH), based on the request being consistent with the Medium Intensity land use classification of the Future Land Use Map; the Land Use & Growth Management Goal, and Land Use Strategies 1, 2, 4 and 6 of the Comprehensive Plan; the intent of a Conditional Zoning (CZ) District; and the intent of the Residential High-Intensity (RH) District. The motion was seconded by R.J. Speaks and it passed unanimously by a vote of 6-0.

4. UPDATES

Planning Director Pittman reviewed the Board of Commissioners' action on three text amendments recommended by the Planning Board at its September 21, 2020 meeting:

- ZTA-2020-01 – Request to amend the Town of Yadkinville Code of Ordinances, Title 9, Development Ordinance, Section 5.1 Building Design Standards - Purpose & Applicability; Section 5.4.7 Nonresidential Design Standards – Wall Materials and Color; and Section 5.5.7 Central Business (CB) District Design Standards – Color; to revise the material and color standards, and language regarding applicability.

Status: Approved unanimously by the Board of Commissioners at its meeting of November 2, 2020

- ZTA-2020-03 – Request by Maplewood Baptist Church to amend the Town of Yadkinville Code of Ordinances, Title 9, Development Ordinance, Section 6.4.2 Freestanding Signs, Section 6.4.2.1 District and Size Standards, Table 6.4 Freestanding Sign District and Size Standards; to revise the size and height of freestanding signs for religious institutions & related uses in the RR, RM, RH, RMH zoning districts.

Status: Approved unanimously by the Board of Commissioners at its meeting of November 2, 2020

- ZTA-2020-04 - Request to amend the Town of Yadkinville Code Of Ordinances, Title 9, Development Ordinance, Section 3.4.8.5.4 Temporary Retail Sales (Including Temporary Produce Stands, Christmas Tree Sales, Food Vendors, and Similar Uses); to add and revise criteria for temporary use events in the Central Business (CB), Highway Business (HB) and Neighborhood Business (NB) zoning districts.

Status: Approved unanimously by the Board of Commissioners at its meeting of November 2, 2020

5. OTHER BUSINESS – There was no other business.

6. ADJOURNMENT - Next Scheduled Board Meeting is December 21, 2020

Virgil Dodson made a motion for the Planning Board to adjourn. R.J. Speaks seconded the motion and the motion passed unanimously by a vote of 6-0.

Anna Howe, Chair

Date



TO: Planning Board Members

FROM: Abigaile Pittman, Planning Director

DATE: February 15, 2021

RE: ZTA-2021-01), a request to amend the Town of Yadkinville Code of Ordinances, Title 9, Development Ordinance, Section 3.4 Special Requirements for Certain Uses; 3.4.2 Residential Uses; 3.4.2.2 Accessory Structures; 3.4.8.1 Nonresidential Accessory Structures, to revise the regulations for accessory structures.

BACKGROUND

Applicant: Abigaile Pittman, Planning Director

When the current Development Ordinance was adopted in October 2018 a previously approved 2017 text amendment relating to accessory structures was not incorporated as intended. ZTA-2021-01 incorporates missing elements from the 2017 text amendment, as well as some additional revisions and organizational improvements offered by staff.

Noteworthy revisions include:

- Providing minimum setbacks for accessory residential structures and separations from other structures
- Allowing residential accessory structures in side yards
- Increasing the number of residential structures from 2 to 3 for lots 1 acre or larger; and
- Establishing setbacks for through or reverse frontage lots
- Clarified size and area limitation for accessory structures located on properties of larger acreage.
- Provides that utility service to the accessory structure be provided by branching service from the principal structure.
- Allows for the temporary use of portable storage containers for up to 14 days, whereas they are currently prohibited.
- Clarifies setbacks and separations from other structures for nonresidential accessory structures

CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER ADOPTED PLANS

Section 3.4 of the Development Ordinance states that the special requirements applicable to accessory structures are intended to mitigate any potential adverse impacts that certain uses may have on surrounding property or the community at-large.

Strategy CC2 of the Town's adopted Comprehensive Plan speaks to enhancing the appearance of the Town through methods that include the improvement of building and

site design for new and expanding development to enhance and remain compatible with surrounding development.

