

TOWN OF APEX
PLANNING BOARD ACTION MINUTES
Meeting of January 11, 2010

The Planning Board held its regular meeting on January 11, 2010 at 4:30 p.m. at the Apex Town Hall Campus, 73, Hunter Street, 2nd Floor, Apex, North Carolina. Members present were Sheryl Bynum, Tommy Morgan, Graham Wilson, Tom Colhoun, Lisa Carley, Terry Rowe, Margo Bills and David Hooks.

- Call to order
- Invocation & Pledge of Allegiance
- Approval of minutes from the December 14, 2009 regular meeting.
- Items of information.

PUBLIC HEARINGS

Item #1 – Rezoning Case #09CZ09 and Special Use Permit #09SUP03 (staff report attached). American Tower Corporation, applicant is seeking to rezone from RR (Rural Residential) to O&I CZ (Office & Institutional Conditional Zoning) district classification for the property located at 1716 Old US 1 Hwy containing 3.51 acres. The applicant also proposes a 199 foot monopole communications tower. The subject property is identified on Wake County Tax Maps as PIN # 0731 32 8398. After the presentation by Brendie Vega, Principal Planner and discussion by the Board, Tom Colhoun motioned to recommend approval to Town Council Terry Rowe seconded. The motion passed unanimously.

NEW BUSINESS

Item #1 –Possible motion regarding amendments to the Unified Development Ordinance (staff report attached). After the presentation by Brendie Vega, Principal Planner and discussion by the Board, Terry Rowe motioned to recommend approval to Town Council will the following changes:

Amendment #2 - 5.2.2 Table of Intensity and Dimensional Standards, setbacks for residential districts:
Townhome detached – 3 ft minimum setback
Townhome – 0 ft side setback with an 8 ft aggregate
PD District – Single-family 5 ft setback, Townhome 0 ft side setback with an 8 ft aggregate, Townhome detached, 3 ft side setback.

Amendment #5 – 8.2.8(b)(1)(c); remove “Vegetation is required to be planted outside the enclosure.”

Sheryl Bynum seconded. The motion passed unanimously.

Item #1 – Transportation Planning Module – Presentation by Reed Huegerich, Transportation Planner. No action by the Board.

There being no further business, the meeting adjourned at 6:00 PM.

Prepared by: Bonnie Brock, Development Specialist
Planning & Community Development Department

The purpose of the public hearing is to consider the facts and receive public comment in order to formulate a recommendation for the Town Council. All residents within three hundred (300) feet of the rezoning by ordinance have been notified.

STAFF REPORT

Rezoning Case # 09CZ13 & Special Use Permit and Minor Site Plan Amendment ATC Kelly Road Telecommunications Tower

BACKGROUND INFORMATION:

Location: 1716 Old US 1 Hwy
Applicant: American Tower Corporation

PROJECT DESCRIPTION:

Acreage: 3.51
PIN #: Part of 0731 32 8398
Current Zoning: Rural Residential and Office & Institutional Conditional Zoning
Requested Zoning: Office & Institutional Conditional Zoning and Rural Residential
Current Land Use Classification: Office & Institutional
Current Use: Residential, Farm approved for Forestry Use Value (Wake County Code)
Proposed Use: 199' telecommunications tower
Town Limits: ETJ

Adjacent Zoning & 2025 Land Use Plan:

	ZONING	LAND USE PLAN
North:	Rural Residential	Commercial, Future 540
South:	Rural Residential	Office and Institutional, Medium Density Residential
East:	Rural Residential, Rural Agricultural	Future 540, Mixed Use
West:	Rural Residential	Office and Institutional, Medium Density Residential

APPLICANT'S PROPOSAL

The applicant was denied a request by NCDOT to place the driveway and access road where originally rezoned. The applicant now seeks to move the driveway and access road location to satisfy NCDOT. The request is to rezone the previously rezoned access road back to Rural Residential and to rezone the new access road to Office and Institutional. There is an amendment being requested to the Special Use Permit and the Minor Site Plan.

EXISTING CONDITIONS:

The site is currently a single-family lot with some forestry activities. The portion of the parcel being rezoned is currently wooded and unutilized by the owners.

PROJECT DATA:

Resource Conservation Area (RCA):

The applicant will be required to plat 25% of the rezoned acreage as RCA.