PLANNING DIRECTOR'S RECOMMENDATION

The Planning Director recommends approval of ZTA-2020-01, a request to amend the Development Ordinance, Section 3.4 Special Requirements for Certain Uses; 3.4.2 Residential Uses; 3.4.2.2 Accessory Structures; 3.4.8.1 Nonresidential Accessory Structures, to revise the regulations for accessory structures. This recommendation is based on the request's consistency with Section 3.4 of the Development Ordinance and Strategy CC2 of the adopted Town of Yadkinville Comprehensive Plan.

PLANNING BOARD RECOMMENDATION / ALTERNATIVE COURSES OF ACTION

Following review of the proposed text amendment, the Planning Board is requested to take action using one of the following motions:

1. Recommend Approval - The Planning Board recommends approval of ZTA-2020-01, a request to amend the Development Ordinance, Section 3.4 Special Requirements for Certain Uses; 3.4.2 Residential Uses; 3.4.2.2 Accessory Structures; 3.4.8.1 Nonresidential Accessory Structures, to revise the regulations for accessory structures. This recommendation is based on the request's consistency with consistency with Section 3.4 of the Development Ordinance and Strategy CC2 of the adopted Town of Yadkinville Comprehensive Plan.
2. Recommend Denial - The Planning Board recommends denial of ZTA-2020-01, a request to amend the Development Ordinance, Section 3.4 Special Requirements for Certain Uses; 3.4.2 Residential Uses; 3.4.2.2 Accessory Structures; 3.4.8.1 Nonresidential Accessory Structures, to revise the regulations for accessory structures. This recommendation is based on the Planning Board determining that the request is not consistent with Section 3.4 of the Development Ordinance and Strategy CC2 of the adopted Town of Yadkinville Comprehensive Plan.
3. Defer - The Planning Board recommends that the action on a request to amend the Development Ordinance, Section 3.4 Special Requirements for Certain Uses; 3.4.2 Residential Uses; 3.4.2.2 Accessory Structures; 3.4.8.1 Nonresidential Accessory Structures, to revise the regulations for accessory structures be deferred to the March 15, 2020 regular meeting date for the reason that the amendment needs additional consideration.

A simple majority vote is needed to recommend approval, denial or deferment of the requested action. The Planning Board's recommendation will be forwarded to the Board of Commissioners for a final decision on the text amendment request.

ATTACHMENTS

1. Text Amendment application



TOWN OF YADKINVILLE

213 Van Buren Street • Yadkinville, NC 27055

336.679.8732 • Fax 336.679.6151

ORDINANCE AMENDMENT APPLICATION

Case #	Receipt #
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CONTACT INFORMATION:

Applicant

Address

City, State, Zip Code

Telephone

Email Address

REQUEST:

Ordinance Section: _____

In the space below, or on a separate sheet, present your requested text for the proposed amendment.

In the space below, or on a separate sheet, state your reason(s) for amending the *Ordinance*.

NOTICE AND HEARING REQUIREMENTS:

All applications for ordinance amendments must be reviewed by the Town of Yadkinville Planning Board before proceeding to the Board of Commissioners for public hearing and decision. The Planning Board will review applications for ordinance amendments at its next meeting following submission of the application and filing fee if the application is submitted at least thirty (30) days in advance of the regular meeting date. Following review and recommendation by the Planning Board, the matter will be forwarded to the Town Board of Commissioners. Following the receipt of notification of a pending ordinance amendment, the Town Board of Commissioners will schedule a public hearing for the next available meeting that allows for sufficient time for the Town to mail and publish the statutorily required notices. All applications for ordinance amendments must be published in the newspaper once a week for two consecutive weeks.

MEETING DATES:

Planning Board Meeting Date: _____

Planning Board Decision: _____

Board of Commissioners Meeting Date: _____

Board of Commissioner Decision: _____

**ATTACHMENT TO ZTA-2021-01 APPLICATION
REVISED FOR PLANNING BOARD FEBRUARY 15, 2021 MEETING
SECTION 3.4 SPECIAL REQUIREMENTS FOR CERTAIN USES; 3.4.2 RESIDENTIAL
USES; AND 3.4.2.2 ACCESSORY STRUCTURES, TO REVISE REGULATIONS FOR
ACCESSORY STRUCTURES**

Text in green is proposed to be added; Text in red is proposed to be deleted.

3.4 SPECIAL REQUIREMENTS FOR CERTAIN USES

3.4.2 RESIDENTIAL USES

3.4.2.2 ACCESSORY STRUCTURES

A. Permitted Accessory Structures - Permitted accessory structures include those included in this section and those that are determined to meet the following criteria:

1. Are clearly incidental to an allowed principal use or structure;
2. Are subordinate to and serving an allowed principal use or structure;
3. Are subordinate in area, extent and purpose to the principal use or structure;
4. Contribute to the comfort, convenience or needs of occupants of the principal use or structure.

B. ~~A.~~ Location on Same Lot as a Principal Use - There shall be a principal structure on any lot for which there is an accessory structure. No accessory structure shall be approved established or constructed before the principal structure is approved in accordance with the Ordinance.

C. ~~B.~~ Setbacks and Spacing from other Structures - Accessory structures shall be set back a minimum of five (5) feet from the side and rear property lines. Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located. For through or reverse frontage lots, all accessory structure shall be setback 10 feet from the rear lot line abutting the street. Accessory structures shall be at least five (5) feet from any other buildings on the same lot and at least 20 feet from any buildings used for human habitation on adjoining lots. See Section 3.4.2.2, F. for additional setbacks for greater total area of accessory structures.

D. ~~C.~~ Location on Lot - On any residential lot, accessory buildings shall not be located in any ~~required~~ front ~~or side~~ yard, unless located on a lot ~~zoned RR~~ that is greater than two (2) acres and set back a minimum of 150 feet from the fronting street. Accessory structures may not be located in an easement unless the easement or easement holder expressly states the allowance in writing.

E. Number of Accessory Structures Allowed - No residential lot shall have more than two (2) accessory structures (excluding swimming pools), except that lots of one (1) acre or greater in size may have no more than three (3) accessory structures.

F. ~~D. Size and Area Limitations and Criteria~~ - Accessory structures ~~shall be at least five (5) feet from any other buildings on the same lot and at least 20 feet from any buildings used for human habitation on adjoining lots and~~ shall not cover more than 30% of any required rear yard and: ~~No residential lot shall have more than two (2) accessory structures (excluding swimming pools).~~

1. The total area of residential accessory structures on a lot less than two (2) acres shall not exceed 50 percent of the gross floor area of the principal dwelling or 600 square feet, whichever is greater.
2. For lots that are two (2) acres or more, but less than five (5) acres in area, the maximum total area of all accessory structures shall not exceed 200 percent of the gross floor area of the principal structure or 2500 square feet, whichever is greater, provided that when accessory structures total more than 600 square feet accessory structures shall be set back a minimum of 20 feet from the property line.
3. For lots that are five (5) acres or more in area, there is no maximum total area for accessory structures, provided that when accessory structures total more than 600 square feet accessory structures shall be set back a minimum of 20 feet from the property line.

G. ~~E. Maximum Height~~ - The maximum height for accessory structures shall be the height of the principal structure, except that the maximum height for accessory agricultural structures on lots of greater than two (2) acres in the Rural Residential (RR) District shall be the maximum district height.

H. Utility Service - Utility service, such as water, sewer and electricity, to the accessory structure shall be provided by branching service from the principal structure.

I. Exceptions

1. ~~F.~~ Mailboxes, newspaper boxes, birdhouses, flagpoles, satellite dishes of less than two (2) feet in diameter and pump covers may be placed in any yard, and no zoning permit is needed for these structures.
2. ~~J.~~ A double garage may be shared between two (2) lots in any residential district, one-half (1/2) of which would be located on each of the two (2) lots. A written request signed by both parties is submitted with the zoning permit application and that the requirements of this section shall be met.
3. A portable storage container may only be used as a temporary accessory structure for up to 14 days in duration, except when the container is used in

association with construction on the same site, in which case the container may remain for the duration of the construction project and shall be removed upon completion. No more than two (2) portable storage containers may be located on a lot with a single-family or duplex dwelling. The gross square footage of a portable storage container on a lot with a single-family or duplex dwelling shall not exceed 150 square feet. A portable storage container is not subject to the location and setback requirements of Section 3.4.2.2; however, it must be located on the lot and outside any street right-of-way.