Grading:

The applicant will only be grading the access road and the lease area. The drop zone will remain undisturbed.

Landscape:

In order to provide additional screening for the cabinet area at the base of the monopole, there will be a row of Wax Myrtle's planted 7 feet on center with a minimum planting height of 4 feet. **With the location of the new access road, plantings have been added to the area where the access road is near the adjacent property, and at the entrance.**

Stormwater Management:

This proposed development is exempt from the requirement of the Town of Apex Stormwater Management regulations as less than one acre is being disturbed.

Public Utilities:

This project does not require water or sewer from the Town of Apex.

Parking:

No parking spaces are required.

Access and Circulation:

The applicant is providing an access drive with a hammerhead turn around at the end of the access gate for Fire Department access.

CONDITIONAL REZONING

The conditions will remain the same as the original rezoning.

Permitted Uses:

Telecommunication tower

Conditions:

Rezoning of this property from RR to O&I-CZ will only be used for a telecommunications tower site and a 30' access and utility easement.

NEIGHBORHOOD MEETING

The applicant did not hold a new neighborhood meeting, but at the request of Planning Staff sent letters to the neighbors to let them know they were rezoning and moving the access road.

The applicant originally held a neighborhood meeting on August 20, 2009 at the Pleasant Plans Baptist Church - 1802 Old US Highway 1 South, Apex, NC 27502, adjacent to the proposed project parcel.

Questions and concerns raised by the attendees included:

- If the access road would be fenced.
- Maximum permissible exposure emitted from the antennas
- Steps being taken to control runoff
- How property values may be affected
- Would indoor cellular coverage be provided with this tower
- Why the tower is not required to be lit

The questions were answered by the applicant and support staff.

APEX TRANSPORTATION PLAN:

A one hundred foot ROW centered on Old US 1 along the property frontage is requested for public dedication. The applicant has agreed to provide this dedication.

2025 LAND USE PLAN:

The proposed rezoning is in keeping with the 2025 Land Use Plan which calls for Office and Institutional in this area.

UNIFIED DEVELOPMENT ORDINANCE

The rezoning, Special Use Permit and Minor Site Plan meet the requirements of the Unified Development Ordinance.

STAFF RECOMMENDATION:

Staff recommends approval of the rezoning and amendments to the Special Use Permit, and Minor Site Plan.

Attachments:

1. Vicinity Map
2. Application

ANALYSIS STATEMENT OF THE REASONABLENESS OF THE PROPOSED REZONING

This proposed rezoning is in keeping with the 2025 Land Use Plan for this area which calls for Office and Institutional to be located at this future intersection near the Old US1/ 540 Interchange.

LEGISLATIVE CONSIDERATIONS:

The applicant shall propose site-specific standards and conditions that take into account the following considerations, which are considerations that are relevant to the legislative determination of whether or not the proposed conditional zoning district rezoning request is in the public interest. These considerations do not exclude the legislative consideration of any other factor that is relevant to the public interest.

1. *Consistency with 2025 Land Use Plan.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and consistency with the purposes, goals, objectives, and policies of the 2025 Land Use Plan.

2. *Compatibility.* The proposed Conditional Zoning (CZ) District use's appropriateness for its proposed location and compatibility with the character of surrounding land uses.
3. *Zoning district supplemental standards.* The proposed Conditional Zoning (CZ) District use's compliance with Sec 4.4, *Supplemental Standards*, if applicable.
4. *Design minimizes adverse impact.* The design of the proposed Conditional Zoning (CZ) District use's minimization of adverse effects, including visual impact of the proposed use on adjacent lands; and avoidance of significant adverse impacts on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration and not create a nuisance.
5. *Design minimizes environmental impact.* The proposed Conditional Zoning District use's minimization of environmental impacts and protection from significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
6. *Impact on public facilities.* The proposed Conditional Zoning (CZ) District use's avoidance of having adverse impacts on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire and EMS facilities.
7. *Health, safety, and welfare.* The proposed Conditional Zoning (CZ) District use's affect on the health, safety, or welfare of the residents of the Town or its ETJ.
8. *Detrimental to adjacent properties.* Whether the proposed Conditional Zoning (CZ) District use is substantially detrimental to adjacent properties.
9. *Not constitute nuisance or hazard.* Whether the proposed Conditional Zoning (CZ) District use constitutes a nuisance or hazard due to traffic impact or noise, or because of the number of persons who will be using the Conditional Zoning (CZ) District use.
10. *Other relevant standards of this Ordinance.* Whether the proposed Conditional Zoning (CZ) District use complies with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

STANDARDS –AMENDMENT TO THE OFFICIAL ZONING DISTRICT MAP

In order to recommend approval to the Town Council the amendment of the Official Zoning District Map, the Planning Board shall find:

- 1) *Compatible with surrounding uses.* Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land.
- 2) *Changed conditions.* Whether and the extent to which there are changed conditions that require an amendment.
- 3) *Effect on natural environment.* Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to water, air, noise, storm water management, wildlife, vegetation, wetlands, and the natural functioning of the environment.
- 4) *Community need.* Whether and the extent to which the proposed amendment addresses a demonstrated community need.
- 5) *Development patterns.* Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern and not constitute spot zoning.

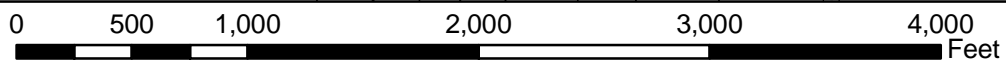
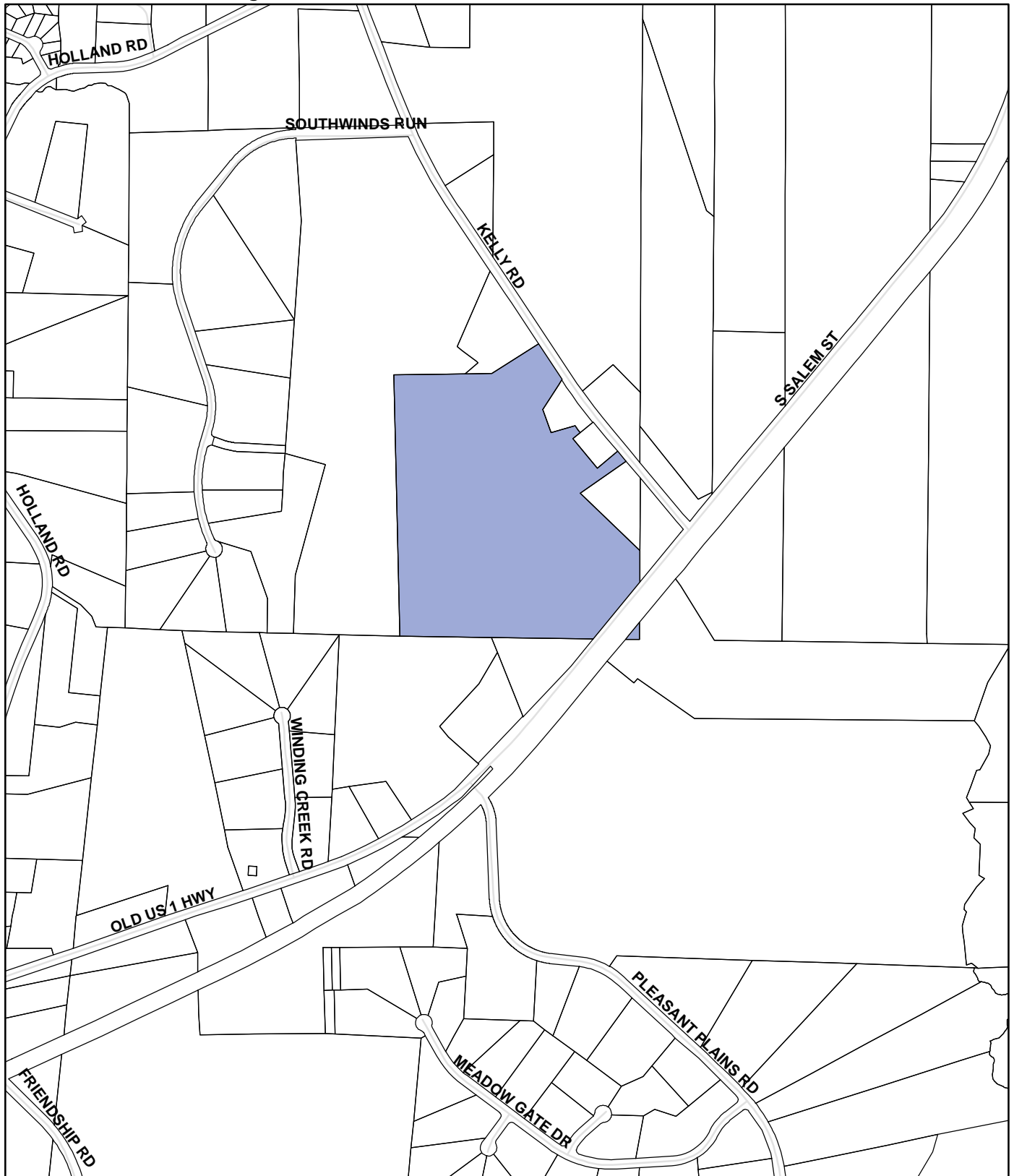
- 6) *Public facilities.* Whether and the extent to which the proposed amendment would result in development that is adequately served by public facilities (roads, potable water and sewage, schools, parks, police, and fire and emergency medical facilities).
- 7) *Consistency with 2025 Land Use Plan and Land Use Plan Update.* Consistency with the 2025 Land Use Plan and Land Use Plan Update.