J. Prohibitions

4. ~~G.~~ No accessory structure shall be permitted that involves or requires any external features which are not primarily residential in nature or character.
5. ~~H.~~ Under no circumstances may a vehicle, tractor trailer, manufactured home, recreational vehicle, ~~POD~~ or similar container be used as an accessory structure.

K. I. Swimming Pools - Swimming pools shall meet the requirements of Appendix G of the North Carolina Residential Building Code.

3.4.8.1 Nonresidential Accessory Structures (~~non-residential~~)

A. Permitted Accessory Structures - Permitted accessory structures include those included in this section and those that are determined to meet the following criteria:

1. Are clearly incidental to an allowed principal use or structure;
2. Are subordinate to and serving an allowed principal use or structure;
3. Are subordinate in area, extent and/or purpose to the principal use or structure;
4. Contribute to the comfort, convenience or needs of occupants, businesses or industry associated with the principal use or structure.

B. ~~A.~~ Exemptions - Non-residential accessory structures within the LI and HI zoning districts are exempt from the requirements of this section.

C. ~~E.~~ Location on Same Lot as a Principal Use - There shall be a principal structure on any lot for which there is an accessory structure. No accessory structure shall be approved, established, or constructed before the principal structure is approved in accordance with the Ordinance.

D. ~~B.~~ Location on Lot - No accessory structure shall be erected in any front yard, as defined by this Ordinance, Accessory structures may not be located in an easement unless the easement or easement holder expressly states the allowance in writing.

E. ~~D.~~ Setbacks and Spacing from other Structures - ~~Accessory structures shall be set back a minimum of six (6) feet from the side and rear property lines. Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located.~~ Nonresidential Accessory structures shall meet the applicable zoning district setback standards, except as provided in this

section and in Section 4.2.3 Exceptions to Dimensional Standards. Accessory structures on corner lots shall meet the principal structure front setback on the side street for the district in which it is located. For through or reverse frontage lots, all accessory structures shall be setback at least 10 feet from the rear lot line abutting the street. Accessory structures shall be at least ten (10) feet from any other buildings on the same lot. ~~No accessory building shall be erected within 10 feet of any other building.~~

F. ~~F.~~ Maximum Height - The maximum height for accessory structures shall be the height of the principal structure. Gas station canopies may exceed the height of the principal structure to the maximum height necessary to achieve vehicle clearance for the tallest vehicle served.

G. ~~G.~~ Prohibitions/Exceptions

1. Vehicles, trailers, ~~PODs~~ portable storage containers or similar containers shall not be used as accessory structures, except in the LI and HI zoning districts. This type of storage containers may only be used in the LI and HI zoning districts if located in the rear yard and screened from view from adjacent properties and any public right-of-way.
2. In zoning districts other than LI and HI, a portable storage container may only be used as a temporary accessory structure for up to 14 days in duration, except when the container is used in association with construction on the same site, in which case the container may remain for the duration of the construction project and shall be removed upon completion. No more than two (2) portable storage containers may be located on a lot. A portable storage container is not subject to the location and setback requirements of Section 3.4.2.2; however, it must be located on the lot and outside any street right-of-way.

H. Drive-up Accessory Structures – Drive-up accessory structures, such as automated teller machines, ice vending, coffee stands, and similar accessory structures that provide drive-up or walk-up service and which are located within a surface parking area shall meet the following standards:

1. The accessory structure shall not be placed in any required parking spaces.
2. The location shall be designed so that any access or stacking lanes do not extend into a primary drive aisle.
3. The surface parking area shall be configured and restriped to maintain access and circulation to the principal uses(s).