STANDARDS –SPECIAL USE PERMIT

To approve an application for a special use, the Planning Board shall find that:

1. *Consistent with 2025 Land Use Plan and Land Use Plan Update.* The proposed special use shall be consistent with the purposes, goals, objectives and policies of the 2025 Land Use Plan and Land Use Plan Update.
2. *Compatibility.* The proposed special use shall be appropriate for its proposed location and compatible with the character of surrounding land uses.
3. *Zoning district supplemental standards.* The proposed special use shall comply with Sec. 4.4, *Supplemental Standards*.
4. *Design minimizes adverse impact.* The design of the proposed special use shall minimize adverse effects, including visual impact of the proposed use on adjacent lands; furthermore, the proposed special use shall avoid significant adverse impact on surrounding lands regarding trash, traffic, service delivery, parking and loading, odors, noise, glare, and vibration, and not create a nuisance.
5. *Design minimizes environmental impact.* The proposed special use shall minimize environmental impacts and shall not cause significant deterioration of water and air resources, wildlife habitat, scenic resources, and other natural resources.
6. *Impact on public facilities.* The proposed special use shall not have a significant adverse impact on public facilities and services, including roads, potable water and wastewater facilities, parks, schools, police, fire, and EMS facilities.
7. *Site development standards.* The proposed special use shall comply with the appropriate standards in Article 8: *General Development Standards*.
8. *Other relevant standards of this Ordinance.* The proposed special use shall comply with all standards imposed on it by all other applicable provisions of this Ordinance for use, layout, and general development characteristics.

Rezoning Case#09CZ13 & Special Use Permit #09SUP03 Kelly Road Communications Tower



Legend

■ 09CZ13

Prepared by:
Town of Apex
Planning Department
December 2009

Use	Average Lot Size	Minimum Lot Width (Feet)	Minimum Setbacks (Feet)				Max. Height (Feet)	Max. Built-Up Area (%)*	Max. Floor Area Ratio (FAR)	Max Density (Units per Acre)	Additional Regulations	
			Front	Side	Rear	Other/ Buffer						
Townhouses, detached (Special Use Permit)	---	<u>26</u>	Building setbacks shall comply with Sec. 4.4.1(K) (H)(7).				Sec. 8.2.6	36	65	---	7	Building setbacks shall comply with Sec. 4.4.1.(K) (H)(7)
HDSF												
...												
Townhouses	----	18	15	8	15	Sec. 8.2.6	36	65	----	-----		
Townhouses, detached (Special Use Permit)	---	<u>26</u>	Building setbacks shall comply with Sec. 4.4.1(K) (H)(7).				Sec. 8.2.6	36	65	---	7	Building setbacks shall comply with Sec. 4.4.1.(K) (H)(7)
HDMF												
...												
Townhouses	----	18	15	8	15	Sec. 8.2.6	36	65	----	-----		
Townhouses, detached	---	<u>26</u>	Building setbacks shall comply with Sec. 4.4.1(K) (H)(7).				Sec. 8.2.6	36	65	---	7	Building setbacks shall comply with Sec. 4.4.1.(K) (H)(7)
...												
MORR												
...												
Condominium, Duplex and Townhouse	---	---	25** max.	5**	10**	Sec. 8.2.6	36	70	---	12	Internal building setbacks shall comply with Sec. 5.2.2(F).	
Single family	---	<u>50</u>	25 max.	4 min/ 15 total	10	Sec. 8.2.6	36	70	---	8	---	
...												
Townhouses	----	18	15	8	15	Sec. 8.2.6	36	70	----	-----		
Townhouses, detached	---	<u>26</u>	Building setbacks shall comply with Sec. 4.4.1(K) (H)(7).				Sec. 8.2.6	36	65	---	7	Building setbacks shall comply with Sec. 4.4.1.(K) (H)(7)
...												