H. Fencing and Walls – See Section 4.4.9 Fencing and Walls for the applicable standards.

I. Exterior Lighting – See Section 4.6.5 Lighting Standards for the applicable standards.

DISCUSSION ITEM: SHIPPING CONTAINER HOMES AND TINY HOMES

North Carolina Law Regarding Regulating Single- and Two- Family Dwellings, Including Shipping Container Homes and Tiny Homes

North Carolina prohibits local governments from adopting regulations that require specific building design elements for single- and two- family dwellings unless certain conditions exist. These cannot be regulated directly. Nor can they be regulated indirectly through a plan consistency review (such as putting the design standards in the adopted plan rather than in the zoning ordinance and then having the zoning ordinance require that new development be consistent with the plan). Regulations for commercial and multifamily structures are not affected by the new law.

The law provides a list of what cannot be regulated. The prohibition covers:

1. Exterior building color;
2. Type or style of exterior cladding material;
3. Style or materials of roofs or porches
4. Exterior nonstructural architectural ornamentation;
5. Location or architectural styling of windows and doors, including garage doors;
6. Location of rooms; and
7. Interior layout of rooms.

There are several items that are explicitly listed as not being “building design elements” and that can be regulated. These are:

1. Height, bulk, orientation on the lot, location of structure on a lot;
2. Use of buffering or screening to minimize visual impacts, to mitigate impacts of light or noise, or to protect the privacy of neighbors; and
3. Regulations governing permitted uses of land or structures.

Exceptions. The law creates a number of exceptions to this prohibition of design regulations:

1. For new developments, design standards may be applied if the owners of all of the property involved voluntarily consent to them. In this instance the standards can only be imposed if done as “part of and in the course of” seeking a zoning amendment or a zoning, subdivision, or other development regulation approval. This tracks existing law that requires landowner consent for property to be placed in a conditional or conditional use district and requires mutual consent for conditions imposed. G.S. [160A-383\(b\)](#), [153A-342\(b\)](#). Design standards developed and agreed to by the owners of all affected property can still be incorporated into conditional zoning, special use permits, or development agreements.

There is some debate as to how this provision should be interpreted, with some in the development community contending only design standards proposed by the developer are “voluntary.” Others contend it matters not who proposes the

standards (the owner, the local government, or the neighbors) as long as it is clear the owners consent to their imposition. How the proposal originates is unlikely to matter legally, but care must be exercised to clearly demonstrate that the owner has indeed voluntarily consented to the imposition of the design standards. The courts will not accept just calling a regulatory requirement “voluntary” when compliance has in fact been uniformly mandated. [Lanvale Properties, LLC v. County of Cabarrus](#), 366 N.C. 142, 731 S.E.2d 800 (2012).

There are other specific exceptions to the prohibition listed in the law, primarily preserving historic district regulations, where building design elements are a central feature of the regulatory scheme. Building design elements can still be regulated in these circumstances:

1. Within designated local historic districts based on their “special significance in terms of their history, prehistory, architecture, and/or culture;
2. Within historic districts on the National Register based on their “special significance in terms of their history, prehistory, architecture, and/or culture;
3. For designated local, state, or national landmarks;
4. Those directly and substantially related to safety codes;
5. For manufactured housing; and
6. Those adopted as a condition of participation in the flood insurance program.

Implications. Zoning ordinances can still set height and size limits for structures and specify where on a lot structures may be located. They can specify setbacks and maximum lot coverages. Zoning statutes expressly authorize cities and counties to regulate the height, number of stories and size of buildings and other structures, the percentage of lots that may be occupied, the size of yards, courts, and other open spaces, the density of population, the location and use of buildings, structures and land. The new law states that it “clarifies and restates the intent of existing law,” so these aspects of zoning regulation of residential structures are clearly still valid. The uses to which structures are put can still be regulated.