* See Sec 6.1, Watershed Protection Overlay Districts

** These setbacks are for the perimeter of entire project only.

*** Projects submitted prior to April 1, 2008 shall be governed by the Minimum Front Setbacks in place at the time of submittal.

Planned Development Districts

Use	Minimum Lot Width (Feet)	Minimum Setbacks (Feet)				Max. Height (Feet)	Max. Built-Up Area (%) [*]	Max. Floor Area Ratio (FAR)	Max. Density (Units per Acre)	Additional Regulations
		Front	Side	Rear	Other/ Buffer					
MEC-CZ										
Single Family	30	See Section 2.3.4			Sec 8.2.6	70				
Townhouses	18	See Section 2.3.4			Sec. 8.2.6	70	-----	-----		
Townhouses, detached	26	See Section 2.3.4			Sec. 8.2.6	70	-----	7	Building setbacks shall comply with Sec. 4.4.1.(K)	
All other uses	See Sec. 2.3.4					70				
PUD-CZ										
Single Family	30	See Section 2.3.4			Sec 8.2.6	70				
Townhouses	18	See Section 2.3.4			Sec. 8.2.6	70	-----	-----		
Townhouses, detached	26	See Section 2.3.4			Sec. 8.2.6	70	-----	-----	Building setbacks shall comply with Sec. 4.4.1.(K)	
All other uses	See Sec. 2.3.4					70				
TND-CZ										
Single Family	30	See Section 2.3.4			Sec 8.2.6	70				
Townhouses	18	5 side			Sec. 8.2.6	70	-----	-----		
Townhouses, detached	26	5 side			Sec. 8.2.6	70	-----	7	Building setbacks shall comply with Sec. 4.4.1.(K)	
All uses	See Sec. 2.3.4					70				

* See Sec 6.1, Watershed Protection Overlay Districts

Small Town Character Overlay District

Use	Minimum Lot Width (Feet)	Minimum Setbacks (Feet)			Max. Height (Feet)	Max. Built-Up Area (%) [*]	Max. Floor Area Ratio (FAR)	Max. Density (Units per Acre)	Additional Regulations
		Front	Side	Rear					
...									
Townhouse	20	20 ³	10 ³	15 ³	36 ¹	50	---	12	
Townhouse, detached (Special Use Permit)	See Sec. 4.4.1 (K)(H)(Z)	Building setbacks shall comply with Sec. 4.4.1(K)	Building setbacks shall comply with Sec. 4.4.1(K)	Building setbacks shall comply with Sec. 4.4.1(K)	36 ¹	50	---	7	Building setbacks shall comply with Sec. 4.4.1(K).

* See Sec 6.1, Watershed Protection Overlay Districts

3. An amendment to Table 4.2.2 Use Table to refer to new *Supplemental Standards* for *Condominium* and *Multi-Family or apartment* and to renumber subsequent standards in the table.

See Use Table at end of this document.

4. A new section 4.4.1(A) *Condominium* and new Section 4.4.1(G) *Multi-Family or Apartment* are inserted to add supplemental standards, and all subsections in 4.4.1 are renumbered.

4.4.1 Residential Uses

A) Condominium

- 1) All condominium developments containing 100 or more units shall be required to have a trash compactor in lieu of dumpsters.
- 2) All condominium developments with one or more dumpsters or a trash compactor must provide a recycling area and a cardboard dumpster; both shall be screened with similar materials to the dumpster or compactor enclosure.
- 3) The overall enclosure design must comply with the standards found in the Town's *Design and Development Manual*.

...
B) ~~A)~~ Congregate Living Facility

...