Landowners can voluntarily agree to imposition of design regulations. Private restrictive covenants can still dictate architectural review for single family homes. Deed restrictions (sometimes called Restrictive Covenants) are specific requirements that included on the deed for a property. Typically, deed restrictions are added by the original developer of a land parcel to keep a uniform appearance for a neighborhood that protects property values. Deed restrictions are similar to and may coincide with, but aren’t the same as, homeowner’s association (HOA) rules. In short, deed restrictions are permanently fixed to the deed and usually take a court order to remove, while HOA rules can be voted on and changed at will. Deed restrictions are private agreements and not directly enforced by the government. HOA’s are usually the entities that would attempt to enforce deed restrictions through the legal action in the court system, although individual nearby property owners could also do so. Due to their private nature, deed restrictions can restrict almost anything about the property’s use as long as it’s legal. Common types include use restrictions, lease restrictions, and mandatory architectural reviews.

Shipping Container Homes

Shipping containers that are converted into housing units are subject to state building codes like modular and site-built homes. Converted shipping containers cannot be accepted as a HUD-code manufactured home unless they are provided with a permanent chassis and are transported to the site on their own running gear and otherwise comply with all HUD Standards and Regulations for manufactured homes.

As long as shipping container homes meet the North Carolina (NC) Building Code, they can be modified into a single- or two- family dwelling. And like any other single- or two-family dwelling in NC, the town cannot apply regulations that require specific building design elements.

In NC, Carolina Beach, Wilmington and New Hanover County specifically allow renovated shipping containers to be used as homes. Wilmington allows the use of shipping containers for various applications, including storage buildings and even accessory apartments. However, Kure Beach outlawed them in any zoning district in May 2016.

During their review of the issue the Kure Council considered two proposed changes and received feedback from the public.

Option 1: The first option basically amends the zoning ordinance to define containers and ban their use as dwellings anywhere in Town.

Option 2: The second option basically restricted the use of containers as dwellings and permits that use only within the RA-2T district in the northern area of Town which already has trailers used as dwellings.

Issues Reviewed by Kure Beach:

1. A "catchall" prohibition has been invalidated by the North Carolina Supreme Court decision in Byrd v. Franklin County. That case was decided in November of 2015 and rejected the notion that a zoning ordinance may prohibit uses not explicitly allowed. Given the impossibility of expressly identifying every prohibited use, municipalities will have to periodically review their list of uses and make adjustments. In the meantime, municipalities will treat unlisted uses as the most nearly similar in lieu of a blanket provision prohibiting all unlisted uses. Staff will be given guidelines and standards necessary for making those determinations for nearly similar uses.
2. The lack of authority to regulate aesthetics or appearance standards for residential dwellings, including shipping container homes.
3. Kure Beach council stated that they personally thought that someone should be able to put whatever house they want on their property, but on the other hand they recognize that the biggest investment for most of their citizens is their house and if their citizens feel it is hurting their property values, they agreed that this

was a reasonable argument. They therefore agreed that they should manage the shipping container issue because they have a character to the community that must be considered.

What Are the Advantages of Shipping Container Homes?

- **They can be more cost-effective than traditional housing.** You can purchase a container home for as low as \$10,000. They are typically more cost-effective than conventional housing because they require fewer building materials and labor to construct.
- **They're quick to construct.** Some contractors can build a shipping container home in under a month. However, hiring a professional to build your container dream home can be pricey.
- **They're modular homes.** Shipping container homes are easy to modify. You can build a home with a mix of 20- and 40-foot containers. You can also combine multiple containers to create a larger home with a living room, dining room, extra bedrooms, a second floor, or even a container guesthouse.
- **They're durable.** Manufacturers typically use steel to build shipping containers. Shipping container homes made from weathering steel can likely withstand inclement weather conditions better than traditional housing.
- **They can be mobile.** You can use a dedicated shipping transportation service to pick up and relocate an off-the-grid single-container house.

What Are the Disadvantages of Shipping Container Homes?

- **Obtaining building permits can be difficult.** As a relatively new phenomenon, it can be difficult to obtain the necessary permits to build a shipping container house in some locations.
- **Shipping containers are not always eco-friendly.** Many proponents tout container living as a great way to recycle old containers, but used shipping containers are more eco-friendly, depending on the history of use. Some containers were subjected to toxic chemicals.
- **Modern appliances can be difficult.** You'll need to find a reliable licensed electrician and plumber who is familiar with shipping container architecture to design and install custom electrical setups for the house.
- **They often need reinforcements.** While storage containers are built out of durable steel, their structural integrity can be compromised with certain modifications—for instance, cutting holes for a door or large windows. While shipping containers can withstand certain weather conditions, the weight from heavy snow can cause the roof to bow if the corner castings aren't strong enough. A contractor may need to be hired to reinforce load-bearing walls or install a sloped rooftop.

Tiny Homes

A tiny house is defined as a having 400 Square Feet or Less, which can be built on foundations or can be movable structures built on a trailer.

Like any other single- or two- family dwelling in NC, the town cannot apply regulations that require specific building design elements to tiny homes. They are only required to meet the requirements of the North Carolina Building Code, which includes being on a permanent foundation. The N.C. Building Code requires a structure to have the following minimum criteria: at least one habitable room of at least 120 square feet in size; and a bathroom that includes a toilet, sink, and tub or shower.

If a tiny home has a permanent chassis and is transported to a site on its own running gear it must otherwise comply with all HUD Standards and Regulations for manufactured homes (aka mobile homes). However, tiny homes permanently on wheels are classified as RVs and may not be considered legal dwellings. For this reason, some NC communities like Asheville and Buncombe County only allow tiny homes in campgrounds at the express discretion of the campground. In Yadkinville, campgrounds are allowed in the RR and LI zoning districts subject to a Conditional Use Permit and the additional conditions of Section 3.4.6.2 of the Development Ordinance.

The Town of Yadkinville's Development Ordinance would allow a tiny home as a single-family dwelling in the RR, RM, RH, RMH, OI and NB zoning districts. However, the minimum lots sizes in these zoning districts range from 20,000 sq. ft. to 10,000 sq. ft. to 5,000 sq. ft. Tiny homes do not qualify to be defined as multifamily development under the Development Ordinance because they are not three (3 or more attached dwelling units on the same lot. To allow them a new zoning district would need to be created for a tiny home community, similar to the way the way the Ordinance provides the Residential Manufactured Housing (RMH) District for manufactured housing (aka mobile homes).

An argument for tiny homes is the need for modern, affordable housing solutions for situations like government-subsidized housing, micro-housing for young professionals, disaster relief housing, and to help reduce homelessness. Tiny homes have a smaller footprint, are Eco friendly and energy efficient, are affordable cost-wise, have the potential for mobility, a good downsizing solution, and allow for debt reduction.

One regional example is Tiny Houses Greensboro, a nonprofit that is creating a tiny house community to provide a stable housing environment and community support. They partner with the City of Greensboro to develop land and address building codes and zoning issues. They also work with local housing organizations that assist in qualifying potential residents. Residents are required to participate in construction and other volunteer opportunities.

Tiny houses are sometimes built as accessory dwellings to a principal residential dwelling, In this context they are used as a way for an aging parent or grandparent to be as close as a walk through the back yard but still have privacy and some degree of

independence. The Town's Development Ordinance allows detached accessory dwellings in a rear yard subject to some size and setback limitations.

A concern about permitting tiny home communities is the lack of authority to regulate aesthetics or appearance standards for residential dwellings on permanent foundations. The degree to which a tiny home, meeting the definition of a manufactured dwelling in a mobile home park, or a RV in a campground, could be publicly regulated with regard to appearance standards needs additional research by staff. However, staff thinks that such appearance standards could only be offered as private restrictions as part of the Conditional Use Permit application process.



**Town of Yadkinville
Planning Board
2021 Scheduled Meetings
Regular Meeting Scheduled 5:30 p.m.**

- **January 25, 2020 – Due to M.L. King, Jr. Holiday**
- **February 15, 2020**
- **March 15, 2020**
- **April 19, 2020**
- **May 17, 2020**
- **June 21, 2020**
- **July 19, 2020**
- **August 16, 2020**
- **September 20, 2020**
- **October 18, 2020**
- **November 15, 2020**
- **December 20, 2020**

Note: Public meetings will be scheduled as needed in each prior meeting. Time will be set at that time.

Approved by Planning Board on February 15, 2021