C) ~~B)~~ Family Care Home

...

D) ~~C)~~ Historic Site, Adaptive Use

...

E) ~~D)~~ Manufactured Home

...

F) ~~E)~~ Modular Home

...

G) Multi-Family or Apartment

- 1) All multi-family or apartment developments containing 100 or more units shall be required to have a trash compactor in lieu of dumpsters.
- 2) All multi-family or apartment developments with one or more dumpsters or a trash compactor must provide a recycling area and a cardboard dumpster; both shall be screened with similar materials to the dumpster or compactor enclosure.
- 3) The overall enclosure design must comply with the standards found in the Town's *Design and Development Manual*.

...

H) ~~F)~~ Nursing or Convalescent Facility

...

I) ~~G)~~ Security or Caretaker Quarters

...

J) Reserved

...

K) ~~H)~~ Townhouse, detached

5. An Amendment to Section 8.2.8 (B)(1) *Screening Methods – Dumpsters* is amended to include recycling, and to allow for composite materials to be used on gates.

8.2.8 Screening

...

B) Screening Methods

Screening shall be accomplished by the following methods:

- 1) *Dumpsters.*
 - a. Dumpsters shall be screened with an opaque enclosure, fence or wall that reaches 8 feet in height or the height of the dumpster, whichever is higher. The design and materials of the enclosure, fence or wall must be presented as part of the exempt site plan, site plan, or master subdivision approval process. The screening structures must be constructed of masonry materials. The screening structures shall be architecturally compatible with the principal building(s) on site. The operational parts of the enclosure such as the gate frame and hinge assemblies must be built of heavy-duty material such as steel and engineered to hold up to daily use and abuse; wood is not allowed.
 - b. Gates or doors on dumpster enclosures shall be constructed of opaque metal, wood composite, or pvc composite. When composite products are used, they shall be placed close enough

together to create an opaque gate. Any composite product used shall be lightweight. No wooden gates are permitted.

- c. Vegetation is required to be planted outside the enclosure. Where practical, shrubs or other plants must be planted outside the enclosure to visually soften the appearance.**
- d. The overall enclosure design must comply with the standards found in the Town's *Design and Development Manual*.**

4.2.2 Use Table

Use Type	Definition Section	Zoning Districts																		Standards Section(s)		
		Residential									Business						Planned Development				Other	
		R A	R R	L D	M D	H D S F	H D M F	M H	M H P	M O R R	O & I	B 1	B 2	P C	L I	T F	M E C	T N D	P U D		C B	S T C
Residential Uses																						
Accessory apartment	4.3.1.A	P	P	P	P	P				P		P	P				P	P	P		P*	4.5.6; 6.3
Condominium	4.3.1.B						P			P							P	P	P		P*	4.4.1.A 6.3
Congregate living facility	4.3.1.C		S	S	S	S	P			S							P	P	P			4.4.1. B A
Duplex	4.3.1.D				P	P	P			P							P	P	P			
Family care home	4.3.1.E	P	P	P	P	P	P	P	P	P											P*	4.4.1. C B ; 6.3
Farm residence	4.3.1.F	P	P																	P		
Historic site, adaptive use	4.3.1.G	S	S	S	S	S	S	S	S	S		P	P	P	P	P	P	P	P		P*	4.4.1. D E ; 6.3
Manufactured home	4.3.1.H							P														4.4.1. E D
Mobile home	4.3.1.I								P													
Modular home	4.3.1.J	P	P	P	P	P		P	P	P											P*	4.4.1. F E
Multi-family or apartment	4.3.1.K						P			P							P	P	P		P*	4.4.1.G ; 6.3
Nursing or convalescent facility	4.3.1.L	S	S	S	S	S	P			S	P			P			P	P	P		P*	4.4.1. H F ; 6.3
Security or caretaker quarters	4.3.1.M	P	P												P	P	P					4.4.1. I G
Single-family	4.3.1.N	P	P	P	P	P		P		P							P	P	P		P*	6.3
Townhouse	4.3.1.O					S	P			P							P	P	P		P*	6.3
Townhouse, detached	4.3.1.P				S	S	P			P							P	P	P		S*	4.4.1. K H ; 6.3
Triplex or quadplex	4.3.1.Q						P			P							P	P	P			

Staff Recommends approval of the proposed amendments to the UDO.